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PUBLISHERS' NOTE

THIS volume follows a similar arrangement to that of Volume 25, in that it covers the period of twelve months ending on September 30, 1948. In fact, however, only one Act within the scope of this work, namely, the Civil Defence Act, 1948, received the Royal Assent between that date and the end of the calendar year, and it is an enabling Act which at the time of going to press, awaits full implementation by regulations. Furthermore, it has been possible during the course of printing either to incorporate or to make reference to numerous statutory instruments of later date than September 30, 1948, and in the few cases where statutory instruments have been revoked during the printing stage, to draw attention to these revocations and to the replacing provisions, if any.

The legislation of the period covered by this volume has been exceptionally heavy, both in Statutes and in Statutory Instruments. Possibly the most important of the Statutes in the volume is the Local Government Act, 1948, which makes radical changes in the financial structure of local government and alters the existing systems of rating and valuation. The Representation of the People Act, 1948, though marking a step forward in post-war election law, is somewhat overshadowed by the coming consolidation of existing election law. The National Assistance Act, 1948, is another comprehensive measure of reform, whose salient feature is the abolition of poor law, while the Gas Act, 1948, providing for public ownership of the gas industry, follows closely the model of the Electricity Act, 1947. Substantial changes are made in the law relating to children by three Acts, the Children Act, 1948, the Criminal Justice Act, 1948, and the Nurseries and Child Minders Regulation Act, 1948.

Statutory Instruments occupy a prominent part of this volume, and the most important groups of such instruments are those connected with the National Health Service, Town and Country Planning, the Fire Services, the Police and Superannuation.

In annotating the Local Government Act, 1948, the editors have to some extent drawn upon the book of Mr. F. A. Amies, B.A., F.C.I.S., F.R.V.A., on that Act, in the case of the Children Act, 1948, and the Nurseries and Child-Minders Regulation Act, 1948, they have had at their disposal the annotations of Mr. A. C. L. Morrison, C.B.E., Miss M. M. Wells, M.A., Col. E. Eton, D.S.O., T.D., and Mr. L. G. Banwell, while the annotations to certain sections of the Criminal Justice Act, 1948, owe something to the work of Mr. A. C. L. Morrison and Mr. Edward Hughes on that Act. The editors gratefully acknowledge their indebtedness to these learned writers and to Mr. A. Norman Schofield, LL.M., Town Clerk of Watford, for his assistance in connection with the annotation of the Representation of the People Act, 1948.

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June, 1949.

LIST OF ABBREVIATIONS

All England Reports	All E.R.
Attorney-General	A.-G.
Brothers	Bros.
Company	Co.
Corporation	Corpn.
Home Office	H.O.
Justices	JJ.
Limited	Ltd.
London County Council	L.C.C.
Local Government Act	L.G.A.
Medical Officer of Health	M.O.H.
Ministry of Agriculture and Fisheries	M. of A.
Ministry of Health	M. of H.
Ministry of Transport	M. of T.
Provisional Rules and Orders	P. R. & O.
Public Health Acts	P.H.A.
Railway Company	Rail. Co.
Rating and Valuation Act	R. & V.A.
Rural District Council	R.D.C.
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Urban District Council	U.D.C.

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CASES

Public health—Statutory nuisance—Proceedings against local authority—Competence—Public Health Act, 1936 (*c.* 49), *ss.* 92 (1) (*c*), 99.

A local authority can be made a defendant before justices under s. 99 of the Public Health Act, 1936, on a complaint that it has caused a statutory nuisance within the terms of s. 92 (1) of the Act, nor is it any objection to the jurisdiction of the justices that the nuisance arose from some operation in the course of the carrying out by the local authority of some public duty.—R. *v.* EPPING (WALTHAM ABBEY) JJ., *Ex parte* BURLINSON, [1948] 1 K. B. 79; [1947] 2 All E. R. 537; [1948] L. J. R. 298; 112 J. P. 3; 63 T. L. R. 628; 92 Sol. Jo. 27; 46 L. G. R. 6, D. C. [1]

Public health—Metropolis—Nuisance—Summons—Service—Summons on complaint of local authority—Public Health (London) Act, 1936 (*c.* 50), *s.* 301 (1) (*a*) (i)—*London Government Act*, 1939 (*c.* 40), *s.* 183 (1).

A summons issued by a court of summary jurisdiction on a complaint by a local authority is a document issued on behalf, not of the local authority, but of the Crown, notwithstanding the fact that the penalty which may be inflicted on an offender on the hearing of the summons may be payable to the local authority. Where, therefore, a summons has been issued in the metropolis on the complaint of a local authority in respect of a nuisance, the Public Health (London) Act, 1936, s. 301—and not the London Government Act, 1939, s. 183—applies in regard to the service of the summons, since the Act of 1939 (by s. 207 and Sched. VIII) repeals s. 301 of the Act of 1936 only " so far as it relates to a local authority."

Per HUMPHREYS, J.: S. 183 (1) of the London Government Act, 1939, which provides for the service by a local authority of " any notice, order or other document required or authorised by this Act, or by any other enactment or statutory order," applies only to notices required or authorised to be served on behalf of a local authority and not to summonses (*e.g.* a summons served on a person under the Public Health (London) Act, 1936, Sched. V, para. 7, for failure to comply with a nuisance notice). When s. 301 (1) of the Act of 1936 provides that a summons " may be served . . . where the person [to be served] is the owner or occupier of any premises, [by] delivering it to some person on the premises . . . " the premises referred to are those in respect of which proceedings are proposed to be taken, and not different premises of which the person to be served is the owner or occupier.—R. *v.* WILSON, *Ex parte* BATTERSEA BOROUGH COUNCIL, [1948] 1 K. B. 43; [1947] 2 All E. R. 569; [1948] L. J. R. 73; 112 J. P. 15; 63 T. L. R. 585; 92 Sol. Jo. 55; 45 L. G. R. 658, D. C. [2]

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ORDERS, CIRCULARS AND MEMORANDA

PUBLIC HEALTH (AIRCRAFT) REGULATIONS, 1948

S.I. 1948 *No.* 387

February 25, 1948

The Minister of Health, in exercise of the powers conferred on him by section 143 of the Public Health Act, 1936, and by that section as amended, in relation to aerodromes for the time being vested in or under the control of the Minister of Civil Aviation, by section 39 of the Civil Aviation Act, 1946, and of all other powers enabling him in that behalf, after consultation with the Minister of Civil Aviation and, so far as they apply to officers of customs and excise, with the consent of the Commissioners of Customs and Excise, hereby makes the following regulations :—

PART I.—INTRODUCTORY

Short title and commencement

1. These regulations may be cited as the Public Health (Aircraft) Regulations, 1948, and shall come into operation on the first day of April, 1948. [3]

2. The Public Health (Aircraft) Regulations, 1938, are hereby revoked :

Provided that this revocation shall not affect anything duly done or suffered or any right, privilege, obligation or liability acquired, accrued, or incurred under the said regulations, and in particular (without prejudice to the generality of the foregoing) any agreement, appointment, approval, designation, determination, notice or recognition made or given under the said regulations shall continue in force and have effect as if it had been made or given under these regulations. [4]

Interpretation

3.—(1) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

(2) Nothing in these regulations shall apply to any aircraft belonging to the armed forces of His Majesty or to the commander or crew thereof.

(3) In these regulations, unless the context otherwise requires—

"aerodrome" means any area of land or water designed, equipped, set apart or commonly used for affording facilities for the alighting and and departure of aircraft ;

"aircraft coming from an infected locality" means an arriving aircraft—

(*a*) which within the preceding six days left or called at a locality included by reason of plague in the list kept in pursuance of regulation 6 at the customs aerodrome at which it alights ; or

(*b*) which within the preceding five days left or called at a locality included by reason of cholera in the said list ; or

(*c*) which within the preceding twelve days left or called at a locality included by reason of typhus fever in the said list ; or

(*d*) which within the preceding fourteen days left or called at a locality included by reason of smallpox in the said list; or

(*e*) which within the preceding six days left or called at a locality included by reason of yellow fever in the said list; or

(*f*) which there is reason to believe is carrying potential mosquito vectors of yellow fever emanating from a locality included by reason of yellow fever in the said list;

" aircraft declaration of health " means a declaration in the form set forth in the second schedule to these regulations or in a form substantially to the like effect;

" arriving aircraft " means an aircraft which has voyaged from a place outside the excepted area and alighted at a customs aerodrome, whether or not in the course of its voyage it has previously alighted in the excepted area, and " arrival of an aircraft " shall be construed accordingly;

" clearance aerodrome " means the customs aerodrome at which an aircraft, including any passengers or cargo carried thereon, is to receive in relation to any voyage its final customs examination or clearance;

" commander " means the person for the time being in command of an aircraft;

" the Convention " means the International Sanitary Convention for Aerial Navigation, 1933, as amended by the International Sanitary Convention for Aerial Navigation, 1944;

" crew " includes any person having duties on board an aircraft in connection with the flying or the safety of the flight of the aircraft, or employed on board in any way in the service of the aircraft, the passengers, or the cargo;

" customs aerodrome " means an aerodrome for the time being designated by the Minister of Civil Aviation, with the concurrence of the Commissioners of Customs and Excise, for the purposes of the Acts relating to customs;

" customs officer " means any person acting under the authority of the Commissioners of Customs and Excise;

" district " means the City of London, a borough, an urban district, or a rural district;

" endemic yellow fever area " means an area defined as such in pursuance of the Convention;

" excepted area " means England and Wales, Scotland, Northern Ireland, the Channel Islands and the Isle of Man, and any other area for the time being specified by the Minister by notice published in the London Gazette as being included therein;

" immigration officer " means any person appointed by the Secretary of State under Article 16 of the Aliens Order, 1920, to act as an immigration officer;

" infected aircraft " means an aircraft which has on board a case or a suspected case of plague, cholera, typhus fever, smallpox or yellow fever, or which has had any such case on board and has not since been subjected to such measures prescribed or permitted by the Convention as are appropriate;

" infectious disease " means any epidemic or acute infectious disease but does not include venereal disease or tuberculosis;

" local authority " means the council of a county or district;

" medical officer " means the medical officer of health of the responsible authority, or a duly qualified medical practitioner acting under the direction of that authority, whether in place of or as an assistant to the medical officer of health or otherwise, for the purpose of executing these regulations or any of them;

" the Minister " means the Minister of Health ;

" national aerodrome " means an aerodrome for the time being vested in or under the control of the Minister of Civil Aviation ;

" prescribed measures " in relation to plague, cholera, typhus fever or smallpox means such of the measures set out in the first schedule to these regulations as are appropriate, and in relation to yellow fever means such of the measures prescribed or permitted by the Convention as are appropriate and are considered necessary by the medical officer ;

" recent vaccination", in relation to a person arriving by or proposing to embark on an aircraft, means vaccination which took place not earlier than three years and not later than fourteen days before the date of his arrival or, as the case may be, the proposed date of his embarkation and was successful or gave an immune reaction of which there is evidence ;

" responsible authority", in relation to an aerodrome or other place, means the authority charged under regulation 5 with the duty of enforcing and executing these regulations thereat ;

" sanitary aerodrome " means a customs aerodrome which has been recognised by the Minister in accordance with the provisions of regulation 4 ;

" typhus fever " means epidemic louse-borne typhus. [5]

Sanitary aerodromes

4.—(1) The Minister, on being satisfied that there are available at a customs aerodrome—

(*a*) an organised medical service with a medical officer and at least one assistant officer acting under his direction ;

(*b*) a place for medical inspection ;

(*c*) a laboratory for the examination of suspected material or equipment for taking and despatching such material for examination in a laboratory ;

(*d*) facilities for the isolation, transport and care of the sick, for the isolation of contacts separately from the sick and for carrying out any other prophylactic measure in suitable premises either within the aerodrome or in proximity to it ;

(*e*) apparatus necessary for carrying out disinfection, disinsecting, deratting and any other measures prescribed by these regulations ;

(*f*) a sufficient supply of wholesome drinking water ; and

(*g*) a proper and safe system for the disposal of excreta and refuse, and for the removal of waste water ;

and that the aerodrome is as far as possible protected from rats, may recognise the aerodrome as a sanitary aerodrome.

(2) The Minister may designate any sanitary aerodrome as a local area in accordance with Article 8 of the Convention.

(3) Any recognition or designation given or made under this regulation shall have effect until it is withdrawn by the Minister, and notice of every such recognition or designation, and of any withdrawal thereof, shall be published in the London Gazette. [6]

Execution of regulations

5.—(1) Save as otherwise provided hereunder, it shall be the duty of the following authorities to enforce and execute these regulations :—

(*a*) at a national aerodrome, the Minister or, if a local authority has undertaken duties at that aerodrome under subsection (2) of section 39 of the Civil Aviation Act, 1946, that local authority ;

(*b*) at an aerodrome maintained by the council of a county, that council;

(*c*) at an aerodrome maintained by the council of a district, that council, or, if so agreed, upon terms and conditions approved by the Minister, between that council and any other council in whose county or district the aerodrome is wholly situate or any port health authority in whose district the aerodrome is wholly or partly situate, that other council or the port health authority;

(*d*) at any other aerodrome—

(i) if it is wholly situate in a county borough, the council of that borough;

(ii) if it is wholly situate in a district other than a county borough or in a port health district, the council or port health authority of that district, or, if the Minister so directs, the council of the county in which that district is situate;

(iii) if it extends into more than one district or into a port health district, and the Minister so directs, the council of any county in which the aerodrome is wholly or partly situate, or, failing such direction, such one of the councils or the port health authority in whose district any part of the aerodrome is situate as those councils or the port health authority, as the case may be, may, upon terms and conditions approved by the Minister, agree, or, in the absence of agreement, such one of those councils or the port health authority as the Minister may direct;

(*e*) at any place other than an aerodrome—

(i) if it is situate in a port health district, the port health authority of that district;

(ii) if it is situate elsewhere than in a port health district, the council of the district in which the place is situate.

(2) The Minister may attach such terms and conditions as he thinks fit to any direction given by him under this regulation.

(3) The Minister shall exercise his functions as a responsible authority through such officers as may be designated for the purpose by him or by the Minister of Civil Aviation, and every other responsible authority shall exercise their functions through the medical officer and such other officers as they may appoint for the purpose, and shall make such inquiries and take such other steps as may seem to them to be necessary for securing the proper exercise of those functions. [7]

List of infected localities

6. The medical officer for a customs aerodrome shall from time to time prepare and keep up to date a list of localities outside the excepted area—

(*a*) which are infected or believed to be infected with plague (human or rodent) or cholera;

(*b*) in which typhus fever or smallpox is believed to be epidemic;

(*c*) which are endemic yellow fever areas;

and shall supply copies of every such list and any amendment thereof to the customs officers employed at the aerodrome and to the person in charge of the aerodrome; and in the preparation and amendment of the said list, the medical officer shall take into account all information sent to him from time to time by the Minister. [8]

PART II.—AIRCRAFT ARRIVING

Duties of commander

7.—(1) The commander of an arriving aircraft which alights at a clearance aerodrome shall—

(*a*) deliver to the medical officer a duly completed aircraft declaration of health and record the delivery thereof in the journey log-book of the aircraft;

(*b*) if required by the medical officer, produce certificates concerning any sanitary measures mentioned in the declaration;

(*c*) answer all questions as to the health conditions on board which may be put to him by the medical officer, customs officer, or the person in charge of the aerodrome; produce to any of those officers on request the journey log-book of the aircraft, and furnish any such officer with all such information and assistance as he may reasonably require for the purposes of these regulations;

(*d*) forthwith notify the medical officer or customs officer, whichever shall first visit the aircraft after its arrival, of any death on the aircraft during the voyage caused otherwise than by accident, of any case or suspected case of infectious disease on the aircraft, of any person on the aircraft who is known to him to be liable to surveillance, and of any other circumstances which are likely to lead to infection or the spread of infectious disease; and

(*e*) comply with any requirements or directions made of or given to him by or in pursuance of these regulations:

Provided that this regulation shall not apply in a case where no person disembarks and no cargo is discharged.

(2) Subject to the provisions of regulation 8, the commander of an arriving aircraft which alights at a customs aerodrome not being a clearance aerodrome shall enter in the journey log-book of the aircraft the name of any passenger who disembarks, and shall be subject at that aerodrome to such of the requirements mentioned in paragraph (1) of this regulation as in the opinion of the medical officer are reasonably necessary for the purposes of these regulations. [9]

8.—(1) Where the commander of an arriving aircraft which alights otherwise than at the termination of its voyage satisfies the medical officer that it is not intended that the aircraft shall alight elsewhere in the excepted area except for the purpose of taking in supplies, and informs him that he does not desire to submit to any of the requirements of these regulations, he shall be at liberty to continue the voyage without such submission:

Provided that, if the aircraft has on board a case of yellow fever, or comes from a locality included by reason of yellow fever in the list kept at that aerodrome in pursuance of regulation 6, the medical officer may require that it shall be subjected to the prescribed measures.

(2) Where the commander informs the medical officer as aforesaid, he shall not disembark passengers or discharge cargo except subject to such conditions as the medical officer may impose in conformity with the provisions of article 57 of the Convention. [10]

Duties and powers of customs officers

9.—(1) Where on the arrival of an aircraft it appears to a customs officer from information given to him by the commander or from answers to inquiries made by him or otherwise—

(*a*) that during the voyage there has been on the aircraft a death otherwise than as a result of an accident, or a case of illness which is or is suspected to be of an infectious nature; or

(*b*) that the aircraft is an aircraft coming from an infected locality ; or
(*c*) that during the voyage death not attributable to poison or other measures for destruction has occurred amongst rats or mice on the aircraft ;

he shall give such directions as to him seem necessary to secure the detention of the aircraft, including its stores, equipment and cargo, commander, passengers and crew, and any person to whom any such directions are given shall comply therewith.

(2) If a customs officer receives in respect of an aircraft a notice in writing from the medical officer under regulation 12 he shall, if he visits the aircraft before the medical officer, deliver the notice to the commander and take all reasonable steps to secure compliance therewith. [11]

10. The detention of an aircraft by a customs officer under these regulations shall cease as soon as the medical officer has duly inspected the aircraft or caused it to be inspected, or has given notice to the customs officer that he does not propose to do so, or, if the inspection has not begun within three hours after the customs officer gave the direction for its detention, on the expiration of that period :

Provided that nothing in this regulation shall affect the exercise of any powers of the medical officer in regard to the detention of aircraft or authorise an infected aircraft or an aircraft coming from an infected locality to depart before the prescribed measures are completed. [12]

Duty of person in charge of an aerodrome

11. Where the person in charge of an aerodrome receives information before the arrival of an aircraft thereat that a person on the aircraft has symptoms which may indicate infectious disease, or that there are circumstances in relation to the aircraft requiring the attention of the medical officer, he shall forthwith notify the medical officer and a customs officer to that effect. [13]

Duties and powers of medical officer

12.—(1) The medical officer may direct that an arriving aircraft shall be detained for medical inspection and may deliver a notice in writing to that effect to a customs officer.

(2) The medical officer shall inform the person in charge of the aerodrome of any directions given by him under this regulation. [14]

13. The medical officer—

(*a*) may, and if so required by the Minister shall, inspect or cause to be inspected, as soon as practicable after its arrival, any infected aircraft, any aircraft on which rodent plague has occurred or been suspected during the voyage, or any aircraft coming from an infected locality ;
(*b*) shall as soon as possible, and in any case within three hours, after a customs officer has directed the detention of an aircraft under regulation 9, inspect the aircraft, or cause it to be inspected, or give notice to the customs officer that he does not propose to do so, and, if the aircraft is liable to be subjected to further measures under these regulations, give notice in writing to the commander directing that the aircraft shall be detained for a further period. [15]

14.—(1) The medical officer may, and if so required by the Minister shall—

(*a*) examine any person on an arriving aircraft, where there are reasonable grounds for suspecting that infectious disease is present on the

aircraft or that any person on board the aircraft has been exposed to infection from infectious disease during the voyage of the aircraft or during a period of three weeks immediately preceding the arrival of the aircraft ;

(*b*) detain for the purpose of examination any person whom he is empowered or required under this regulation to examine ;

(*c*) take steps with a view to the isolation of any such person, or prohibit him from leaving the aerodrome save upon such conditions (being, in the case of a person who is suffering from, or who has been exposed to infection from, a disease to which any Part of the first schedule to these regulations relates, conditions which do not require anything which could not be required under that Part) as appear to the medical officer to be reasonably necessary to prevent the spread of infection ;

(*d*) require the commander to take or assist in taking such steps as, in the opinion of the medical officer, are reasonably necessary for preventing the spread of infection by any such person, for the destruction of insects or vermin, and for the removal of conditions on the aircraft likely to convey infection, including conditions the existence of which might facilitate the harbouring of vermin :

Provided that sub-paragraph (*c*) of this paragraph shall not apply to a person by reason only that he has been exposed to infection from yellow fever, or has come from a locality included by reason of yellow fever in the list kept at that aerodrome in pursuance of regulation 6, if—

(i) he produces a certificate in conformity with the Convention that he has been inoculated against yellow fever ; and

(ii) not more than four years and (except in the case of a reinoculation performed within four years from the date of a previous inoculation against yellow fever) not less than ten days have elapsed since the inoculation.

(2) At a sanitary aerodrome the medical officer may examine any person on an arriving aircraft who is reasonably believed to be verminous and may cause any such person and his clothing and any other articles in his possession to be cleansed and disinsected. [16]

15. Where a medical officer suspects that a person on an arriving aircraft is suffering from an infectious disease, he may—

(*a*) cause such person to be removed to a hospital, or to some other suitable place approved for that purpose by the responsible authority ;

(*b*) require the commander to take or assist in taking such steps as, in the opinion of the medical officer, are reasonably necessary to rid the aircraft of infection. [17]

16. Where a medical officer suspects that a person on an arriving aircraft is suffering from tuberculosis, he may—

(*a*) send information to that effect to the medical officer of health of the district to which the person is immediately proceeding ;

(*b*) require the commander to take or assist in taking such steps as, in the opinion of the medical officer, are reasonably necessary to rid the aircraft of infection. [18]

17. If the medical officer considers that there should be applied to an arriving aircraft which alights elsewhere than at a sanitary aerodrome, or to its commander, passengers or crew, sanitary measures which can be applied only at a sanitary aerodrome, he may direct that they or any of them shall proceed to a sanitary aerodrome, and he shall give the commander notice in writing of the direction and of the reasons for the direction. [19]

18.—(1) In deciding what sanitary measures, if any, should be applied to an arriving aircraft or to its commander, passengers or crew, the medical officer shall take into account any sanitary measures which have been applied at any other aerodrome, whether in England and Wales or elsewhere, and are noted in the declaration delivered in pursuance of sub-paragraph (*a*) of paragraph (1) of regulation 7, and he shall not require the application of any sanitary measures if since their previous application no incident has occurred calling for their renewed application and the aircraft has not visited, except for the purpose of refuelling, a locality included in the list kept in pursuance of regulation 6 at the aerodrome at which the aircraft alighted.

(2) In applying sanitary measures to an aircraft or to its commander, passengers or crew, the medical officer shall have regard to the need for detaining the aircraft for as short a time as possible. [20]

19.—(1) The medical officer shall forthwith inform the customs officer of any measures taken by him or at his direction with reference to an arriving aircraft, its stores, equipment or cargo, commander, passengers or crew, in pursuance of these regulations.

(2) The medical officer when he releases an aircraft from detention shall give notice in writing to the customs officer, to the commander of the aircraft, and to the person in charge of the aerodrome that, so far as control under these regulations is concerned, the aircraft is free to proceed at or after a date and time stated in the notice. [21]

Requirements concerning persons on aircraft

20. Every passenger on an arriving aircraft who intends to disembark or break his journey at an aerodrome in England and Wales shall complete a declaration in the form set forth in the third schedule to these regulations or in a form substantially to the like effect and deliver it to the medical officer at the aerodrome at which he disembarks or breaks his journey or, if an aircraft declaration of health is delivered in respect of the aircraft at an aerodrome before it reaches the point at which he intends to disembark or break his journey, at that aerodrome. [22]

21.—(1) Every person on an arriving aircraft shall comply with all directions, requirements or conditions given, made or imposed by the medical officer or other authorised officer of the responsible authority in pursuance of these regulations, and shall furnish all such information as any such officer or a customs officer may reasonably require (including information as to his name, destination and address) and every person who has for the time being the custody or charge of a child or other person who is under disability shall comply with any directions, requirements or conditions so given, made or imposed, and shall furnish all such information as aforesaid, in respect of such child or other person.

(2) Every person who is placed under surveillance in pursuance of these regulations shall—

(*a*) give facilities for any medical examination required by the medical officer or by the medical officer of health of any district in which he is located during the period of surveillance;

(*b*) furnish all such information as any such medical officer of health as aforesaid may reasonably require with a view to ascertaining the person's state of health;

(*c*) forthwith upon arrival during the period of surveillance at any address other than the one stated as his intended destination in the declaration delivered in pursuance of regulation 20, send particulars of that address to the medical officer of the aerodrome at which he disembarked;

(*d*) if so instructed by the medical officer, report to the medical officer of health of any district in which he is for the time being during the period of surveillance, and thereafter during that period report to that officer at such intervals as he may require :

Provided that an instruction shall not be given by a medical officer under sub-paragraph (*d*) of this paragraph unless the Minister has by direction (whether general or special) authorised the giving of instructions thereunder. [23]

Infected aircraft or aircraft coming from an infected locality

22. The medical officer, as soon as practicable after the arrival of an infected aircraft or an aircraft coming from an infected locality, shall, if any person disembarks or any cargo is discharged therefrom, carry out or cause to be carried out the prescribed measures in relation thereto, and the aircraft shall remain subject to control under these regulations until it has been examined by the medical officer and those measures (other than measures in relation to any person who has disembarked from the aircraft) have been completed. [24]

Aircraft alighting elsewhere than at a customs aerodrome

23.—(1) Where an aircraft which has come from a place outside the excepted area alights elsewhere than at a customs aerodrome—

(*a*) the commander shall forthwith give notice to that effect to the responsible authority or a customs officer or an immigration officer or a police officer and, if the aircraft has alighted at an aerodrome, to the person in charge thereof ;

(*b*) save for the purpose of the preceding sub-paragraph, no person carried by the aircraft shall leave its vicinity unless authorised so to do by the medical officer, and any person so authorised shall inform such officer of his name and the address of his intended destination, but this sub-paragraph shall not be construed as dispensing with the necessity to secure any consent arising under any other enactment, including any instrument having statutory effect ;

(*c*) subject as aforesaid, these regulations shall apply, with any necessary modifications, in relation to the aircraft, its stores, equipment and cargo, commander, passengers and crew, to the extent to which they are not required by a police officer or customs officer to proceed or, as the case may be, to be taken to a customs aerodrome, as if the aircraft had alighted at a customs aerodrome, and for the purposes of such application the list of infected localities kept in pursuance of regulation 6 shall be any list so kept by the medical officer of health of the responsible authority or, if there is no such list, any list so kept by any other medical officer.

(2) If any person who has informed an officer in pursuance of this regulation of the address of his intended destination arrives within fourteen days thereafter at some other address, he shall forthwith send particulars of that address to the medical officer of health of the responsible authority for the place at which he disembarked from the aircraft. [25]

PART III.—AIRCRAFT DEPARTING

Examination, etc., of persons proposing to embark

24. Where an aircraft is due or about to depart for a place outside the excepted area, the medical officer—

(*a*) may examine any person who proposes to embark thereon if he suspects him to be suffering from plague, cholera, typhus fever, smallpox or yellow fever, and, if after examination the medical

officer is of opinion that he shows symptoms of any such disease, shall in the case of symptoms of yellow fever, and may in any other case, prohibit his embarkation ;

(*b*) may prohibit the embarkation thereon of any person who is known to have been in such close contact with any person suffering or suspected to be suffering from plague, cholera, typhus fever or smallpox as to render him liable to transmit infection :

Provided that, in the case of smallpox, no person shall be prohibited from embarkation if he satisfies the medical officer that he is sufficiently protected by recent vaccination or by a previous attack of smallpox ;

(*c*) shall notify the commander of any person who embarks or proposes to continue his voyage thereon and who, in the opinion of the medical officer, should be placed under surveillance, and shall certify an entry to that effect to be made by the commander in the journey log-book. [26]

Infected localities in England and Wales

25. Where an aerodrome is situate in a locality in England or Wales which the Minister has, by notice published in the London Gazette, declared to be a locality infected with plague, cholera or yellow fever, or with any other disease which in his opinion constitutes a menace to other countries by reason of its spread or potential spread, or a locality in which typhus fever or smallpox exists in an epidemic form, then, until the notice is revoked by a subsequent notice published in the London Gazette, the medical officer shall comply with any requirement which may be made by the Minister in relation to that aerodrome for preventing the spread of the disease, and in particular (but without prejudice to the generality of the foregoing) the following provisions of this regulation shall operate in relation to any aircraft departing from that aerodrome for a place outside the excepted area :—

(*a*) the medical officer may, and within three hours after receiving a request from the commander so to do shall, medically examine any person who proposes to embark on or is on board the aircraft ;

(*b*) the medical officer or other authorised officer of the responsible authority shall inspect any clothing, bedding or other article which is on, or is intended to be taken by any person on, the aircraft and which, in the opinion of the officer, may have been exposed to infection, and may require the disinfection or destruction of any such clothing, bedding or article, and the commander shall disclose to the medical officer any relevant circumstances ;

(*c*) any such officer as aforesaid may require any parts of the aircraft which in his opinion may be infected to be cleansed and disinfected to his satisfaction ;

(*d*) no person shall take or cause to be taken on board the aircraft any article which, in the opinion of any such officer as aforesaid, is capable of carrying infection, unless that officer is satisfied that it has been efficiently disinfected ;

(*e*) if the locality is declared to be infected with plague and there is reason to believe that there are rats on the aircraft, the medical officer may, and if so required by the Minister shall, take steps to secure the deratting of the aircraft ;

(*f*) if the locality is declared to be one in which typhus fever exists in an epidemic form, the medical officer may require any person who proposes to embark on or is on board the aircraft and who in his opinion is likely to convey infection, and any article on or proposed to be carried on the aircraft likely to harbour lice, to be deloused. [27]

PART IV.—GENERAL

Appointment and duties of officers and provision of services by responsible authorities

26. For the purposes of these regulations, a responsible authority other than the Minister may, and if so required by the Minister shall—

(*a*) appoint such number of duly qualified medical practitioners as may be necessary for the proper execution of these regulations, and give directions from time to time as to the duties which are to be or may be performed by any such medical practitioner;

(*b*) appoint for a sanitary aerodrome one or more persons to act under the direction of the medical officer in the execution of these regulations;

(*c*) at or in connection with a customs aerodrome arrange for the provision of—

(i) premises and waiting rooms for medical inspections and examinations;

(ii) premises for the temporary isolation of persons in accordance with these regulations;

(iii) hospital accommodation required for the purposes of these regulations;

(iv) means of transport to any such premises or accommodation as are referred to in sub-paragraphs (ii) and (iii) of this paragraph;

(*d*) at or in connection with a sanitary aerodrome provide or arrange for the provision of—

(i) apparatus or means for the cleansing, disinfection and disinsecting of aircraft, persons and clothing and other articles, and the deratting of aircraft;

(ii) a laboratory for the examination of suspected material or equipment for taking and despatching such material for examination in a laboratory;

(*e*) do all such other things as in the opinion of the responsible authority or of the Minister, as the case may be, are necessary to enable the provisions of these regulations to be complied with. [28]

Charges for services

27.—(1) Where a commander is required by or in pursuance of these regulations to carry out any measures with a view to reducing the danger or preventing the spread of infection, the responsible authority may themselves at the request of the commander, and, if they think fit, at his cost, cause any such requirement to be complied with instead of enforcing the requirement against the commander.

(2) The amount of the charge for any work so to be undertaken by the responsible authority shall be such reasonable sum as represents the actual or estimated cost to be incurred in undertaking the work excluding any charge or claim in respect of profit, so, however, that it shall not exceed the sum of twenty pounds unless notice of the proposed charge has been given to the commander before the work is undertaken.

(3) Where under this regulation the responsible authority cause any requirement to be complied with at the cost of the commander they may, if they think fit, require the amount of the charge for the work or a part thereof to be paid to or deposited with them before the work is undertaken.

(4) Where, in pursuance of these regulations, any sanitary measures have been taken with regard to an aircraft, the responsible authority or the medical officer shall, on request by the commander, furnish him free of charge with

particulars in writing of those measures and the reasons why they were taken.

(5) Where, in pursuance of these regulations, any sanitary measures have been taken with regard to any person or to any articles in his possession, the medical officer shall, on request by such person, furnish him free of charge with particulars in writing of those measures, including the date on which they were taken. [29]

Recovery of charges

28. Every charge authorised by regulation 27 shall, where the responsible authority is a local authority or a port health authority, be recoverable either summarily as a civil debt, or as a simple contract debt in any court of competent jurisdiction. [30]

Expenses of local and port health authorities

29. Subject to the provisions of regulation 27 any expenses incurred by a local authority or a port health authority in the execution of these regulations shall be defrayed in the same manner as the expenses incurred by them in the execution and discharge of their existing powers and duties. [31]

Saving for mails

30. Except to the extent of enabling measures to be taken under regulation 22 with respect to the following fresh foods, namely, fish, shellfish, fruit and vegetables, nothing in these regulations shall render liable to detention, disinfection or destruction any article forming part of any mail conveyed under the authority of the Postmaster-General, or of the postal administration of any other Government, or shall prejudicially affect the receipt on board and delivery in due course at the place of destination of any such mail in accordance with the provisions of the Post Office Acts, 1908 to 1940, or any amendment thereof. [32]

Saving for existing orders

31. Nothing in these regulations shall affect the Air Navigation (Consolidation) Order, 1923, or the Aliens Order, 1920, or any amendment thereof for the time being in force. [33]

FIRST SCHEDULE

PRESCRIBED MEASURES IN RESPECT OF AN INFECTED AIRCRAFT OR AN AIRCRAFT COMING FROM AN INFECTED LOCALITY

PART A.—PLAGUE

I.—*Infected aircraft*

1. The aircraft shall be inspected and the commander, passengers and crew shall be medically examined.

2. The sick shall be immediately disembarked and isolated.

3. All other persons shall be placed under surveillance or, in exceptional circumstances, isolated for a period expiring not later than six days after the date of arrival of the aircraft.

4. Bedding which has been used, soiled linen, wearing apparel and other articles which, in the opinion of the medical officer, are infected, shall be cleansed of vermin and, if necessary, disinfected, and merchandise proposed to be discharged may, if it is considered liable to harbour rats or fleas, be subjected to such measures as the medical officer thinks fit.

5. The parts of the aircraft which have been occupied by persons suffering from plague or which the medical officer considers to be infected shall be cleansed of vermin, and, if necessary, disinfected.

6. The medical officer may in exceptional cases require the aircraft to be deratted if there is reason to suspect the presence of rats on board and if the operation was not carried out at the aerodrome of departure.

II.—*Aircraft coming from an infected locality*

1. The commander, passengers and crew may be medically examined.

2. Any such person may be placed under surveillance or, in exceptional circumstances, isolated for a period expiring not later than six days after the date on which the aircraft left the infected locality.

3. The medical officer may in exceptional circumstances require the aircraft to be cleansed of vermin and to be deratted if these operations were not carried out at the aerodrome of departure.

4. Merchandise proposed to be discharged from the aircraft may, if the medical officer considers it liable to harbour rats or fleas, be subjected to such measures as he thinks fit. [34]

PART B.—CHOLERA

I.—*Infected aircraft*

1. The aircraft shall be inspected and the commander, passengers and crew shall be medically examined.

2. The sick shall be immediately disembarked and isolated.

3. All other persons shall be placed under surveillance or, in exceptional circumstances, isolated for a period expiring not later than five days after the date of arrival of the aircraft:

Provided that any person who satisfies the medical officer that he has been inoculated against cholera within the preceding six months, excluding the last six days thereof, shall not be isolated.

4. The medical officer may prohibit the discharge from the aircraft of the following fresh foods, namely, fish, shellfish, fruit and vegetables.

5. Bedding which has been used, soiled linen, wearing apparel and other articles which, in the opinion of the medical officer, are infected shall be disinfected.

6. The parts of the aircraft which have been occupied by persons infected with cholera or which the medical officer considers to be infected shall be disinfected.

7. If the medical officer suspects that the drinking water stored on board is infected, it shall be disinfected and if practicable emptied out and replaced, after disinfection of the container, by a supply of wholesome drinking water.

II.—*Aircraft coming from an infected locality*

1. The commander, passengers and crew may be medically examined.

2. Any such person may be placed under surveillance or, in exceptional circumstances, isolated for a period expiring not later than five days after the date on which the aircraft left the infected locality:

Provided that any person who satisfies the medical officer that he has been inoculated against cholera within the preceding six months, excluding the last six days thereof, shall not be isolated.

3. The medical officer may prohibit the discharge from the aircraft of the following fresh foods, namely, fish, shellfish, fruit and vegetables. [35]

PART C.—TYPHUS FEVER

I.—*Infected aircraft*

1. The commander, passengers and crew shall be medically examined.

2. The sick shall be immediately disembarked, isolated and deloused.

3. Any other person reasonably suspected to have been exposed to infection may be placed under surveillance or, in exceptional circumstances, isolated for a period expiring not later than twelve days after the date on which he was deloused.

4. Any person reasonably suspected to be harbouring lice shall be deloused.

5. Bedding which has been used, linen, wearing apparel and any other article which the medical officer considers to be infected shall be disinfected.

6. The parts of the aircraft which have been occupied by persons suffering from typhus fever or which the medical officer considers to be infected shall be disinfected.

II.—*Aircraft coming from an infected locality*

The commander, passengers and crew may be placed under surveillance or, in exceptional circumstances, isolated for a period expiring not later than twelve days after the date on which they left the infected locality. [36]

PART D.—SMALLPOX

I.—*Infected aircraft*

1. The commander, passengers and crew shall be medically examined.

2. The sick shall be immediately disembarked and isolated.

3. Any other person reasonably suspected by the medical officer to have been exposed to infection shall, unless in the opinion of the medical officer the person is sufficiently protected by recent vaccination or by a previous attack of smallpox, either—

(*a*) be offered vaccination and placed under surveillance for a period not exceeding fourteen days after the date of arrival of the aircraft, or

(*b*) be placed under surveillance for the said period without vaccination, or

(*c*) be offered vaccination and isolated until the result of the vaccination is known and thereafter kept under surveillance until the fourteenth day after the date of arrival of the aircraft, or

(*d*) be isolated for a period of fourteen days after the date of arrival of the aircraft:

Provided that the medical officer shall not impose a requirement set out in sub-paragraph (*c*) or sub-paragraph (*d*) of this paragraph unless in his opinion there is an exceptionally serious risk of introduction of smallpox into the country.

4. Bedding which has been used, soiled linen, wearing apparel and any other article which the medical officer considers to have been recently infected shall be disinfected.

5. The parts of the aircraft which have been occupied by persons suffering from smallpox or which the medical officer considers to be infected shall be disinfected.

II.—*Aircraft coming from an infected locality*

The commander, passengers and crew may be placed under surveillance or, in exceptional circumstances, isolated for a period expiring not later than fourteen days after the date on which they left the infected locality. [37]

SECOND SCHEDULE

AIRCRAFT DECLARATION OF HEALTH

(To be completed by the Commander of an arriving aircraft and delivered to the medical officer at the aerodrome.)

Aerodrome of arrival.....

(1) Aircraft National and Registration marks.

(2) Aerodrome at which voyage began and date of departure therefrom.

(3) Aerodromes at which the aircraft alighted during the voyage and date of departure from each.

Aerodrome	Date	Aerodrome	Date

(4) Number of crew.
(5) Number of passengers.
(6) Number of passengers disembarking at aerodrome of arrival.
(7) Has any person left the aircraft during the voyage on account of illness ? If so, give particulars.
(8) Has there been any case of illness (other than air sickness) during the voyage ? If so, give particulars.
(9) Has the aircraft been disinsected ?
Give particulars of last three disinsectings.

By whom	Place	Method	Date

(10) Have any other sanitary measures been carried out on the aircraft during the voyage ?
(11) Have you on board any living animals, birds, insects, bacterial cultures or viruses ?

I declare that the foregoing statements are true and correct to the best of my knowledge and belief.

Date..... Signature of Commander.....

[38]

THIRD SCHEDULE

PERSONAL DECLARATION OF ORIGIN AND HEALTH

(For passengers on aircraft.)

Aerodrome of arrival.....

1. Name in full.....
(Block Letters, Surname first.)
2. Nationality :
3. Passport number :
4. Permanent (home) address :
5. Address (in full) to which immediately proceeding :
6. State below, the town or locality or aerodrome where you spent the fourteen nights prior to arrival in this country :

Last night.....	8 nights ago.....
2 nights ago.....	9 nights ago.....
3 nights ago.....	10 nights ago.....
4 nights ago.....	11 nights ago.....
5 nights ago.....	12 nights ago.....
6 nights ago.....	13 nights ago.....
7 nights ago.....	14 nights ago.....

7. I am in possession of a certificate of inoculation or vaccination against : (Write in each case Yes or No.)

Cholera.....
Typhus fever.....
Smallpox .....
Yellow fever .....

8. I declare that I have had no illness within the past fourteen days except as follows :

I declare that the information given above is correct to the best of my knowledge and belief.

Date..... Signature.....

[39]

* * * * * *

Notes.—(1) Under section 143 (4) of the Public Health Act, 1936, and section 39 (3) (*b*) of the Civil Aviation Act, 1946, authorised officers of local authorities, officers designated by the Minister of Health or the Minister of Civil Aviation for the purpose of the enforcement and execution of Regulations made under section 143, and officers of customs and excise have power to enter any premises or aircraft for the purpose of executing, or superintending the execution of, any regulation made under the section.

(2) Under section 143 (5) of the Public Health Act, 1936, any person who wilfully neglects or refuses to obey or carry out or obstructs the execution of any regulation made under the section is liable to a fine not exceeding one hundred pounds, and in the case of a continuing offence to a further fine not exceeding fifty pounds for every day during which the offence continues after conviction therefor.

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

The Regulations provide, in conformity with the International Sanitary Convention for Aerial Navigation, 1933 *(Cmd.* 4938), *as modified by the International Sanitary Convention for Aerial Navigation,* 1944 *(Cmd.* 6638), *for sanitary control of airborne traffic between England and Wales and any place outside the "excepted area" as defined in Regulation* 3. *They supersede the Public Health (Aircraft) Regulations,* 1938 (*S. R. & O.,* 1938, *No.* 299), *which were made in conformity with the* 1933 *Convention and, in pursuance of powers conferred by the Civil Aviation Act,* 1946, *they extend the control to aerodromes vested in or under the control of the Minister of Civil Aviation.*

Circular 28/48

County Councils
Local Authorities
Port Health Authorities.
(England and Wales)

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.
5th March, 1948.

SIR,

PUBLIC HEALTH (AIRCRAFT) REGULATIONS, 1948

1. I am directed by the Minister of Health to enclose for the information of the Authority a copy of the Public Health (Aircraft) Regulations, 1948, which will come into force on the 1st April, 1948.

2. The Regulations have been made by the Minister under section 143 of the Public Health Act, 1936, and section 39 of the Civil Aviation Act, 1946, and they supersede the Public Health (Aircraft) Regulations, 1938 (a copy of which was enclosed with Circular 1677 of the 22nd April, 1938).

3. The new Regulations are designed to give effect to the additional obligations incurred by the Government under the International Sanitary Convention for Aerial Navigation, 1944, and to authorise the operation of sanitary control services under section 39 of the Civil Aviation Act, 1946, at aerodromes vested in or under the control of the Minister of Civil Aviation (referred to in the Regulations as "national aerodromes") to which the Regulations of 1938 did not apply. At the same time the opportunity has been taken to incorporate amendments and improvements shown by experience to be necessary or desirable.

4. The Authority's attention is drawn to subsection (2) of section 39 of the Act of 1946 which provides that a local authority may, and shall if the Minister of Health so requires, undertake duties in connection with the execution of the sanitary control services at national aerodromes, and for the reimbursement of the reasonable expenditure incurred by the local authority in doing so. In section 51 of the Act " local authority " is defined to mean the council of a county, county borough, metropolitan borough or county district, or the Common Council of the City of London.

5. In the absence from this country of plague, cholera, and yellow fever, and epidemics of typhus fever and of smallpox—the five diseases specifically mentioned in the International Sanitary Conventions—persons going abroad are not subjected to a sanitary control service. Any such service, therefore, will normally be confined to arriving aircraft, and most of the duties of the commander of an aircraft and its passengers and of the various officers at an aerodrome have been collated in Part II (Arriving Aircraft) of the Regulations and, for convenience, grouped in relation to each person on whom the duties are imposed.

6. As the Authority are no doubt aware, the Air Navigation Consolidation Order, 1923, requires that every aircraft arriving in this country shall (except in emergency) first alight at a " customs aerodrome." The new Regulations therefore, like the Regulations of 1938, prescribe principally the sanitary control measures (usually referred to as the " Health Control ") to be taken at " customs aerodromes " (the term is defined in the Regulations) at which passenger-carrying aircraft arrive from abroad.

7. Provision, however, is also made in the Regulations (Regulation 23) for applying them as may be appropriate to aircraft which alight elsewhere than at a customs aerodrome (either in an emergency or otherwise). The Regulations are therefore of interest, not only to the local authorities of districts in which there are aerodromes, but to other local authorities also, as they may at any time find it necessary to be familiar with and to apply their provisions.

8. A memorandum summarising the experience so far gained in the operation of the Health Control at customs aerodromes is also enclosed for the information of the Authority. In view of the comparatively recent development of air traffic on a large scale, this experience obviously has not yet been very wide and the suggestions and advice given in the memorandum must therefore be regarded as provisional.

9. The general purpose of the new Regulations is explained above. The more important of the specific differences between them and the Regulations of 1938 are given below, with some other comments on individual regulations

Regulation 3 (2)

Aircraft belonging to a foreign State and their crews are not now exempt from the Regulations.

Regulation 3 (3)—*definitions*

" arriving aircraft " is a new definition designed primarily to simplify the application of Regulations 7 to 22 inclusive to an aircraft coming from abroad and alighting at a customs aerodrome ;

" clearance aerodrome " has been defined for the purposes of Regulation 7 ;

" excepted area " has been substituted for " foreign " and enables the Minister, by notice published in the *London Gazette*, to extend the exemption given to areas already named in the definition to additional areas adjacent to this country in which he is satisfied that adequate health control arrangements are in operation ;

" infected aircraft " has been extended to include a suspected case of infection ;

" infectious disease " does not now include tuberculosis, but Regulation 16 has been added to enable the medical officer to deal with a tuberculous person ;

" recent vaccination." This definition has been taken, with minor alterations, from that in the International Sanitary Convention of 1944. It should, however, be noted that, since the date of the Convention, medical opinion with regard to the value of the " immune reaction " has changed, and the subject has been considered by the Expert Committee on Quarantine of the Interim Commission of the World Health Organisation, who have recommended to the Commission that the expression " immune reaction " should be abandoned and that consequential amendments should be made in the Convention. But until the Convention is amended, it is considered best to follow the definition of 1944, with a slight amendment to make it clearer ;

" responsible authority " is now defined in detail in Regulation 5.

Regulation 5

It will be noted that, as regards any aerodrome other than a national aerodrome or an aerodrome maintained by the council of a county or district, the Minister may direct that the county council shall be the responsible authority.

Regulation 6

The medical officer need now include only places abroad in the list of infected localities.

Regulations 7 *and* 20

The Aircraft Declaration of Health and the Personal Declaration of Origin and Health required by these Regulations, and the forms shown in the Second and Third Schedules to the Regulations, are prescribed by the International Sanitary Convention for Aerial Navigation of 1944. It will be seen from Regulation 7 that the Aircraft Declaration of Health is not required to be delivered at the first customs aerodrome at which the aircraft alights unless that aerodrome is its " clearance aerodrome " as defined.

Regulation 7 (1) (*a*)

This requires that the Aircraft Declaration of Health shall be delivered to the medical officer. In practice, the customs officer is the first official to board an aircraft alighting at a customs aerodrome and the declaration is usually handed to him by the Commander and then conveyed by the customs officer to the medical officer. Although it does not seem necessary to disturb this procedure, which has worked satisfactorily, it is considered advisable that the Regulation should require the delivery of the declaration to one particular officer—*i.e.*, the medical officer.

Regulation 7 (1) (*b*)

When sanitary measures have been taken in respect of an aircraft, the medical officer carrying them out sometimes makes a certified entry to that effect in the journey log-book of the aircraft, instead of issuing a separate certificate. Such a certified entry may be regarded as a certificate for the purpose of this Regulation.

Regulation 15

As this Regulation applies to any infectious disease, and not merely to the five diseases mentioned in the International Sanitary Conventions, it permits the Medical Officer to send the infected person to an approved place (other than a hospital)—*e.g.*, in the case of a minor infectious disease such as

mumps, measles, influenza, etc., he could send the person home. There is an additional power to enable the medical officer, if he thinks it necessary, to require the disinfection of the aircraft.

Regulation 16

This is a new provision dealing specifically with tuberculous persons—see note above on the definition of " infectious disease."

Regulation 20

The Personal Declaration of Origin and Health required by this Regulation has to be completed by every passenger who intends to disembark or break his journey in England and Wales, and it must be delivered at the aerodrome at which he does so or at the aerodrome at which the Aircraft Declaration of Health is delivered if that is earlier. The intention is that, as far as possible, the Aircraft Declaration and the Personal Declarations shall be delivered at the same aerodrome so that they may be kept together : if a Personal Declaration has to be delivered before the Aircraft Declaration, it should be forwarded to the Medical Officer receiving the latter. This will enable every passenger on an aircraft to be traced if one of them is later found to be suffering from an infectious disease.

Regulation 21 (2)

The nature of surveillance has been made clearer, and the Minister's direction is required before the medical officer at an aerodrome can order a person to report to a local Medical Officer of Health. It will be noted that such a direction may be either " general or special " ; for example, it might be necessary to apply such a direction to all persons arriving from a particular area instead of to an individual passenger.

Regulation 22

The medical officer is specifically given the responsibility for carrying out the prescribed measures against an infected aircraft or an aircraft coming from an infected locality.

Regulation 23

Paragraph 6 of this Circular refers to the requirement in the Air Navigation (Consolidation) Order that an aircraft coming from abroad must first alight in this country at a customs aerodrome unless it is forced to alight elsewhere, and the provisions in these Regulations dealing with arriving aircraft accordingly apply to aircraft alighting at such aerodromes. Nevertheless, it has been considered advisable to make some provision in the Regulations for the application of Health Control to aircraft which do in fact alight elsewhere than at a customs aerodrome, and this is done in Regulation 23.

Regulation 24

The International Sanitary Conventions for Aerial Navigation do not require that persons who have been in contact with yellow fever cases shall be prohibited from embarking on aircraft : consequently, paragraph (*b*) of this Regulation does not refer to yellow fever.

10. A copy of this Circular and the enclosures are being sent to the Medical Officer of Health. [40]

I am, Sir, etc.

* * * * *

The Clerk of the Authority.

Circular 74/48

County Councils
Local Authorities
Port Health Authorities.
(England and Wales)

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.
13th May, 1948.

SIR,

PUBLIC HEALTH (AIRCRAFT) REGULATIONS, 1948

1. I am directed by the Minister of Health to refer to the definition of "excepted area" in Regulation 3 (3) of the Public Health (Aircraft) Regulations, 1948, enclosed with Circular 28/48 of the 5th March, 1948, and to say that he has had under consideration an application by the Government of Eire for the inclusion of that country in the "excepted area" in accordance with the terms of the definition.

2. The Government of Eire have made regulations, entitled "Infectious Diseases (Aircraft) Regulations, 1948," which came into force on the 1st May, 1948, and are very similar to the regulations now in force in this country, and the Minister has decided to accede to their request.

3. The following notice was accordingly published in the "London Gazette" on the 30th April, 1948 :—

PUBLIC HEALTH (AIRCRAFT) REGULATIONS, 1948

The Minister of Health hereby gives notice under Regulation 3 (3) of the above regulations that on and after the first day of May, 1948, Eire will be included within the "excepted area" as defined for the purposes of those regulations.

Dated this 30th day of April, 1948.

4. The effect of extending the definition in this manner is that action under Part II of the Public Health (Aircraft) Regulations, 1948, need not be taken as regards aircraft arriving in this country from Eire.

5. A copy of this circular is being sent to the Medical Officer of Health. [41]

I am, Sir, etc.

* * * * *

The Clerk of the Authority.

AGRICULTURE

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STATUTES

AGRICULTURAL WAGES ACT, 1948

(11 & 12 Geo. 6, c. 47)

PRELIMINARY NOTE

This Act, which came into force when it received the Royal Assent on July 13, 1948, consolidates the Agricultural Wages (Regulation) Acts, 1924 and 1947 (1 Halsbury's Statutes (2nd Edn.) 638, 648), as modified by the Holidays with Pay (Agricultural Workers—England and Wales) (Application of Enactments) Regulations, 1947 (S. R. & O., 1947, No. 2025), and, so far as it relates to agricultural workers in England and Wales the Holidays with Pay Act, 1938 (31 Halsbury's Statutes 817).

The Agricultural Wages (Regulation) Act, 1924 (1 Halsbury's Statutes (2nd Edn.) 638) provided for the fixing of minimum rates of wages for agricultural workers in England and Wales by county wages committees. The decisions of the committee were required to be registered by a central Agricultural Wages Board, who might also act on behalf of a committee which was in default or which requested the Board to act.

The Holidays with Pay Act, 1938 (31 Halsbury's Statutes 817) (which applies to wage-regulating authorities generally) enlarged the powers of agricultural wages committees by enabling them to make directions entitling any workers for whom they had fixed a minimum wage to holidays with pay.

By the Agricultural Wages (Regulation) Act, 1947 (1 Halsbury's Statutes (2nd Edn.) 648) the wage-fixing and holiday-directing functions of the wages committees, which had been temporarily transferred under Defence Regulations (see reg. 23 of the Defence (Agriculture and Fisheries) Regulations, 1939; S. R. & O., 1939, No. 1303, as amended), were permanently transferred to the Agricultural Wages Board, and the committees were required in exercising their remaining functions to comply with any directions given by the Board. The Act of 1947 also amended the Act of 1924 in a number of other respects.

The present Act reproduces the law contained in the above-mentioned Acts to the extent already noted without amendment, but in a re-arranged form and with certain adjustments of phraseology.

The Act provides for the establishment, first, of an Agricultural Wages Board for England and Wales (s. 1), and, secondly, for an agricultural wages committee for each county or combination of counties (s. 2). The provisions of the First and Third Schedules, respectively, govern the constitution and proceedings of the Board and the committees. The Board are required to have regard to representations made by committees and the committees to comply with directions from the Board (ss. 1 (2), 2 (4)).

The principal function of the Board is to make orders fixing minimum rates of wages for agricultural workers and directing that such workers shall be entitled to holidays with pay. They have, in addition, power to make orders applying a system of certification for workers undergoing instruction in agriculture.

The functions of the wages committees, which are all of secondary importance, include (i) granting permits to incapacitated persons, (ii) granting certificates as to workers undergoing instruction in agriculture and approving premiums paid by such persons, and (iii) awarding additional wages to piece workers in certain cases.

The Board are empowered to make orders in accordance with the provisions of Sched. IV for each county or combination of counties (*a*) fixing minimum rates of wages for agricultural workers, and (*b*) directing that any worker for whom a minimum rate of wages is fixed shall be entitled to be allowed holidays with pay (s. 3 (1), (3), (6)). The fixing of a minimum rate for time work is obligatory, and the Board may, in addition, fix a minimum rate for piece work and a minimum rate for time work to apply in the case of piece workers to secure them a minimum rate of remuneration on a time work basis (s. 3 (2)).

Considerable flexibility is allowed in the contents of minimum wage orders. An order may provide for a rate varying according to different terms and conditions of employment and for a differential rate for "overtime" (s. 3 (4)), and may cover all agricultural workers in the county or be limited to a special class of such workers

or to a special area of the county (Sched. IV, para. 5). An order may include a "guaranteed-week" clause (s. 3 (7)), and the Act contains a special provision, introduced by the Act of 1947, whereby an order may provide for a reduction in the minimum rate where a non-casual worker is absent from work as a result of illness or other unavoidable cause (Sched. IV, para. 5).

The Board are empowered to define and evaluate the benefits and advantages which for the purpose of a minimum rate of wages may be reckoned as payment of wages (s. 7).

Where a holiday order is made a separate minimum rate of wages by way of pay in respect thereof must be fixed. The duration of the holidays is to be specified in the order and must be related to the duration of the worker's employment or engagement by the employer who is to allow the holiday (s. 3 (3)).

The Act lays down penalties for failure to comply with a minimum wage or holiday order. In any proceedings for failure to pay the minimum wage the court must, whether there is a conviction or not, order the employer to repay any shortfall of wages during the preceding six months and may, following a conviction, order him to repay any shortfall during the preceding two years (s. 4).

Where a reduced minimum rate of wages is fixed for workers undergoing instruction in agriculture, the Board may require employers wishing to avail themselves of such reduced rate in respect of any such worker to obtain a certificate from the local wages committee approving the terms of employment. An employer will be unable to circumvent this provision by taking a premium since the Act prohibits the taking of a premium, whether directly or indirectly, from a worker except in pursuance of an agreement approved by the local wages committee (s. 6).

A wages committee is empowered to grant to a worker who is so incapacitated as to be incapable of earning the minimum rate a permit exempting his employment from the minimum rate order. Such a permit may itself lay down conditions as to the wages to be paid to the worker (s. 5).

A wages committee is empowered to require an employer to pay an additional sum by way of wages to a piece-worker who is unprotected by a minimum wage rate order where he is underpaid by comparison with an ordinary worker employed on time-work (s. 8).

The Act contains a number of supplementary provisions. The Minister is empowered to appoint officers with powers of entry and inspection to investigate complaints and secure the proper observance of the Act. An officer, where duly authorised, may institute both criminal proceedings and also civil proceedings on behalf of a worker for the recovery of money due from his employer (s. 12). Provision is made with regard to annual reports (s. 13) and expenses (s. 14) and the receiving in evidence of documents (s. 15), and enabling regulations to be made for giving effect to and modifying the Act as respects holidays and holiday remuneration (s. 16). Order, regulations, permits, etc., made or granted under the consolidated Acts and in force on the passing of the present Act, are continued in force and have effect as if made under the present Act (s. 20 (2)). [42]

ARRANGEMENT OF SECTIONS

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[13th July, 1948.]

The Agricultural Wages Board and Agricultural Wages Committees

1. The Agricultural Wages Board for England and Wales.—(1) There shall be a Board, to be called the Agricultural Wages Board for England and Wales (in this Act referred to as " the Board "), which shall have, in relation to each of the counties and combinations of counties in England and Wales for which agricultural wages committees are established under the next following section, such functions with respect to the fixing of minimum rates of wages for workers employed in agriculture and of directing that such workers shall be entitled to be allowed holidays, and such other functions, as are conferred on the Board by the subsequent provisions of this Act. [44]

(2) In the exercise, in relation to a county or combination of counties, of their functions under this Act with respect to fixing, cancelling and varying rates of wages, reckoning benefits and advantages as payment of wages and the payment of premiums in respect of apprentices or learners the Board shall, without prejudice to any other provision of this Act, have regard to representations made to them by the agricultural wages committee established under the next following section for the county or combination of counties. [45]

(3) The provisions of the First Schedule to this Act shall have effect with respect to the constitution and proceedings of the Board. [46]

General note.—Sub-ss. (1) and (3), *supra*, reproduce s. 1 (1), (2) (in part) of the Act of 1924 (1 Halsbury's Statutes (2nd Edn.) 638), and s. 1 (1) (in part) of the Act of 1938 (31 Halsbury's Statutes 817); also s. 1 (1), (5) of the Act of 1947 (1 Halsbury's Statutes (2nd Edn.) 648, 649).

Sub-s. (2), *supra*, reproduces, in different language, s. 6 (1) of the Act of 1947 (1 Halsbury's Statutes (2nd Edn.) 654).

Effect of section.—This section, together with Sched. I, *post*, provides for the establishment of the Agricultural Wages Board for England and Wales, and requires the Board in the

exercise of their functions to have regard to representations made by agricultural wages committees.

Fixing, etc., minimum rates of wages.—See s. 3, *post.*

Reckoning benefits and advantages as wages.—See s. 7, *post.*

Premiums in respect of apprentices or learners.—See s. 6 (5)–(8), *post.*

Definitions.—For definitions of "agriculture", "county" and "worker", see s. 17 (1), *post.* As to "county", see also ss. 17, 18 and 19, *post.*

2. Agricultural wages committees for counties and combinations of counties.—(1) Subject to the provisions of this Act, there shall be established, by order of the Minister made by statutory instrument, an agricultural wages committee for each county in England and Wales:

Provided that—

(*a*) as respects each combination of counties specified in the Second Schedule to this Act, there shall, in the first instance, be established as aforesaid a committee for the combination instead of a committee for each county; and

(*b*) if, in the case of each of the respective committees for two or more counties, there is passed by the members of the committee representing employers and the members thereof representing workers in agriculture a resolution in favour of combining the counties for the purposes of this Act, there may, if the Minister thinks it expedient, be established as aforesaid a committee for the combination of counties instead of separate committees for the several counties. [47]

(2) Where an agricultural wages committee has been established for a combination of counties, the Minister at any time thereafter may, and on the representation of the committee by resolution of the members thereof representing employers and the members thereof representing workers in agriculture shall, by statutory instrument dissolve the committee. [48]

(3) A combination of counties for which an agricultural wages committee is established under this section shall, until the committee is dissolved, be deemed for the purposes of this section and the subsequent provisions of this Act to be one county. [49]

(4) The functions of agricultural wages committees under this Act shall, subject to the provisions of this Act and any order made thereunder, be exercised in accordance with any directions in that behalf given by the Board. [50]

(5) A resolution for the purposes of paragraph (*b*) of the proviso to subsection (1) of this section or of subsection (2) thereof, as the case may be, that is passed at a meeting of an agricultural wages committee unanimously by such of the members thereof representing employers and such of the members thereof representing workers in agriculture as are present and voting shall be deemed, for the purposes of the said paragraph (*b*) or the said subsection (2), as the case may be, to be a resolution of those members. [51]

(6) The provisions of the Third Schedule to this Act shall have effect with respect to the constitution and proceedings of agricultural wages committees. [52]

General note.—Sub-ss. (1)–(3) and (6), *supra*, reproduce part of s. 1 of the Act of 1924 (1 Halsbury's Statutes (2nd Edn.) 638), and sub-s. (5), *supra*, reproduces s. 16 (3) (in part) of that Act. Sub-s. (4), *supra*, reproduces s. 6 (2) of the Act of 1947 (1 Halsbury's Statutes (2nd Edn.) 654).

Effect of section.—This section, together with Sched. III, *post*, provides for the establishment of an agricultural wages committee for each county in England and Wales or for a combination of counties. There are, in the first instance, to be established single committees for each combination of counties specified in Sched. II, *post*, and subsequently for such further combinations as, following the required resolution of the committees for the counties concerned, the Minister of Agriculture and Fisheries considers expedient. Provision is made for the dissolution of any committee established for a combination of counties.

Wages committees are, subject to the provisions of the Act and orders made thereunder, to exercise their functions in accordance with any directions of the Agricultural Wages Board established under s. 1, *ante.*

The Minister.—The Minister of Agriculture and Fisheries (s. 17 (1), *post*).
Statutory instrument.—As to statutory instruments generally, see the Statutory Instruments Act, 1946 (30 Halsbury's Statutes 783), which Act was brought fully into force on January 1, 1948, by S.I. 1948 No. 3.
Definitions.—For definitions of "agriculture," "county", "employer" and "worker", see s. 17 (1), *post*. As to "county", see also ss. 17, 18 and 19, *post*.

Wages and Holidays

3. Power of Agricultural Wages Board to fix rates of wages, and holidays.—(1) Subject to and in accordance with the provisions of this section, the Board shall have power, for each county for which an agricultural wages committee is established under this Act,—

(*a*) to fix minimum rates of wages for workers employed in agriculture; and

(*b*) to direct that any such workers shall be entitled to be allowed by their employers holidays of such duration as may be specified in the direction. [53]

(2) The powers of the Board with respect to the fixing of minimum rates of wages as aforesaid shall be powers—

(*a*) to fix minimum rates for time work;

(*b*) to fix minimum rates for piece work;

(*c*) to fix minimum rates for time work, to apply in the case of workers employed on piece work, for the purpose of securing to such workers a minimum rate of remuneration on a time work basis;

(*d*) to fix separate minimum rates by way of pay in respect of holidays;

and the exercise by the Board of their powers under paragraph (*a*) of this subsection shall be obligatory:

Provided that the minimum time rate for piece work shall not in any case be higher than the minimum rate which, if the work were time work, would be applicable thereto by virtue of paragraph (*a*) of this subsection. [54]

(3) A direction under paragraph (*b*) of subsection (1) of this section that a worker shall be entitled to be allowed a holiday shall not be given unless both minimum rates of wages in respect of the period of the holiday and minimum rates of wages otherwise than in respect of the holiday have been or are being fixed under this section for that worker, shall provide for the duration of the holiday's being related to the duration of the period for which the worker has been employed or engaged to be employed by the employer who is to allow the holiday and, subject as aforesaid, may make provision as to the times at which or the periods within which, and the circumstances in which, the holiday shall be allowed; and the power to fix separate minimum rates of wages by way of pay in respect of holidays shall include power to make provision with respect to the times at which, and the conditions subject to which, those wages shall accrue and shall become payable, and for securing that any such wages which have accrued to a worker during his employment by any employer shall, in the event of his ceasing to be employed by that employer before he becomes entitled to be allowed a holiday by him, nevertheless become payable by the employer to the worker. [55]

(4) Any such minimum rates of wages as are mentioned in subsection (2) of this section may be fixed so as to vary according as the employment is for a day, week, month or other period, or according to the number of working hours, or the conditions of the employment, or so as to provide for a differential rate in the case of employment defined by the Board as being overtime employment, and, without prejudice to the generality of the preceding words, a minimum time rate for piece work may be fixed so as to provide for a differential rate for work done in such circumstances that, if

it were time work, it would be treated as overtime for the purposes of the minimum rate applicable thereto by virtue of paragraph (*a*) of that subsection.

In the exercise of their powers under this subsection, the Board shall, so far as is reasonably practicable, secure a weekly half-holiday for workers. [56]

(5) The Board may, if they think it expedient, cancel or vary a minimum rate fixed or a direction as to holidays given under this section. [57]

(6) The powers conferred on the Board by this section shall be exercised by order made in accordance with the provisions of the Fourth Schedule to this Act. [58]

(7) Nothing in this section shall be construed as preventing the Board fixing or varying a minimum rate of wages so as to secure that workers employed in agriculture receive remuneration calculated by reference to periods during the currency of their employment. [59]

General note.—Sub-s. (1), *supra*, reproduces s. 2 (1) (in part) of the Act of 1924 (1 Halsbury's Statutes (2nd Edn.) 639), as amended by s. 1 (1), (5) of the Act of 1947 (1 Halsbury's Statutes (2nd Edn.) 648, 649); also s. 1 (1) (in part) of the Act of 1938.

Sub-s. (2), *supra*, reproduces s. 2 (1) (in part) of the Act of 1924, as amended by s. 2 (1) of the Act of 1938 and by ss. 1 (1), (5) and 4 (1) of the Act of 1947.

Sub-s. (3), *supra*, reproduces ss. 1 (1) (in part), (2) (as amended by s. 7 of the Act of 1947), 2 (1) (in part) and 2 (2) of the Act of 1938.

Sub-s. (4), *supra*, reproduces s. 2 (2) of the Act of 1924 (as amended by ss. 1 (1), (5), 12 (5) of, and Sched. III to, the Act of 1947) and ss. 2 (1) (in part) and 4 (2) of the Act of 1947.

Sub-s. (5), *supra*, reproduces s. 2 (5) of the Act of 1924, and s. 3 (1) (in part) of the Act of 1938, as amended by s. 1 (1), (5) of the Act of 1947.

Sub-s. (6), *supra*, reproduces ss. 1 (4) and 2 (1) (in part) of the Act of 1947; also s. 3 (1) (in part) of the Act of 1938, as amended by s. 1 (5) of the Act of 1947.

Sub-s. (7), *supra*, reproduces s. 1 (3) of the Act of 1947.

Effect.—Sub-ss. (1), (6), empower the Board by orders in accordance with Sched. IV, *post*: (*a*) to fix, for each county, minimum rates of wages for agricultural workers, and (*b*) to direct that any such workers shall be entitled to specified holidays. Sub-s. (2) defines the powers conferred by (*a*), and in one case makes it obligatory for the Board to exercise its powers, namely to fix minimum rates for time work. Sub-s. (3), which relates to holidays, forbids the making of a holiday order except where minimum rates of wages in respect of the holiday and otherwise than in respect of the holiday, are fixed for the worker, and also deals with the contents of holiday orders. Sub-s. (4) provides for flexibility in rate-fixing orders by enabling minimum rates to be fixed so as to vary according to the period or conditions of the employment or so as to provide for a differential rate for "overtime"; and sub-s. (7) is designed to enable orders to incorporate a guaranteed-week clause.

County.—This includes a combination of counties for which a single agricultural wages committee is established (s. 2 (3), *ante*). For definition, see s. 17 (1), *post*; and see also ss. 17 (2), (3), 18 and 19, *post*.

Orders.—Orders of the Board, which are not statutory instruments, are published in the *London Gazette*; copies may be obtained, free of charge, from the Secretary to the Agricultural Wages Board, Birkenhall Mansions, London, W.1.

Sub-s. (7).—The principal purpose of this subsection is to enable the Board to incorporate in any order made by them for fixing or varying minimum wage rates a guaranteed-week clause. The origin of the subsection is to be found in the Agricultural Wages (Regulation) Amendment Act, 1940, s. 1 (33 Halsbury's Statutes 27), which provided that the minimum rate of wages fixed by the wages committees or, as a result of the temporary provisions of reg. 23 of the Defence (Agriculture and Fisheries) Regulations, 1939, by the Agricultural Wages Board, should be such as to secure that no man of full age employed whole time by the week or any longer period in agriculture should receive, in respect of any week, less than the national minimum wage fixed under that Act. That Act was repealed by the Act of 1947, s. 12 and Sched. III (1 Halsbury's Statutes (2nd Edn.) 655, 658), but power to make an order having a similar effect was contained in s. 1 (3) of that Act, which is re-enacted by sub-s. (7), *supra*. A secondary purpose of the subsection, together with para. 5 of Sched. IV, *post*, is to enable the Board to make provision for special circumstances, such as absence from work due to sickness, or other unavoidable cause, as to which see notes to that Schedule, *post*.

Definitions.—For definitions of "agriculture", "employment", "employer", "employed" and "worker", see s. 17 (1), *post*.

4. Enforcement of wages and holidays orders.—(1) Subject to the provisions of this Act, if an employer fails—

(*a*) to pay to a worker to whom an order under the last preceding section applies wages at a rate not less than the minimum rate fixed by the order; or

(*b*) to pay to any such worker, in respect of a holiday, wages at the times and subject to the conditions specified in the order; or

(*c*) to allow to any such worker the holidays fixed by the order;

he shall be liable on summary conviction in respect of each offence to a fine not exceeding twenty pounds and, in the case of an offence consisting of a failure to pay wages in accordance with the order, to a fine not exceeding one pound for each day on which the offence is continued after conviction; and in any proceedings against an employer under this subsection in respect of a failure to pay wages at a rate not less than the minimum rate, the court shall, whether there is a conviction or not, order the employer to pay in addition to the fine, if any, such sum as may be found by the court to represent the difference between the amount which ought, at the minimum rate applicable, to have been paid to the worker by way of wages during the period of six months immediately preceding the date on which the information was laid or the complaint was served, and the amount actually so paid to him. [60]

(2) Where proceedings are brought under the preceding subsection in respect of an offence consisting of a failure to pay wages to a worker at a rate not less than the minimum rate applicable, then, if notice of intention so to do has been served with the summons, warrant or complaint—

(*a*) evidence may, on the employer's having been convicted of the offence, be given of any failure on the part of the employer to pay wages to that worker at not less than the minimum rate applicable to him at any time during the eighteen months immediately preceding the period of six months mentioned in the preceding subsection; and

(*b*) on proof of the failure, the court may order the employer to pay such sum as is found by the court to represent the difference between the amount which ought, at the minimum rate applicable, to have been paid to the worker by way of wages during the said eighteen months and the amount actually so paid to him. [61]

(3) In any proceedings against a person under this section it shall lie with him to prove that he has paid wages at not less than the minimum rate or has allowed the holidays fixed by the order, as the case may be. [62]

(4) The powers given by this section for the recovery of sums due from an employer to a worker shall not be in derogation of any right of the worker to recover such sums by civil proceedings. [63]

General note.—This section reproduces: (i) s. 7 (1)–(4), (9) of the Act of 1924 (1 Halsbury's Statutes (2nd Edn.) 640), as extended by s. 2 (1) of the Act of 1938 (31 Halsbury's Statutes 818) and applied by regs. 3 and 4 of S. R. & O., 1947, No. 2025, made under s. 3 (2) of the 1938 Act; and (ii) s. 1 (5) of the Act of 1938.

Effect of section.—See Preliminary Note, *ante*.

As to the institution of proceedings by an officer appointed by the Minister, see s. 12 (4), *post*.

Not less than the minimum rate.—Agreements for the payment of wages at less than the minimum or for abstaining from exercising the right of enforcement provided by this section are void (s. 11 (1) (*a*), *post*). Authorised benefits and advantages may be reckoned as payment of wages (see s. 7, *post*).

In *Seabrook & Sons, Ltd.* v. *Jones*, [1929] 1 K. B. 335; Digest Supp., an agricultural worker employed for a fifty-hour week at a weekly wage of thirty shillings was not required, in accordance with custom, to work on Good Friday, and deductions in respect of that day were made from his weekly pay. The minimum rate of wages applicable to the worker was thirty shillings in respect of a fifty-hour week. It was held that he was entitled to receive the full thirty shillings in respect of the week which included Good Friday, although he had worked only forty-one hours that week. Wages at the minimum rate must be paid in full and in cash without deduction—other than a deduction in respect of a benefit or advantage authorised by the wages order (see s. 7 (1), *post*)—notwithstanding any agreement by the worker to forego such deduction or any debt owed by him to his employer (*Jones* v. *Harris*, [1927] 1 K. B. 425; 44 Digest 1301, *67*). See also *Williams* v. *Smith*, [1934] 2 K. B. 158; Digest Supp. (charge for board and lodging in excess of authorised deduction made under separate contract); and *Hayes* v. *Curtis* (1928), 139 L. T. 312; 44 Digest 1302, *68* (deduction

for unauthorised benefit). As to deductions from wages during sickness, see *Smart* v. *Spencer*, [1948] 2 K. B. 105 ; [1948] 1 All E. R. 749 (at page 59, *post*), and notes to Sched. IV, *post*. An agreement for a lump sum payment at the end of a fixed term equivalent to the prescribed rate is valid, and where such an agreement is made a worker who quits his employment in breach of contract is not entitled to wages at the prescribed rate in respect of the period prior to the breach (*Pockney* v. *Atkinson*, [1930] 1 K. B. 197 ; Digest Supp.).

In the case of a worker holding an incapacity permit under s. 5 (1), *post*, authorising the payment of wages to him at a specified rate less than the minimum rate, the amount that may be recovered from an employer in respect of the period covered by the permit is to be calculated on the basis of the rate so specified instead of on the basis of the minimum rate ; see s. 5 (6), *post*.

Proceedings.—As to the period within which proceedings in respect of a failure to pay wages at the full rate must be brought, see *Gutsell* v. *Reeve*, [1936] 1 K. B. 272 ; Digest Supp.

Whether there is a conviction or not.—These words will cover the dismissal of a charge under the Probation of Offenders Act, 1907, s. 1 (1) (11 Halsbury's Statutes 365). That section enables a court of summary jurisdiction when they consider a charge to be proved but that in given circumstances it is inexpedient to punish the offender or expedient to release him on probation, without proceeding to a conviction to dismiss the charge or to discharge him conditionally on his entering into recognizances. The Probation of Offenders Act, 1907, is repealed, as from a day to be appointed by Order in Council, by the Criminal Justice Act, 1948, s. 83 (3) and Sched. X, Part I (11 & 12 Geo. 6, c. 58), which however, by ss. 3 and 7 substitutes a somewhat similar procedure, under which conviction precedes absolute or conditional discharge.

Burden of proof.—Sub-s. (3), *supra*, does not relieve the prosecution from the duty of establishing a *prima facie* case. In a case for failing to pay wages at a rate not less than the minimum rate, it was held that the prosecution must prove what is the minimum rate applicable and, where that rate depends on the age of the worker, must also prove his age. Not until the prosecution has made it appear that less has been paid than ought to have been paid can the onus shift to the defendant of proving that he has paid wages at not less than the minimum rate (see *Jones* v. *Harris*, [1927] 1 K. B. 425 ; 44 Digest 1301, *67*).

Civil proceedings.—An authorised officer of the Minister may institute civil proceedings on behalf of the worker (s. 12 (5), *post*).

Definitions.—For definitions of " employer " and " worker ", see s. 17 (1), *post*.

5. Permits to incapacitated persons.—(1) If, on an application in that behalf, an agricultural wages committee are satisfied that a worker employed or desiring to be employed in their county on time work to which a minimum rate fixed under this Act is applicable, or on piece work to which a minimum time rate so fixed is applicable, is so affected by any physical injury or mental deficiency, or any infirmity due to age or to any other cause, that he is incapable of earning that minimum rate, the committee shall grant to him a permit exempting, as from the date of the application or from a later date specified in the permit, his employment from the provisions of the last preceding section relating to payment of wages at not less than the minimum rate, subject to such conditions as may be specified in the permit, including, if the committee think fit, a condition as to the wages to be paid to the worker, and, while the permit has effect, an employer shall not be liable to any legal proceedings under the last preceding section for failing to pay to the worker wages at a rate not less than the minimum rate if those conditions are complied with. [64]

(2) If an application for a permit under the preceding subsection is not disposed of within twenty-one days after the day on which it is received, then the employer of the worker to whom the application relates shall not be liable to any legal proceedings under the last preceding section for failing to pay to the worker wages at a rate not less than the minimum rate during the interval between the expiration of the said period and the date on which the application is ultimately disposed of. [65]

(3) Where an agricultural wages committee have granted a permit under subsection (1) of this section and at any time thereafter it appears to the committee, whether on an application under this subsection or otherwise, that the worker to whom the permit relates is no longer so affected by any such incapacity as is mentioned in the said subsection (1) as to be incapable of earning the minimum rate in question, the committee shall revoke the permit. [66]

(4) Where an agricultural wages committee have granted such a permit as aforesaid and it appears to the committee, whether on an application

under this subsection or otherwise, that, by reason of any change in minimum rates of wages or in the circumstances of the worker to whom the permit relates, it is expedient to vary any condition specified in the permit, the committee may direct that the condition shall be varied in such manner as may be specified in the direction. [67]

(5) Before revoking any permit or varying any condition under the preceding provisions of this section, an agricultural wages committee shall serve on the worker to whom the permit relates, and, in a case where the identity of his employer is known to the committee, on his employer, notice of their proposal so to do, and afford to the worker and the employer (where such a notice as aforesaid is required to be served on him) an opportunity of making representations to the committee, and no such revocation or variation as aforesaid shall take effect until notice of the revocation or variation has been served by the agricultural wages committee on the worker to whom the permit relates and, in a case where the identity of his employer is known to the committee, on his employer.

A notice under this subsection shall be duly served on a person if sent to him by post in a registered letter. [68]

(6) Where a permit granted to a worker under subsection (1) of this section contains a condition for the payment of wages to the worker at a rate not less than the rate therein specified, the amount of wages that may be recovered from an employer of the worker in pursuance of this Act shall, as respects any period during which the permit had effect, be calculated on the basis of the rate so specified instead of on the basis of the minimum rate. [69]

General note.—Sub-ss. (1) and (2), *supra*, reproduce s. 2 (3) of the Act of 1924 (1 Halsbury's Statutes (2nd Edn.) 639), as amended by s. 4 (3) of the Act of 1947 (1 Halsbury's Statutes (2nd Edn.) 653).

Sub-ss. (3)–(5), *supra*, reproduce sub-ss. (1)–(3) respectively, of s. 5 of the Act of 1947.

Sub-s. (6), *supra*, reproduces s. 7 (8) of the Act of 1924.

Effect of section.—This section enables an agricultural wages committee to grant a worker who is so incapacitated as to be incapable of earning the minimum rate of wages a permit exempting his employment from the minimum rate order. Such a permit may itself contain alternative conditions as to the wages to be paid to the worker. If an application for a permit is not disposed of within twenty-one days, no liability attaches to an employer who pays the worker at less than the minimum rate during the interval between the expiration of this period and the date when the application is ultimately disposed of. The section also contains provisions for varying and revoking permits.

The granting of permits is one of the functions conferred on wages committees by the Act of 1924 (1 Halsbury's Statutes (2nd Edn.) 638) which was not transferred to the Agricultural Wages Board by the Act of 1947.

Applications to wages committees.—The Minister of Agriculture may prescribe the procedure to be followed in connection with applications to wages committees (s. 9 (1), *post*).

County.—This includes a combination of counties for which an agricultural wages committee is established (s. 2 (3), *ante*). For definition, see s. 17 (1), *post*; and see also ss. 17 (2), (3), 18 and 19, *post*.

Definitions.—For definitions of "employment", "employed", "employer" and "worker", see s. 17 (1), *post*.

6. Provisions as to learners.—(1) Where a minimum rate of wages has been fixed under this Act for a special class of workers defined by reference to the fact that they are in receipt of instruction in agriculture, and the order fixing the rate provides that this section shall have effect in relation thereto, the rate shall not apply in relation to a worker unless there is in force a certificate given by the agricultural wages committee for the county in which the worker is employed that they approve the terms of his employment.

A certificate under this subsection may provide that it shall be deemed to have been in force from such date not earlier than the making to the agricultural wages committee of the application for the certificate as may be specified in the certificate. [70]

(2) An agricultural wages committee in granting an application for a certificate under the preceding subsection may impose such conditions as

appear to them requisite for securing that the worker to whom the application relates shall receive adequate instruction, and that the terms of his employment shall be in other respects satisfactory, and if (whether on an application under this subsection or otherwise) it appears to the committee that a condition imposed under this subsection is not being complied with, or that the terms of the worker's employment are no longer satisfactory, they may revoke the certificate. [71]

(3) An agricultural wages committee may (whether on an application under this subsection or otherwise) vary a condition imposed under the last preceding subsection. [72]

(4) Before revoking a certificate or varying a condition under the preceding provisions of this section, an agricultural wages committee shall serve on the worker to whom the certificate relates and on his employer notice of their proposal so to do, and afford to the worker and employer an opportunity of making representations to the committee, and no such revocation or variation as aforesaid shall take effect until notice of the revocation or variation has been served by the agricultural wages committee on the worker to whom the certificate relates and on his employer.

A notice under this subsection shall be duly served on a person if sent to him by post in a registered letter. [73]

(5) It shall not be lawful for the employer of a worker, being an apprentice or learner, who is employed in agriculture in a county for which an agricultural wages committee is established under this Act to receive directly or indirectly from the worker, or on his behalf or on his account, a payment by way of premium unless the payment is duly made in pursuance of an agreement approved for the purposes of this subsection by the agricultural wages committee, and the amount of a payment received in contravention of this subsection shall be recoverable by the person by whom the payment was made. [74]

(6) If an employer acts in contravention of the last preceding subsection he shall be liable on summary conviction in respect of each offence to a fine not exceeding twenty pounds, and in any proceedings against an employer under this subsection the court shall, whether there is a conviction or not, order the employer to repay any sum which the court finds to have been received by way of premium in contravention of the last preceding subsection. [75]

(7) Nothing in the last preceding subsection shall be taken to exclude the bringing otherwise than in accordance with that subsection of proceedings for the recovery of an amount due under subsection (5) of this section. [76]

(8) The Board may by order made in accordance with the provisions of the Fourth Schedule to this Act specify matters with respect to which an agricultural wages committee must be satisfied before granting a certificate under subsection (1) of this section or approving an agreement for the purposes of subsection (5) thereof. [77]

General note.—This section reproduces s. 3 (except sub-s. (7) thereof) of the Act of 1947 (1 Halsbury's Statutes (2nd Edn.) 651).

Effect of section.—See Preliminary Note, *ante*.

Learners.—The reference in the heading to this section to learners is rather misleading, as the section does not apply to all persons in receipt of instruction in agriculture but only to workers in receipt of such instruction who are also in employment within the meaning given to that expression by s. 17 (1), *post*. That section states that "employment" means employment under a contract of service or apprenticeship and that the expressions "employed" and "employer" are to be construed accordingly. Hence it follows that the section does not apply to persons in receipt of instruction in agriculture who are not under such a contract, and the giving of a premium in such a case is not affected by the section. Persons in receipt of vocational training on farms under the provisions of the Disabled Persons (Employment) Act, 1944 (37 Halsbury's Statutes 346), are also outside the scope of the section, since they too are not under contracts of service.

Special class of workers.—Power to fix a minimum rate of wages for special classes of workers is conferred by s. 3 (6), *ante*, and Sched. IV, para. 5, *post*.

Order.—No order applying this section had been made at the date of going to press.

Applications.—The Minister of Agriculture may prescribe the procedure to be followed in connection with applications to wages committees (s. 9 (1), *post*).

Sub-ss. (5) *and* (6).—Very similar provisions to those made by these subsections in regard to payment of premiums by or on behalf of apprentices or learners employed in agriculture are made by the Wages Councils Act, 1945, s. 14 (38 Halsbury's Statutes 468), in regard to apprentices and learners to whom a wage regulation order under that Act applies.

Proceedings.—As to the institution of proceedings by an officer appointed by the Minister, see s. 12 (4), *post*. A duly authorised officer of the Minister may institute civil proceedings on the worker's behalf for the recovery of any sum due on account of the wrongful taking of a premium (s. 12 (5), *post*).

Definitions.—For definitions of "agriculture", "employment", "employed", "employer" and "worker", see s. 17 (1), *post*.

7. Reckoning of benefits and advantages as payment of wages.—(1) The Board shall have power, for each county for which an agricultural wages committee is established under this Act, by order made in accordance with the provisions of the Fourth Schedule to this Act—

(*a*) to define the benefits or advantages (not being benefits or advantages prohibited by law) which for the purposes of a minimum rate of wages fixed under this Act may be reckoned as payment of wages in lieu of payment in cash;

(*b*) to determine the value at which, for the purposes aforesaid, such benefits or advantages may be so reckoned;

(*c*) to limit or prohibit the reckoning for the purposes aforesaid of benefits or advantages as payment of wages in lieu of payment in cash. [78]

(2) Subject to the provisions of any order under the preceding subsection, the court may, in any proceedings under this Act, reckon as a payment of wages such amount as in the opinion of the court represents the value of any benefits or advantages (not being benefits or advantages prohibited by law) received by a worker under the terms of his employment. [79]

(3) If an agricultural wages committee are satisfied, on an application in that behalf made by a worker employed in agriculture in their county or by his employer, that the value determined by an order or direction under this section for a house or part of a house occupied as a separate dwelling by the worker does not correspond with the true value thereof, the committee may, subject to any limits imposed by the Board by order made in accordance with the provisions of the Fourth Schedule to this Act, direct that the value of the house or part of a house is to be reckoned for the purposes of a minimum rate of wages fixed under this Act at such different amount as may be specified in the direction. [80]

General note.—Sub-ss. (1) and (3), *supra*, reproduce sub-ss. (1) (in part) and (2) of s. 2 of the Act of 1947 (1 Halsbury's Statutes (2nd Edn.) 650); sub-s. (2), *supra*, reproduces s. 7 (11) of the Act of 1924 (1 Halsbury's Statutes (2nd Edn.) 642).

It was originally the duty of wages committees, when so required by regulations, to perform the functions which the Board are empowered to perform under sub-s. (1), *supra*; see s. 8 (1) (*a*) of the Act of 1924 (1 Halsbury's Statutes 131). The said s. 8 (1) (*a*) was repealed by s. 12 (5) of, and Sched. III to, the Act of 1947 (1 Halsbury's Statutes (2nd Edn.) 655, 658) and replaced by s. 2 (1) thereof (now sub-s. (1), *supra*), as part of the general transfer of functions from wages committees to the Board which that Act effected.

County.—This includes a combination of counties for which a single agricultural wages committee is established (s. 2 (3), *ante*). For definition, see s. 17 (1), *post*; and see, also, ss. 17 (2), (3), 18 and 19, *post*.

Proceedings under this Act.—See s. 4, *ante*.

Benefits and advantages reckoned as payment of wages.—For judicial decisions regarding the benefits and advantages which may be reckoned as payment of wages, see cases cited in notes to s. 4, *ante*. See also *Williams* v. *Hughes*, *infra*.

Received by the worker.—Unless the benefit or advantage is received by the worker it is not deductible from his wages. The provision of lodgings for a worker which he did not agree to avail himself of, or in fact use, is not a benefit or advantage received by the worker (*Williams* v. *Hughes*, [1936] 1 All E. R. 674; Digest Supp.).

Applications to agricultural wages committees.—The Minister of Agriculture may prescribe the procedure to be followed in connection with applications to wages committees (s. 9 (1), *post*).

Definitions.—For definitions of "agriculture", "employment" and "worker", see s. 17 (1), *post*.

8. Power of agricultural wages committee to award additional wages for piece work in certain cases.—(1) A worker employed in agriculture in a county on piece work for which neither a minimum piece rate nor a minimum time rate applicable in the case of workers employed on piece work has been fixed, or any person authorised by such a worker, may complain to the agricultural wages committee for the county that the piece rate of wages paid to the worker for that work is such a rate as would yield in the circumstances of the case to an ordinary worker a less amount of wages than the minimum rate for time work applicable in the case of that worker, and the committee may, on any such complaint, after giving the employer an opportunity of making such representations as he thinks desirable, direct that the employer shall pay to the worker such additional sum by way of wages for any piece work done by him at that piece rate at any time within fourteen days before the date of complaint, or at any time after the date of complaint and before the decision of the committee thereon, as in their opinion represents the difference between the amount which would have been paid if the work had been done by an ordinary worker at the minimum rate for time work and the amount actually received by the worker by whom or on whose behalf the complaint is made. [81]

(2) A sum directed under the preceding subsection to be paid by an employer to a worker may be recovered by or on behalf of the worker from the employer summarily as a civil debt. [82]

General note.—This section reproduces s. 4 of the Act of 1924 (1 Halsbury's Statutes (2nd Edn.) 640), as amended by s. 4 (4) of the Act of 1947 (1 Halsbury's Statutes (2nd Edn.) 653).

Effect of section.—See Preliminary Note, *ante*.

This section deals with one of the powers conferred on agricultural wages committees by the Act of 1924, which were not transferred by the Act of 1947 to the Agriculture Wages Board.

County.—This includes a combination of counties for which a single agricultural wages committee is established (s. 2 (3), *ante*). For definition, see s. 17 (1), *post*; and see, also, ss. 17 (2), (3), 18 and 19, *post*.

Minimum piece rate; minimum time rate applicable to piece workers.—As to the power of the Board to fix (i) minimum rates for piece work, and (ii) minimum rates for time work to apply in the case of workers employed on piece work for the purpose of securing to such workers a minimum rate of remuneration on a time work basis, see s. 3 (2), *ante*. It should be noted that the fixing of these rates is optional, unlike the minimum rate for time work which the Board must fix.

Complaint.—The Minister of Agriculture may prescribe the procedure to be followed in connection with a complaint under this section; see s. 9 (1), *infra*, and may appoint officers to investigate complaints; see s. 12 (1), *post*.

Summarily as a civil debt.—See the Summary Jurisdiction Act, 1879, ss. 6, 35 (11 Halsbury's Statutes 325, 342), and Stone's Justice's Manual (80th Edn.), pp. 62 *et seq.* An authorised officer of the Minister may institute proceedings on behalf of a worker (s. 12 (5), *post*).

Definitions.—For definitions of "agriculture", "employer", "employed" and "worker", see s. 17 (1), *post*.

9. Provisions as to applications, etc., to agricultural wages committees.—(1) The procedure to be followed on or in connection with applications and complaints under any of the four last preceding sections to agricultural wages committees and sub-committees thereof shall be such (if any) as may be prescribed. [83]

(2) The Minister may pay to persons attending as parties or witnesses before agricultural wages committees and sub-committees thereof allowances by way of compensation for expenses incurred and time lost by such persons in so attending, at such rates as he may, with the approval of the Treasury, determine, and all payments made under this subsection shall be defrayed as part of the expenses of the Minister in carrying this Act into effect. [84]

General note.—Sub-s. (1), *supra*, reproduces s. 8 (1) of the Act of 1924 (1 Halsbury's Statutes (2nd Edn.) 642) as repealed in part by ss. 2 (3), 12 (5) of, and Sched. III to, the Act of 1947 (1 Halsbury's Statutes (2nd Edn.) 650, 655, 658). Sub-s. (2), *supra*, reproduces s. 9 (2) of the 1947 Act.

Complaints.—The Minister may appoint officers to investigate complaints (s. 12 (1), *post*).

Sub-committees.—As to the power of agricultural wages committees to appoint sub-committees, see Sched. III, para. 7, *post*.

Expenses.—As to the defrayal of the Minister's expenses in carrying the Act into effect, see s. 14, *post*.

Definition.—For definition of "prescribed", see s. 17 (1), *post*.

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10. Criminal liability of agents and special defence open to employer.—(1) Where an offence for which an employer is, under section four or subsection (6) of section six of this Act liable to a fine, has in fact been committed by some agent of the employer or other person, that agent or other person shall be liable to be proceeded against for the offence in the same manner as if he were the employer and either together with, or before or after the conviction of, the employer, and shall be liable on conviction to the same punishment as that to which the employer is liable. [85]

(2) Where an employer who is charged with an offence under section four or subsection (6) of section six of this Act proves to the satisfaction of the court that he has used due diligence to secure compliance with the relevant provisions of this Act, and that the offence was in fact committed by his agent or some other person, without his knowledge, consent or connivance, he shall, in the event of the conviction of that agent or other person for the offence, be exempt from any conviction in respect of the offence. [86]

General note.—This section reproduces s. 7 (5), (6) of the Act of 1924 (1 Halsbury's Statutes (2nd Edn.) 641) as applied by: (i) regulations under s. 3 (2) of the Act of 1938 (31 Halsbury's Statutes 818), and (ii) s. 3 (7) of, and Sched. II, Part I, paras. 1 and 2 to, the Act of 1947 (1 Halsbury's Statutes (2nd Edn.) 652, 657).

Definition.—For definition of "employer", see s. 17 (1), *post.*

11. Avoidance of agreements in contravention of this Act and saving for other agreements, etc.—(1) Any such agreement as the following shall be void, that is to say—

(*a*) an agreement for the payment of wages in contravention of this Act, or for abstaining from exercising a right of enforcing the payment of wages in accordance with this Act;

(*b*) an agreement as to holidays that is inconsistent with a direction of the Board in that behalf, or for abstaining from exercising the right to holidays conferred by any such direction. [87]

(2) Nothing in this Act shall prejudice the operation of an agreement or custom for the payment of wages at a rate higher than the minimum rate fixed under this Act or an agreement or custom as to holidays that is not inconsistent with a direction of the Board in that behalf. [88]

General note.—Sub-s. (1), *supra*, reproduces s. 7 (10) of the Act of 1924 (1 Halsbury's Statutes (2nd Edn.) 642), and sub-s. (2), *supra*, reproduces s. 14 thereof (as extended by s. 2 (1) of the Act of 1938), as applied by regs. 5 and 7 respectively of S. R. & O., 1947, No. 2025, made under s. 3 (2) of the latter Act (31 Halsbury's Statutes 818).

Agreement for payment of wages in contravention of this Act.—In *Smart* v. *Spencer*, [1948] 2 K. B. 105; [1948] 1 All E. R. 749 (see page 59, *post*), it was held that the object of the Act was to fix a minimum wage to be paid for work done, and, where the worker was employed by the week, the machinery set up by the Act fixed the minimum wage he was to receive for a week in which he worked, but the Act did not deal with a period of a week or longer in which the worker did no work, and, therefore, sub-s. (1) (*a*), *supra*, did not render void an agreement whereby the worker was to receive no wages, or part only of his wages, for such a period when he was away from work through illness. But *quaere* whether an agreement for deductions from wages in respect of absence for odd days in a week is permissible. See notes to Sched. IV, *post.* See, also, cases cited in notes to s. 4, *ante.*

Supplementary

12. Officers.—(1) The Minister may, subject to the consent of the Treasury as to number, appoint such officers as he thinks necessary for the purpose of investigating complaints and otherwise securing the proper observance of this Act. [89]

(2) Every officer appointed under this section shall be furnished by the Minister with a certificate of his employment, and when acting under or exercising any power conferred upon him by this Act shall, if so required, produce the certificate to any person or persons affected. [90]

(3) An officer so appointed shall have power—

(*a*) after giving reasonable notice, to require the production of and to inspect and take copies of wages sheets or other records of wages paid to workers employed in agriculture;

(*b*) to enter at all reasonable times any premises or place for the purpose of such inspection or for the enforcement of this Act, but in the case of a dwelling-house not without giving reasonable notice; and

(*c*) to require any such worker, or the employer of any such worker, or any agent of the employer, to give any information which it is in his power to give with respect to the employment of the worker or the wages paid to him. [91]

(4) An officer so appointed shall have power, in pursuance of any special or general directions of the Minister, to take proceedings in respect of offences against this Act and may, although not a barrister or solicitor, prosecute or conduct before a court of summary jurisdiction any proceedings arising under this Act. [92]

(5) Where it appears to an officer so appointed—

(*a*) that a sum is due from an employer to a worker on account of the payment of wages to him at less than the minimum rate applicable or by reason of a direction given under subsection (1) of section eight of this Act by an agricultural wages committee for the payment of an additional sum by way of wages for piece work; or

(*b*) that a sum is due from an employer on account of the receipt of a premium in contravention of subsection (5) of section six of this Act;

the officer (if he is authorised in that behalf by special or general directions of the Minister) may institute, on behalf of or in the name of the worker, civil proceedings before any competent court of jurisdiction for the recovery of the sum in question, and in any such civil proceedings instituted by the officer the court shall, if the officer is not a party to the proceedings, have the same power to make an order for the payment of costs by the officer as if he were a party to the proceedings. [93]

(6) Nothing in the last preceding subsection shall be taken to exclude the bringing otherwise than in accordance with that subsection of proceedings for the recovery of any such sum as is therein mentioned. [94]

(7) If any person—

(*a*) hinders or molests an officer acting in the exercise of his powers under subsection (3) of this section; or

(*b*) refuses to produce any document or give any information which an officer so acting lawfully requires him to produce or give; or

(*c*) produces or causes to be produced or knowingly allows to be produced to an officer so acting any wages sheet, record or other document which is false in a material particular, knowing the document to be false; or

(*d*) furnishes to an officer so acting any information knowing it to be false,

he shall be liable on summary conviction to a fine not exceeding twenty pounds or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment. [95]

General note.—Sub-ss. (1)–(4) and (7), *supra*, reproduce ss. 9 and 10 of the Act of 1924 (1 Halsbury's Statutes (2nd Edn.) 643, 644), as applied by regulations under s. 3 (2) of the Act of 1938 (31 Halsbury's Statutes 819).

Sub-s. (5), *supra*, reproduces s. 7 (7) of the Act of 1924, as extended by s. 2 (1) of the Act

of 1938, and applied by s. 3 (7) of, and Sched. II, Part I, para. 3 to, the Act of 1947 (1 Halsbury's Statutes (2nd Edn.) 652, 657).

Sub-s. (6), *supra*, reproduces s. 7 (9) of the Act of 1924 and s. 3 (8) of the Act of 1947.

General effect of section.—See Preliminary Note, *ante*.

Complaints.—The Minister may prescribe the procedure to be followed in connection with complaints (s. 9 (1), *ante*).

Definitions.—For definitions of "agriculture", "employer", "employment" and "worker", see s. 17 (1), *post*.

13. Annual reports.—The Minister shall make an annual report to Parliament of his proceedings under this Act and of the proceedings of the Board and of agricultural wages committees, and for that purpose the Board and each committee shall, before such date in every year as the Minister may fix, send to the Minister a report of their proceedings under this Act during the preceding year. [96]

General note.—This section reproduces s. 12 of the Act of 1924 (1 Halsbury's Statutes (2nd Edn.) 644), as applied by regulations under s. 3 (2) of the Act of 1938 (31 Halsbury's Statutes 819).

The Minister.—The Minister of Agriculture and Fisheries (s. 17 (1), *post*).

Powers of the Minister.—When the fixing of minimum wage rates was done by agricultural wages committees the Minister had wider powers of supervising the operation of the Act. Under s. 6 of the Act of 1924 (1 Halsbury's Statutes 130) he was empowered to direct a committee to reconsider any minimum rate which they had fixed, and under s. 8 (1) (*a*), (*b*) thereof could make regulations requiring committees to define and evaluate the benefits and advantages to be reckoned as payment of wages and to define "overtime." These provisions were repealed on the transfer of the rate-fixing functions of the wages committees to the Agricultural Wages Board by s. 12 (5) of, and Sched. III to, the Act of 1947 (1 Halsbury's Statutes (2nd Edn.) 655, 658), and the Minister now has no power to require the Board to reconsider any minimum wage rate fixed by them, and the Board exercise their powers with regard to benefits and advantages and "overtime" at their discretion (see ss. 3 (4), 7, *ante*).

14. Expenses.—The expenses of the Minister in carrying this Act into effect and any expenses authorised by the Minister to be incurred by the Board or an agricultural wages committee or sub-committee thereof, in each case up to an amount approved by the Treasury, shall be defrayed out of moneys provided by Parliament. [97]

General note.—This section reproduces s. 11 (in part) of the Act of 1924, as amended by ss. 9 (1), 12 (5) of, and Sched. III. to, the Act of 1947 (1 Halsbury's Statutes (2nd Edn.) 644).

S. 11 of the Act of 1924 as originally enacted limited the expenses which might be defrayed under the section, to £70,000. This limitation was removed by s. 9 (1) of the Act of 1947, thereby assimilating the position as to administrative expenses in England and Wales with that in Scotland under the Agricultural Wages (Regulation) (Scotland) Act, 1937 (1 Edw. 8 & 1 Geo. 6, c. 53).

The maximum amount of £70,000 in one year was never spent, but the Minister of Agriculture stated in committee on the 1947 Bill that such a limitation was a very unusual thing for Parliament to impose, and he did not think it desirable that there should be a difference in regard to the matter between the two countries (H. of C. Official Report, S.C.A., December 17, 1946, col. 154).

Sub-committees.—As to the power of agricultural wages committees to appoint sub-committees, see Sched. III, para. 7, *post*.

15. Evidence of resolutions and orders of the Board and agricultural wages committees.—In any legal proceedings the production of a document purporting to be a copy of a resolution or order passed or made by the Board or an agricultural wages committee and to be certified by the chairman or secretary of the Board or committee, as the case may be, to be a true copy shall be sufficient evidence of the order or resolution and, in the case of an order, that any notices required to be given by this Act in relation thereto have been duly given, and no proof shall be required of the handwriting or official position of the person certifying the truth of the copy. [98]

General note.—This section reproduces s. 13 of the Act of 1924 (1 Halsbury's Statutes (2nd Edn.) 644).

16. Power to give effect to, and modify, this Act as respects holidays and holiday remuneration.—(1) The Minister may make regulations for giving effect to the purposes of, and modifying, this Act so far as it relates to holidays and minimum rates of wages by way of pay in respect of holidays,

and for excluding, in relation to those matters or either of them, the operation of all or any of the provisions of sections four and ten to thirteen of this Act and paragraph 5 of the Fourth Schedule thereto. [99]

(2) The power conferred by this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament. [100]

General note.—This section reproduces s. 3 (1), (2) of the Act of 1938 (31 Halsbury's Statutes 818), as amended by s. 1 (5) of the Act of 1947 (1 Halsbury's Statutes (2nd Edn.) 649).

The Minister.—The Minister of Agriculture and Fisheries (s. 17 (1), *infra*).

Regulations.—No regulations under this section had been made at the date of going to press.

Statutory instrument.—As to statutory instruments generally, see the Statutory Instruments Act, 1946 (39 Halsbury's Statutes 783), which Act came fully into force on January 1, 1948 (see S.I. 1948 No. 3). For the provisions of the Act relating to statutory instruments which are subject to annulment by resolution of either House of Parliament, see s. 5 thereof.

17. Interpretation.—(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say,—

" agriculture " includes dairy-farming, the production of any consumable produce which is grown for sale or for consumption or other use for the purposes of a trade or business or of any other undertaking (whether carried on for profit or not), and the use of land as grazing, meadow or pasture land or orchard or osier land or woodland or for market gardens or nursery grounds ;

" consumable produce " means produce grown for consumption or for other use after severance from the land on which it is grown ;

" county " means an administrative county ;

" employment " means employment under a contract of service or apprenticeship, and the expressions " employed " and " employer " shall be construed accordingly ;

" the Minister " means the Minister of Agriculture and Fisheries ;

" prescribed " means prescribed by regulations made by the Minister by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament ;

" worker " includes a boy, woman and girl. [101]

(2) For the purposes of this Act, a detached part of a county shall be deemed to be included in the adjoining county or, if it adjoins two or more counties, in such one of them as the Minister by statutory instrument directs. [102]

(3) For the purposes of this Act, a county borough which is surrounded by a county shall be deemed to be included in that county, and a county borough which adjoins two or more counties shall be deemed to be included in such of those counties as the Minister by statutory instrument directs. [103]

(4) The Minister may by statutory instrument direct that, for the purposes of this Act, the area comprising the urban districts of Grange, Ulverston and Dalton-in-Furness and the rural district of Ulverston shall be treated as not forming part of the county of Lancaster but as forming part of the county of Cumberland or the county of Westmorland according as may be specified in the direction. [104]

General note.—This section reproduces sub-s. (1) and sub-s. (2) (in part) of s. 16 of the Act of 1924 (1 Halsbury's Statutes (2nd Edn.) 645), as amended by s. 8 of the Act of 1947 (1 Halsbury's Statutes (2nd Edn.) 645).

Agriculture.—This includes poultry farming (*Walters* v. *Wright*, [1938] 4 All E. R. 116 ; Digest Supp.).

Statutory instrument.—See note to s. 16, *supra*.

Employment.—As to the meaning to be given to the word " employment " in this Act, see *Seabrook & Sons, Ltd.* v. *Jones*, [1929] 1 K. B. 335 ; Digest Supp. ; and *Smart* v. *Spencer*, [1948] 2 K. B. 105 ; [1948] 1 All E. R. 749 (see page 59, *post*).

Cumberland and Westmorland.—Cumberland and Westmorland form one of the combinations of counties for which a single agricultural wages committee is to be established in the first instance (see s. 2 (1), proviso (*a*), *ante*, and Sched. II, *post*).

18. London.—No agricultural wages committee shall be established for the county of London, but such portions of that county as the Minister may by order made by statutory instrument define shall, for the purposes of this Act, be deemed to be included in such other counties as may be specified in the order. [105]

General note.—This section reproduces s. 15 of the Act of 1924 (1 Halsbury's Statutes (2nd Edn.) 645).

The Minister.—The Minister of Agriculture and Fisheries (s. 17 (1), *ante*).

Statutory instrument.—See note to s. 16, *ante*.

19. Isles of Scilly.—For the purposes of this Act, the Isles of Scilly shall be deemed to be a county. [106]

General Note.—This section reproduces part of s. 16 (2) of the Act of 1924 (1 Halsbury's Statutes (2nd Edn.) 645).

20. Repeal and savings.—(1) The enactments mentioned in the first and second columns of the Fifth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule. [107]

(2) Nothing in this Act shall affect any order, regulation or complaint made, permit granted, resolution passed, direction, certificate or approval given, application made or granted, notice served or given, date fixed or any other thing done, under an enactment repealed by this Act, but any such order, regulation, complaint, permit, resolution, direction, certificate, approval, application, notice, date or thing shall, if in force at the passing of this Act, continue in force, and so far as it could have been made, granted, passed, given, served, fixed or done under the corresponding provision of this Act, it shall have effect as if it had been made, granted, passed, given, served, fixed or done under that corresponding provision and, in the case of an approval, had been given for the purposes of that provision. [108]

(3) Any document referring to an enactment repealed by this Act shall be construed as referring to the corresponding provision of this Act. [109]

(4) Any person holding office or acting or serving under or by virtue of an enactment repealed by this Act shall continue to hold his office or to act or serve as if he had been appointed or authorised under or by virtue of the corresponding provision of this Act. [110]

(5) Where an offence, being an offence for the continuance of which a penalty was provided, has been committed under an enactment repealed by this Act, proceedings may be taken under this Act in respect of the continuance of the offence in the same manner as if the offence had been committed under the corresponding provision of this Act. [111]

(6) Where an enactment repealed and re-enacted by this Act provides for the doing of some act within, or not earlier than the expiration of, a specified period from the giving of a notice, and the commencement of this Act falls within the period applicable to the giving of a particular notice, the repeal and re-enactment shall be deemed to have taken effect in relation to that notice immediately before the giving thereof. [112]

(7) The mention of particular matters in this section shall not be taken to affect the general application of section thirty-eight of the Interpretation Act, 1889, with regard to the effect of repeals. [113]

Effect of section.—This section repeals (so far only as England and Wales are concerned; see s. 21 (2), *post*) the enactments consolidated by this Act, namely the Agricultural Wages (Regulation) Acts, 1924 and 1947 (1 Halsbury's Statutes (2nd Edn.) 638, 648) and the Holidays with Pay Act, 1938, ss. 1–3, 5, so far as they relate to workers employed in agriculture (31 Halsbury's Statutes 817–819), and provides, for the purpose of securing uninterrupted continuity of the law, that orders, regulations, appointments, legal proceedings, etc., made or taken under the repealed enactments shall have effect as if made or taken under the corresponding provision of this Act.

Passing of this Act.—July 13, 1948.

Interpretation Act, 1889, s. 38.—18 Halsbury's Statutes 1005.

21. Short title and extent.—(1) This Act may be cited as the Agricultural Wages Act, 1948. [114]

(2) This Act shall not extend to Scotland or to Northern Ireland. [115]

SCHEDULES

Section 1

FIRST SCHEDULE

CONSTITUTION AND PROCEEDINGS OF THE AGRICULTURAL WAGES BOARD

1. The Board shall consist of—

(*a*) eight persons representing employers and eight persons representing workers in agriculture nominated in the prescribed manner or elected in the prescribed manner, according as may be prescribed; and

(*b*) such number of other persons not exceeding five, as the Minister may from time to time determine, appointed by him;

and of the said persons one at least shall be a woman.

2. The Minister shall designate as chairman of the Board one of the members thereof appointed by him.

3. At every meeting of the Board the chairman, if present, shall preside and, if he is absent, such of the other members appointed by the Minister as the members of the Board then present choose shall preside.

4. The Minister may appoint a secretary for the Board.

5. The Board may, in accordance with regulations made by the Minister by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament, appoint one or more committees consisting of members representing employers and members representing workers in agriculture in equal proportions, and of one or more of the members appointed by the Minister, and may refer to any such committee for report and recommendations any matter which they think it expedient so to refer, and may also, if they think fit, delegate to any such committee any of their powers and duties under this Act other than a power or duty to fix, cancel or vary minimum rates of wages or to direct that workers shall be entitled to be allowed holidays.

6. The proceedings of the Board or of a committee thereof shall not be invalidated by a vacancy therein or by a defect in the nomination, election or appointment of the chairman or other member of the Board or of a member of the committee.

7. The Minister may, by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament, make regulations with respect to the proceedings and meetings of the Board and of any committee thereof, including the appointment of the chairman of the Board and the term of office of the chairman and other members of the Board and the members of committees, the method of voting and the number of members necessary to form a quorum, and any such regulations as to committees may be made so as to apply generally to the procedure of all committees or specially to the procedure of any particular committee; but subject to the provisions of this Schedule and to any regulations so made, the Board and any committee thereof may, respectively, regulate their proceedings in such manner as they think fit.

8. There may be paid to the members of the Board such allowances by way of compensation for expenses incurred and time lost by them in the performance of their duties as the Minister may sanction, and all such allowances shall be defrayed as part of the expenses of the Minister in carrying this Act into effect. [116]

General note.—This Schedule reproduces paras. 7–11 and (in part) 12 and 13 of Sched. I to the Act of 1924 (1 Halsbury's Statutes (2nd Edn.) 647); also in part ss. 9 (1) and 11 of that Act.

Effect of Schedule.—This Schedule sets out provisions having effect with respect to the constitution and proceedings of the Agricultural Wages Board by virtue of s. 1 (3), *ante*.

The Minister.—The Minister of Agriculture and Fisheries (s. 17 (1), *ante*).

Regulations.—No regulations under this Schedule had been made at the date of going to press. Until superseded by such regulations, the Agricultural Wages Board Regulations, 1924 (S. R. & O., 1924, No. 1124), as amended by S. R. & O., 1930, No. 37, made under the Act of 1924, continue in force and have effect as if made under this Schedule (see s. 20 (2), *ante*).

Statutory instrument.—See note to s. 16, *ante.*
Defrayal of Minister's expenses.—See s. 14, *ante.*
Definitions.—For definition of "agriculture", "employer", "prescribed" and "worker", see s. 17 (1), *ante.*

Section 2 SECOND SCHEDULE

COMBINATIONS OF COUNTIES FOR WHICH AGRICULTURAL WAGES COMMITTEES ARE TO BE INITIALLY ESTABLISHED

Counties in England

1. Bedford and Huntingdon.
2. Cambridge and Isle of Ely.
3. Cornwall and Isles of Scilly.
4. Cumberland and Westmorland.
5. Leicester and Rutland.
6. Lincoln, Parts of Kesteven and Lincoln, Parts of Lindsey.
7. Northampton and Soke of Peterborough.
8. Southampton and Isle of Wight.
9. Suffolk, East and Suffolk, West.
10. Sussex, East and Sussex, West.

Counties in Wales

11. Anglesey and Caernarvon.
12. Denbigh and Flint.
13. Merioneth and Montgomery.
14. Pembroke and Cardigan.
15. Radnor and Brecknock. [117]

General note.—This Schedule reproduces Sched. II to the Act of 1924 (1 Halsbury's Statutes (2nd Edn.) 647).
Effect of Schedule.—This Schedule specifies the combinations of counties for each of which there is, in accordance with s. 2 (1), proviso (a), *ante*, to be established in the first instance, a committee for the combination instead of a committee for each county.
Committees may be established for other combinations when the constituent county committees so desire (see s. 2 (1), proviso (b), *ante*).

Section 2 THIRD SCHEDULE

CONSTITUTION AND PROCEEDINGS OF AGRICULTURAL WAGES COMMITTEES

1. An agricultural wages committee shall consist of persons representing employers and persons representing workers in agriculture in the county, in equal proportions, of two impartial persons appointed by the Minister and of a chairman.

2. The members of the committee representing employers and the members thereof representing workers shall be nominated in the prescribed manner or elected in the prescribed manner, according as may be prescribed.

3.—(1) The chairman of an agricultural wages committee shall be appointed annually by the committee:
Provided that if the committee at any time fail to appoint a chairman within such period as may be prescribed, the appointment may be made by the Minister.
(2) A committee may nominate one or more persons for the office of vice-chairman, and the chairman may from time to time appoint, to act in his place as vice-chairman in his absence, the person, or one of the persons, nominated.
(3) A member of a committee representing employers and a member of a committee representing workers shall not be qualified to be appointed chairman or vice-chairman of the committee of which he is a member.

4. At every meeting of an agricultural wages committee the chairman, if present, shall preside. If the chairman is absent, the vice-chairman, if present, shall preside. If both the chairman and vice-chairman are absent, such member as the members then present choose shall preside.

5. The Minister may appoint a secretary for an agricultural wages committee.

6.—(1) At a meeting of an agricultural wages committee the chairman, or a vice-chairman presiding at the meeting in his absence, shall be entitled to vote, and in case of an equality of votes shall have a second or casting vote, but before exercising his right to vote, the chairman or vice-chairman, if so authorised by a resolution of the members of the committee representing employers and the members thereof representing workers, may obtain the advice of the Board or a committee thereof as to the exercise of that right, and may adjourn the meeting in order to enable him to do so.

(2) A resolution for the purposes of the preceding sub-paragraph that is passed at a meeting of an agricultural wages committee unanimously by such of the members thereof representing employers and such of the members thereof representing workers as are present and voting shall be deemed, for those purposes, to be a resolution of those members.

7.—(1) An agricultural wages committee may, in accordance with regulations made by the Minister by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament, appoint one or more sub-committees consisting of persons representing employers and persons representing workers in agriculture in the county in equal proportions, and of a chairman, if the committee think fit, and the committee may refer to any such sub-committee for report and recommendations any matter which they think it expedient so to refer, and may also, if they think fit, delegate to any such sub-committee any of their powers and duties under this Act.

(2) The members of a sub-committee may be, but need not be, members of the committee by which the sub-committee is appointed.

8. The proceedings of an agricultural wages committee or of a sub-committee thereof shall not be invalidated by a vacancy therein or by a defect in the appointment, nomination or election of the chairman, vice-chairman or other member of the committee or sub-committee.

9. The Minister may, by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament, make regulations with respect to the proceedings and meetings of agricultural wages committees and sub-committees thereof, including the appointment of chairmen and the term of office of chairmen and other members, the method of voting and the number of members necessary to form a quorum, and any such regulations may be made so as to apply generally to the procedure of all committees or sub-committees or specially to the procedure of any particular committee or sub-committee; but, subject to the provisions of this Schedule and to any regulations so made, an agricultural wages committee and a sub-committee thereof may respectively regulate their proceedings in such manner as they think fit.

10. There may be paid to the members of an agricultural wages committee and the members of a sub-committee thereof such allowances by way of compensation for expenses incurred and time lost by them in the performance of their duties as the Minister may sanction, and all such allowances shall be defrayed as part of the expenses of the Minister in carrying this Act into effect. [118]

General note.—Paras. 1–4, 6 (1) and 7–9, *supra*, reproduce paras. 1–6 and (in part) 12 and 13 of Sched. I to the Act of 1924 (1 Halsbury's Statutes (2nd Edn.) 646), as amended by s. 12 (5) of, and Sched. III to, the Act of 1947 (1 Halsbury's Statutes (2nd Edn.) 655, 658); paras. 5, 6 (2) and 10, *supra*, reproduce, respectively, ss. 9 (1) (in part), 16 (3) (in part), and 11 (in part) of the Act of 1924.

Effect of Schedule.—This Schedule contains provisions having effect with regard to the constitution and proceedings of agricultural wages committees, by virtue of s. 2 (6), *ante*.

County.—This includes a combination of counties for which a single agricultural committee is established (s. 2 (3), *ante*). For definition, see s. 17 (1), *ante*; and see, also, ss. 17 (2), (3), 18 and 19, *ante*.

The Minister.—The Minister of Agriculture and Fisheries (s. 17 (1), *ante*).

Regulations.—No regulation under this Schedule had been made at the date of going to press. Until superseded by such regulations, the Agricultural Wages Committee Regulations, 1924 (S. R. & O., 1924, No. 1123), as amended by S. R. & O., 1925, No. 1360, and S. R. & O., 1930, No. 38, made under the Act of 1924, continue in force and have effect as if made under this Schedule (see s. 20 (2), *ante*).

Statutory instrument.—See note to s. 16, *ante*.

Definitions.—For definition of "agriculture", "employer", "prescribed" and "worker", see s. 17 (1), *ante*.

Sections 3, 6, 7, 16 FOURTH SCHEDULE

ORDERS OF THE AGRICULTURAL WAGES BOARD

1. Where the Board propose to make an order under any provision of this Act, the Board shall—

(*a*) give, in such manner as appears to the Board requisite for informing persons concerned, public notice of the proposed order and of the manner in which and the time (not being less than fourteen days from the date of the notice) within which objections to the proposals may be lodged ;

(*b*) serve a like notice by post on the agricultural wages committee for the county to which the order relates ;

and shall consider any objections to the proposals which may be lodged in accordance with the notice.

2. After considering any such objections the Board may make an order in accordance with their original proposals or with those proposals as modified in such manner as appears to the Board expedient having regard to any objections lodged :

Provided that where it appears to the Board that, having regard to the nature of any modifications which they propose to make in their original proposals, opportunity should be given for the consideration thereof by persons concerned, the Board shall again give and serve notice under the preceding paragraph, and this paragraph shall apply accordingly.

3. Notwithstanding anything in the foregoing paragraphs of this Schedule, where the Board are satisfied that on the ground of the limited application of a proposed order it is unnecessary to comply with the provisions of those paragraphs and certify accordingly, the Board may, instead of complying with those provisions, give notice of the proposed order in such manner as appears to the Board expedient in the circumstances, and may make the order at any time after the expiration of seven days from the giving of the notice.

4. As soon as may be after the Board have made an order under any provision of this Act they shall give public notice of the making of the order and of the contents thereof in such manner as appears to the Board requisite for informing persons concerned, and serve a like notice by post on the agricultural wages committee for the county to which the order relates.

5. An order of the Board under any provision of this Act may apply either universally to all workers employed in agriculture in the county to which the order relates or to any special class of workers (as defined in the order) so employed, or to any special area in that county or to any such special class in such a special area, subject in each case to any exceptions specified in the order ; and an order of the Board fixing or varying a minimum rate of wages so as to secure that workers employed in agriculture receive remuneration calculated by reference to periods during the currency of their employment may make alternative provisions applying according to different circumstances arising during the currency of a worker's employment or in connection with the termination thereof.

6. Without prejudice to the provisions of this Act as to the cancellation and variation of minimum rates of wages and directions as to holidays, an order of the Board made under any provision of this Act may be varied or revoked by a subsequent order made in the like manner and subject to the like conditions. [119]

General note.—This Schedule reproduces Sched. I to the Act of 1947 (1 Halsbury's Statutes (2nd Edn.) 656) as applied by : (i) s. 3 (1) of the Act of 1938 (31 Halsbury's Statutes 818), as amended by s. 1 (5) of the Act of 1947, and (ii) reg. 8 of S. R. & O., 1947, No. 2025, made under s. 3 (2) of the Act of 1938. Para. 5, *supra*, in addition, replaces a definition contained in s. 16 (1) of the Act of 1924 (1 Halsbury's Statutes (2nd Edn.) 645).

Effect of Schedule.—This Schedule sets out provisions governing the making of Agricultural Wages Board orders (see ss. 3 (6), 6 (8), 7 (1), *ante*).

County.—This includes a combination of counties for which a single agricultural wages committee is established (s. 2 (3), *ante*). For definition, see s. 17 (1), *ante* ; and see, also, ss. 17 (2), (3), 18 and 19, *ante*.

Orders.—Orders of the Board, which are not statutory instruments, are published in the *London Gazette*. Copies may be obtained, free of charge, from the Secretary to the Agricultural Wages Board, Birkenhall Mansions, London, W.1.

Special class of workers.—Orders applicable to special classes of workers have been made in the case of workers from Volunteer Agricultural Camps, workers between the ages of fourteen and nineteen organised in teams or parties under approved arrangements with schools and other youth institutions, inexperienced workers and foreign students.

Remuneration calculated by reference to periods during the currency of employment.—See s. 3 (7), *ante*, and notes thereto.

Para. 5, *supra*, enlarges the power conferred by s. 3 (7), *ante*, of fixing a minimum rate so as to secure that agricultural workers receive remuneration calculated by reference to periods during the currency of their employment (*i.e.* calculated on the basis of a guaranteed week or other period), to allow for alternative provisions being made to cover different circumstances arising during a worker's employment or in connection with the termination thereof. The intention behind these words, which were introduced by the Act of 1947, Sched. I, para. 5 (1 Halsbury's Statutes (2nd Edn.) 656) is that special provision may be made regulating the position as to the payment of wages to workers who are absent from work on account of illness or other unavoidable cause. Prior to the 1947 Act difficulties had been experienced by farmers owing to the obscurity of the law with regard to the deductions which might be made where a worker was sick (see *Smart* v. *Spencer*, [1948] 2 K. B. 105 ; [1948] 1 All E. R. 749 (see page 59, *post*), in which a worker was held to be disentitled to wages in respect of eight months' absence due to illness, and in which case the Judge observed that had the worker's absence been not for complete weeks but for odd days within a week, his decision might have been otherwise). In many cases of absence through sickness, when neither the employer nor the worker desired to terminate the employment, the employer was compelled to give the worker notice rather than risk being liable to continue to pay the full minimum wage. S. 3 (7), *ante*, as enlarged by para. 5, *supra*, enables these difficulties to be circumvented by empowering the Board to reduce an employer's liability in regard to the payment of wages or make other suitable provision where a worker is unavoidably absent.

Definitions.—For definitions of "agriculture", "employed", "employment" and "worker", see s. 17 (1), *ante*.

Section 20

FIFTH SCHEDULE

ENACTMENTS REPEALED

Session and Chapter	Short Title	Extent of Repeal
14 & 15 Geo. 5, c. 37.	The Agricultural Wages (Regulation) Act, 1924.	The whole Act.
1 & 2 Geo. 6, c. 70.	The Holidays with Pay Act, 1938.	Sections one, two, three and five so far as they relate to workers employed in agriculture.
10 & 11 Geo. 6, c. 15.	The Agricultural Wages (Regulation) Act, 1947.	The whole Act.

[120]

General note.—This Act does not extend to Scotland or Northern Ireland (s. 21 (2), *ante*). Accordingly, the 1938 and 1947 Acts, which extend to Scotland as well as to England and Wales, remain in force so far as the former country is concerned. The 1924 Act applied to England and Wales only, and is wholly repealed.

Agricultural Wages (Regulation) Act, 1924.—1 Halsbury's Statutes (2nd Edn.) 638.

Holidays with Pay Act, 1938.—31 Halsbury's Statutes 817.

Agricultural Wages (Regulation) Act, 1947.—1 Halsbury's Statutes (2nd Edn.) 648.

ORDERS, CIRCULARS AND MEMORANDA

AGRICULTURAL GOODS AND SERVICES SCHEME (ENGLAND AND WALES), 1948

S.I. 1948 *No.* 103

January 23, 1948

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In pursuance of his powers under section one hundred and three of the Agriculture Act, 1947, and of all other powers enabling him in that behalf, the Minister of Agriculture and Fisheries, with the approval of the Treasury, hereby makes the following Scheme :

Citation

1. This Scheme may be cited as the Agricultural Goods and Services Scheme (England and Wales), 1948, and shall come into operation on the 29th day of January, 1948. [121]

Definitions

2. In this Scheme, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively :—

" The Act " means the Agriculture Act, 1947.

" The Minister " means the Minister of Agriculture and Fisheries, and

" The Ministry " means the Ministry of Agriculture and Fisheries.

" The Committee " means any War Agricultural Executive Committee or any County Agricultural Executive Committee in England and Wales.

" Occupier " means any person occupying agricultural land.

" Manager " means any owner of agricultural land or person authorised on his behalf to contract for the purchase of goods or services for the benefit of the land. [122]

Interpretation

3. The Interpretation Act, 1889, shall apply to the interpretation of this Scheme as it applies to the interpretation of an Act of Parliament. [123]

Persons to whom Goods or Services may be supplied

4. Subject to the provisions of sub-paragraph (2) of paragraph 9 hereof, goods and services may be supplied by the Minister or the Committee in accordance with the provisions of this Scheme to occupiers and managers only of agricultural land :

Provided that :—

(1) Goods may be supplied as aforesaid to occupiers of agricultural land only if the Minister or the Committee is satisfied that such an occupier is unable to purchase the said goods through normal trade channels, for cash or on credit ; and

(2) the goods and services which may be supplied as aforesaid to managers of agricultural land shall be limited to :

(*a*) Goods : drainage pipes and tiles required in connection with a scheme of farm drainage approved by or on behalf of the Minister ; and

(*b*) Services : any services required in connection with schemes of farm drainage approved as aforesaid and the services mentioned in sub-paragraph (6) of paragraph 5 hereof in connection with schemes of farm water supplies approved as aforesaid.

(3) For the purposes of the two preceding sub-paragraphs, an owner-occupier of agricultural land shall be treated as an occupier of such land, but shall be entitled also as a manager of such land to be supplied with the goods and services appropriate to managers of such land as aforesaid. [124]

Kinds of Goods and Services that may be supplied under the Scheme

5.—(1) *Goods :* Except as mentioned in sub-paragraph (2) of this paragraph, all goods required for agricultural production during the period of five years commencing on 1st October, 1947, may be supplied by the Minister or the Committee under this Scheme.

(2) The provisions of this Scheme relating to goods shall not extend to :—

(*a*) Livestock, otherwise than in replacement of stock lost through abnormal weather conditions, or in such other special circumstances as may be determined by the Minister with the approval of the Treasury ;

(*b*) Permanent works, buildings or installations, or components or accessories of such permanent works, buildings or installations, other than drainage tiles or pipes ;

(*c*) Cash, or payment for any goods ordered by an occupier or manager direct, through normal trade channels.

(3) All goods supplied under this Scheme shall be ordered by the Minister or the Committee, or in the case of drainage pipes or tiles, shall be ordered by or supplied from stocks in the possession of the Minister or the Committee.

(4) *Short-term Services :* All such short-term services as relate to agricultural production may be supplied by the Minister or the Committee under this Scheme, including ploughing, cultivating, harrowing, manure distributing, drilling, harvesting, threshing, bracken cutting, spraying and general farm work, including also the supply of labour and the provision of accommodation for farm workers.

(5) Agricultural machinery may be hired to occupiers of agricultural land in accordance with the provisions of this Scheme, at approved hiring rates.

(6) *Long-term Services :* All such long-term services as relate to agricultural production may be supplied by the Minister or the Committee under this Scheme, including bush clearing, mending of field walls, farm drainage, farm ditching, and other like works of improvement, together with ploughing and other operations required for reclaiming derelict land ; and including also excavating, trenching and backfilling in connection with farm water supplies. [125]

Procedure for obtaining Goods or Services

6.—(1) Any eligible person requiring goods or services shall sign a contract with the Minister or the Committee before the goods or services are supplied, undertaking to make repayment according to the terms of the contract. In the case of services, the cost shall be based on the rates normally charged by local contractors, and, in the case of goods, on suppliers' quotations less any discount for cash that the Minister or Committee may be able to obtain ; provided that in the absence of local contractors' rates for services, the Minister or the Committee shall make what appears to them to be a fair and reasonable charge for the services rendered.

(2) Application for goods and services shall be made in writing, but the Minister and the Committee may refuse any application at their discretion or (in the case of the Committee) after reference to the Ministry. Where an application is made by an occupier, enquiries may be made as to his financial position, and his efficiency as a farmer. [126]

Conditions of Repayment

7.—(1) The cost of any *goods* supplied, including the cost of carriage, shall be repaid within a period (not exceeding three years) agreed between the occupier or manager and the Minister or the Committee. Simple interest at the rate of 5 per cent. per annum shall be payable on any amount outstanding from the time the Minister or the Committee pay the suppliers the cost of the goods ordered. The Minister may, in special circumstances and with the approval of the Treasury, vary the terms of credit allowed ; and in the case of the replacement of livestock lost as a result of abnormal weather conditions in the year 1947, the rate of interest shall be reduced to $2\frac{1}{2}$ per cent. per annum.

(2) The cost of *short-term services* shall be repaid within one month after the date of invoice, which date shall not be earlier than the completion of the work. A discount of $2\frac{1}{2}$ per cent. may be allowed if payment is made within one month after the date of invoice. In consideration of any extension of credit, an interest charge of 5 per cent. per annum may be made at any time on any balance of account which is not paid within six months after the date of invoice.

(3) The cost of *long-term services* shall be repaid by instalments, together with simple interest on any outstanding balance of account at the rate of 5 per cent. per annum. The period over which such instalments are payable shall be fixed by the Minister or the Committee according to the nature of the work, but shall not exceed three years. Interest shall be calculated from date of demand made after completion of the work. The cost of long-term services may be paid in a lump sum after completion of the work, if the occupier or manager so prefers. [127]

Methods of Securing Repayment

8.—(1) The occupier or manager obtaining goods under this Scheme shall not forfeit any grants or subsidies that may be payable to him by the Ministry, but shall be required to agree to the retention by the Ministry of the whole or part of such grants or subsidies in satisfaction of any account for goods or services outstanding against him. The Ministry shall exercise this right of retention with due consideration of the occupier's or manager's requirements for ready cash, and of the circumstances in which the debt was incurred.

(2) In the case of default the Minister or the Committee may proceed to secure repayment by all appropriate means, subject to due consideration of any special circumstances.

(3) The Minister may in his discretion sue for recovery of any debt due to the Committee, or may direct the Committee to sue. [128]

Miscellaneous

9.—(1) The Minister, or the Committee acting under the direction of the Minister, may acquire and hold stocks of drainage pipes or tiles with a view to supplying such pipes or tiles to occupiers and managers in accordance with the provisions of this Scheme.

(2) The Minister or the Committee may enter into agreements with agricultural machinery contractors for hiring machinery to such contractors, so that the contractors may in turn carry out services for the benefit of occupiers and managers of agricultural land, being services which the Minister or the Committee are empowered under this Scheme to render direct to such occupiers or managers. In such cases, the rates of charge and conditions of repayment pertaining to the services as aforesaid shall be such as may be agreed between the contractor on the one hand and the occupier or manager on the other.

(3) The Minister or the Committee may enter into agreements with agricultural machinery contractors, drainage contractors, or civil engineering contractors, for the purpose of jointly or in combination supplying services to occupiers and managers of agricultural land, being services which the Minister or the Committee are empowered under this Scheme to render to such occupiers or managers. Such agreements shall embody such terms and conditions as may be agreed between the Minister or the Committee on the one hand, and the said contractors on the other. In any such case, the Minister or the Committee shall be a party to any contract made with the occupier or manager, and the terms of any such contract shall conform to paragraphs 6, 7 and 8 of this Scheme, so far as the circumstances of the case will allow. [129]

Directions to the Committee by the Minister

10. The Committee, in addition to performing any functions which under this Scheme it may be required or authorised to perform, shall do such things as the Minister may from time to time direct for the purpose of giving effect to this Scheme. [130]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Scheme, but is intended to indicate its general purport.*)

1. *The Agricultural Goods and Services Scheme in England and Wales has hitherto depended on a general statutory authority (Section* 25 (1) *of the Agriculture (Miscellaneous War Provisions) Act,* 1940) *expiring on* 31*st December,* 1947. *Authority is given to the Minister of Agriculture and Fisheries by Section* 103 *of the Agriculture Act,* 1947, *for the continuation of the supply of goods and services to persons managing or farming agricultural land, subject to the making of an Order, with the approval of the Treasury, to be laid before Parliament forthwith after being made.*

2. *This Scheme, which is made with the approval of the Treasury under the above-mentioned authority, provides for the continuation of the expiring scheme in substantially the form in which it has operated in recent years; but opportunity has been taken to clarify certain matters and to remove some minor administrative anomalies. The objects of the Scheme remain as before; to promote efficiency in agriculture and facilitate food production.*

AGRICULTURE (DELEGATION TO COUNTY AGRICULTURAL EXECUTIVE COMMITTEES) REGULATIONS, 1948

S.I. 1948 *No.* 187

February 24, 1948

In pursuance of section seventy-two of the Agriculture Act, 1947, (hereinafter called " the Act ") and of all other powers enabling him in that behalf, the Minister of Agriculture and Fisheries (hereinafter called " the Minister ") hereby makes the following regulations :—

1. The functions of the Minister relating to agriculture specified in the Schedule hereto shall, as from the date when these regulations come into operation, be exercisable by a County Agricultural Executive Committee in accordance with the provisions of section seventy-one of the Act. [131]

2. The functions exercisable by a County Agricultural Executive Committee in accordance with the said provisions shall include such other powers or duties of the Minister arising under the Act or under any other enactment as may be necessary or incidental to the exercise of the functions specified in the Schedule hereto. [132]

3. Nothing in the preceding regulations shall be construed as limiting, qualifying, or derogating from the right or power of the Minister to exercise any of his functions specified in the Schedule hereto or any other of his functions, at any time while these regulations are in force. [133]

4.—(1) The Interpretation Act, 1889, shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

(2) These regulations may be cited as the Agriculture (Delegation to County Agricultural Executive Committees) Regulations, 1948, and shall come into operation on the first day of March, 1948. [134]

* * * * *

SCHEDULE

Function of the Minister :	*Relevant enactment :*
* * *	* *
Provision of equipment and services for pest control, and recovery of charges.	section 101 of the Act
Taking any action necessary or incidental to affording any person (other than a smallholdings authority, under section 57 (2) of the Act, or any person, under section 85 (4) or section 86 (4) of the Act) an opportunity to make representations, including the appointment of persons to hear and the consideration of such representations.	section 104 of the Act
* * *	* *
Receiving and approving schemes for field drainage and the improvement of ditches, and the supply of water to agricultural land.	Section 15 of the Agriculture (Miscellaneous War Provisions) Act, 1940, as amended by section 1 of the Agriculture (Miscellaneous War Provisions) (No. 2) Act, 1940, by section 3 of the Agriculture (Miscellaneous Provisions) Act, 1941, and by the Agriculture (Transfer of Functions to Minister) Regulations, 1948.

Function of the Minister :	*Relevant enactment :*
Continuing in possession of land taken under powers conferred by the Defence (General) Regulations, 1939 ; and doing or authorising the doing of work thereon.	section 23 of the Agriculture (Miscellaneous War Provisions) Act, 1940, as extended by section 13 of the Agriculture (Miscellaneous Provisions) Act, 1943, and amended by the Agriculture (Transfer of Functions to Minister) Regulations, 1948.
Receiving and approving schemes for the supply of water to farms, farm houses and cottages.	section 5 of the Agriculture (Miscellaneous Provisions) Act, 1944, as amended by the Agriculture (Transfer of Functions to Minister) Regulations, 1948.
Making representations to local education authorities relating to the employment of children in agricultural work.	regulation 29 of the Defence (Agriculture and Fisheries) Regulations, 1939, as having effect by virtue of the Emergency Laws (Transitional Provisions) Act, 1946, and the Emergency Laws (Miscellaneous Provisions) Act, 1947, and amended by the Agriculture (Transfer of Functions to Minister) Regulations, 1948.
* * *	* *
Entering land, removing works and doing work to restore land.	section 29 (1) of the Requisitioned Land and War Works Act, 1945.
* * *	* * [135]

EXPLANATORY NOTE

(*This Note is not part of the Regulations, but is intended to indicate their general purport.*)

Section 72 of the Agriculture Act, 1947, authorises the Minister of Agriculture and Fisheries to make provision, by regulations, for delegating to County Agricultural Executive Committees established under that Act any of his functions under that Act, or any of his functions relating to agriculture under any other enactment. The present regulations exercise that power of delegation in relation to the functions specified in the Schedule hereto, which are derived from the enactments also therein specified. It is provided in the regulations that the Minister's right and power himself to exercise any of the functions so delegated are unaffected by their delegation.

The regulations came into operation on 1st March, 1948.

AGRICULTURE (TRANSFER OF FUNCTIONS TO MINISTER) REGULATIONS, 1948

S.I. 1948 *No.* 209

February 6, 1948

The Minister of Agriculture and Fisheries, in pursuance of subsection (7) of section seventy-one of the Agriculture Act, 1947, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

1. Any functions of a War Agricultural Executive Committee under the enactments specified in the Schedule hereto shall, as from the date when these Regulations come into operation, be transferred to the Minister of Agriculture and Fisheries. [136]

2.—(1) These Regulations may be cited as the Agriculture (Transfer of Functions to Minister) Regulations, 1948, and shall come into operation on the sixteenth day of February, 1948.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [137]

* * * * *

SCHEDULE

Session and Chapter	Short Title	Section
3 & 4 Geo. 6, ch. 14 . .	Agriculture (Miscellaneous War Provisions) Act, 1940	15 (as amended by the two following enactments)
3 & 4 Geo. 6, ch. 50 . .	Agriculture (Miscellaneous War Provisions) (No. 2) Act, 1940	1
4 & 5 Geo. 6, ch. 50 . .	Agriculture (Miscellaneous Provisions) Act, 1941	3
3 & 4 Geo. 6, ch. 14 . .	Agriculture (Miscellaneous War Provisions) Act, 1940	23 (as extended by the next following enactment)
6 & 7 Geo. 6, ch. 16 . .	Agriculture (Miscellaneous Provisions) Act, 1943	13
7 & 8 Geo. 6, ch. 28 . .	Agriculture (Miscellaneous Provisions) Act, 1944	5
9 & 10 Geo. 6. ch. 26 11 & 12 Geo. 6, ch. 10 S. R. & O., 1939, No. 1303	Defence (Agriculture and Fisheries) Regulations, 1939, as having effect by virtue of the Emergency Laws (Transitional Provisions) Act, 1946, and the Emergency Laws (Miscellaneous Provisions) Act, 1947	Regulation 20

[138]

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

With the bringing into force of Part V of the Agriculture Act, 1947, the County War Agricultural Executive Committees, which were established by the Minister of Agriculture and Fisheries early in the war for the performance of various functions relating to agriculture, are to be replaced by the County Agricultural Executive Committees established by the Minister under the provisions of that Part of the Act. The Minister has power, under section 71 (7) of the Act, to transfer to himself by regulation the functions of War Committees under existing enactments; and the present regulations exercise that power with respect to the provisions specified in the Schedule hereto. These are provisions relating to drainage, to requisitioned land, to the supply of water to farms, farmhouses and cottages, and to the employment of children in agricultural work. It is open to the

Minister to delegate these and other functions to the new County Committees, in accordance with the provisions of section 72 of the Act.

These regulations came into operation on 16th February, 1948, the date on which the War Agricultural Executive Committees were replaced by the County Agricultural Executive Committees.

AGRICULTURE (TRANSFER OF FUNCTIONS TO COUNTY AGRICULTURAL EXECUTIVE COMMITTEES) ORDER, 1948

S.I. 1948 *No.* 210

February 6, 1948

With respect to the Orders specified in Part I of the Schedule hereto, in pursuance of regulation 98 of the Defence (General) Regulations, 1939, as having effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945, as extended by the Supplies and Services (Extended Purposes) Act, 1947;

With respect to the Regulations specified in Part II of the Schedule hereto, in pursuance of subsection (2) of section 27 of the Agricultural Development Act, 1939, as amended by subsection (2) of section 11 of the Agriculture (Miscellaneous War Provisions) Act, 1940, and by Section 1 of the Agricultural Development (Ploughing up of Land) Act, 1946;

With respect to the Order specified in Part III of the Schedule hereto, in pursuance of subsection (4) of section 11 of the Agriculture (Miscellaneous Provisions) Act, 1941;

With respect to the Order specified in Part IV of the Schedule hereto, in pursuance of the Destructive Insects and Pests Acts, 1877 to 1927; and

With respect to all of the above-mentioned Orders and Regulations, in pursuance of all other powers enabling him in that behalf,

the Minister of Agriculture and Fisheries (hereinafter called "the Minister") hereby makes the following Order:—

1. As from the date on which this Order comes into operation, the several Orders and Regulations specified in Parts I, II, III and IV of the Schedule hereto shall have effect in all respects as though for any reference therein to a War Agricultural Executive Committee, there were substituted a reference to a County Agricultural Executive Committee established by the Minister under the provisions of sub-section (1) of section seventy-one of the Agriculture Act, 1947; and as though for any reference in the said Orders and Regulations to persons appointed by the Minister as members of a War Agricultural Executive Committee, there were substituted a reference to persons appointed as members of a County Agricultural Executive Committee under the provisions in that behalf of paragraph 7 of the Ninth Schedule to the said Act; and as though any definition of the expression "War Agricultural Executive Committee" contained in the said Orders and Regulations were amended accordingly. [139]

2.—(1) This Order may be cited as the Agriculture (Transfer of Functions to County Agricultural Executive Committees) Order, 1948, and shall come into operation on the sixteenth day of February, 1948.

(2) This Order applies to England and Wales.

(3) The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament. [140]

* * * * *

SCHEDULE

PART I

The Cultivation of Lands Order, 1939 (S. R. & O., 1939, No. 1078).
The Cultivation of Lands (County Boroughs) Order, 1939 (S. R. & O., 1939, No. 1079).
The Cultivation of Lands (Amendment) (No. 1) Order, 1939 (S. R. & O., 1939, No. 1523).
The Cultivation of Lands Order (No. 2), 1940 (S. R. & O., 1940, No. 1197).
The Cultivation of Lands (Boroughs of Deptford, Greenwich, Lewisham and Woolwich) Order, 1942 (S. R. & O., 1942, No. 380).
The Rabbits Order, 1940 (S. R. & O., 1940, No. 431).
The Rooks Order, 1940 (S. R. & O., 1940, No. 585).
The Rats Order, 1940 (S. R. & O., 1940, No. 866).
The Deer Order, 1940 (S. R. & O., 1940, No. 966).
The Wood Pigeons Order, 1940 (S. R. & O., 1940, No. 967).
The Registration and Control of Agricultural Contractors Order, 1940 (S. R. & O., 1940, No. 1333).
The Hops (Control of Cultivation) Order, 1940 (S. R. & O., 1940, No. 2084).
The Waste of Agricultural Foodstuff Order, 1942 (S. R. & O., 1942, No. 726).
The Livestock Markets (Suspension) Order, 1942 (S. R. & O., 1942, No. 823).
The Corn (Sale of Standing Crops and Unthreshed Corn) Order, 1942 (S. R. & O., 1942, No. 1092).
The Livestock (Control) Order, 1942 (S. R. & O., 1942, No. 1450).
The Agricultural Produce (Preservation) Order, 1943 (S. R. & O., 1943, No. 557).
The Cereal Crops Order, 1943 (S. R. & O., 1943, No. 1072).
The Cereal Crops Order, 1945 (S. R. & O., 1945, No. 425).
The Grey Squirrels Order, 1943 (S. R. & O., 1943, No. 1369).
The Hill Rams (Control) (No. 2) Order, 1943 (S. R. & O., 1943, No. 1784).
The Milk Marketing Board Order, 1943.
The Agricultural Gangmasters (Registration and Control) Order, 1944 (S. R. & O., 1944, No. 635).
The Bulls (Somerset) (Control) Order, 1946 (S. R. & O., 1946, No. 559).
The Bulls (Cheshire) (Control) Order, 1946 (S. R. & O., 1946, No. 775).
The Bulls (Staffordshire) (Control) Order, 1946 (S. R. & O., 1946, No. 777).
The Bulls (Shropshire) (Control) Order, 1946 (S. R. & O., 1946, No. 778).
The Bulls (Carmarthenshire) (Control) Order, 1946 (S. R. & O., 1946, No. 881).
The Bulls (Cardiganshire) (Control) Order, 1947 (S. R. & O., 1947, No. 727).
The Bulls (Glamorganshire) (Control) Order, 1947 (S. R. & O., 1947, No. 728).
The Bulls (Derbyshire) (Control) Order, 1947 (S. R. & O., 1947, No. 1843).
The Threshing Order, 1946 (S. R. & O., 1946, No. 1058).
The Buckwheat, Millet and Canary Seed (Control of Cultivation) Order, 1947 (S. R. & O., 1947, No. 36). [141]

PART II

The Ploughing Grants Regulations, 1947 (S. R. & O., 1947, No. 708). [142]

PART III

The Foul Brood Disease of Bees Order, 1942 (S. R. & O., 1942, No. 530). [143]

PART IV

The Sugar Beet Eelworm Order, 1943 (S. R. & O., 1943, No. 1136). [144]

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

With the bringing into force of Part V of the Agriculture Act, 1947, the County War Agricultural Executive Committees, which were established by

the Minister of Agriculture and Fisheries early in the war for the performance of various functions relating to agriculture, are to be replaced by the County Agricultural Executive Committees established by the Minister under the provisions of that Part of the Act. In order to secure continuity, it is necessary that, at any rate for the time being, the functions of the "War Committees" under some existing Orders, whether made in pursuance of Defence Regulations or otherwise, should continue to be exercised by the new "County Committees". The present Order, therefore, amends the existing Orders specified in the Schedule by substituting the "County Committees" for the "War Committees" mentioned therein.

This Order came into operation on 16th February, 1948, the date on which the County Agricultural Executive Committees came into being.

AGRICULTURE ACT, 1947 (REGISTRATION OF SUPERVISION ORDERS) RULES, 1948

S.I. 1948 No. 281/L.2.

February 16, 1948

I, William Allen Viscount Jowitt, Lord High Chancellor of Great Britain, do hereby make by virtue and in pursuance of Section 12 of the Agriculture Act, 1947, and Section 15 of the Land Charges Act, 1925, the following Rules.

1. These Rules may be cited as the Agriculture Act, 1947 (Registration of Supervision Orders) Rules, 1948, and shall come into operation on the first day of March, 1948. [145]

2. Interpretation.—(1) In these Rules except as otherwise expressly provided and save where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say :—

(*a*) "the Act of 1925" means the Land Charges Act, 1925 ;
(*b*) "the Act of 1947" means the Agriculture Act, 1947 ;
(*c*) a "supervision order" means an order made under Section 12 of the Act of 1947, being either an order placing the owner of land under the Minister's supervision so far as relates to his management of the land, or an order placing the occupier of land under the Minister's supervision, so far as relates to his farming of an agricultural unit ;
(*d*) an "agricultural unit" has the meaning assigned to it by subsection (2) of Section 109 of the Act of 1947 ;
(*e*) "parcel of land" means a piece of land or a building or a part of a building in separate occupation or separately rated at the time of the requisition for search ;

For the purpose of this definition any land or building or part of a building which is neither in occupation nor rated shall be deemed to be occupied by the person who is the owner thereof within the meaning of the Public Health Act, 1936.

(*f*) "the Minister" means the Minister of Agriculture and Fisheries ;
(*g*) "the Register" means the register of local land charges required to be kept in pursuance of the Act of 1925 ;
(*h*) "the registrar" means the proper officer of the local authority required to register the supervision order in the Register in pursuance of the Act of 1947.

(2) The Interpretation Act, 1889, applies to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

(3) In these Rules unless the context otherwise requires, references to any enactment shall be construed as references to that enactment as amended by or under any other enactment. [146]

3. Addition to Register.—Supervision orders which are registrable by virtue of the Act of 1947 shall be registered in a new part of the Register known as Part IX. [147]

4. Entries in Part IX.—(1) Every entry in Part IX of the Register shall contain :—

(*a*) A reference to the title of the supervision order and an indication whether it be an order placing the owner of land under the Minister's supervision so far as relates to his management of the land, or an order placing the occupier of land under the Minister's supervision so far as relates to his farming of an agricultural unit ;

(*b*) The name, description and address of the applicant for registration ;

(*c*) A sufficient description by reference to a map or plan of the land which is or will be affected by the supervision order ;

(*d*) Notice of the place at which inspection may be made of a copy of the supervision order certified by or on behalf of the Minister and of any map or plan referred to in or illustrating the supervision order.

(*e*) The date on which the supervision order came into force.

(*f*) The date of registration of the supervision order.

(2) The index to the Register shall include entries in respect of Part IX of the Register for the purpose of enabling a person to trace any entry in the said Part IX.

(3) It shall be the duty of the registrar to enter in the Register particulars of the variation or revocation of any supervision order registered under Part IX as soon as may be after notification of the variation or revocation has been given to him in writing by or on behalf of the Minister. [148]

5. Dates on which applications, etc., deemed to be made or given.—(1) Applications for registration of a supervision order and notifications of variation or revocation of entries in respect thereof delivered by post or under cover during the hours in which the office of the registrar is open for registration shall be treated as having been made or given immediately before the closing of the office for that day.

(2) Applications for registration of a supervision order and notification of variation or revocation of entries in respect thereof delivered (whether by post or otherwise) between the hours of closing and of the next opening of the office for registration shall be treated as having been made or given immediately after such opening. [149]

6. Personal searches.—(1) Any person may search in Part IX of the Register and in the Index to the Register upon paying the appropriate fee prescribed in the Second Schedule to these Rules.

(2) Any person desiring to make a personal search in Part IX of the Register shall, if so required by the registrar, furnish his name and address and indicate by reference to a plan or otherwise the parcel or parcels of land in respect of which he proposes to search. [150]

7. Official certificates of search.—(1) The provisions of sub-sections (1), (2), (7), (8) and (9) of section 17 of the Act of 1925 (which relate to official certificates of search) shall apply in respect of Part IX of the Register.

(2) Every requisition for search made under the said provisions as applied by this Rule shall be in writing signed by the person making the same or by the solicitor acting for that person, and shall define the land in respect of which the search is to be made by means of a plan drawn to scale and (except where the applicant does not require a plan to be returned) furnished in duplicate, or by any other means sufficient to enable the land to be identified.

(3) A requisition for search in all or any of Parts I to VIII of the Register may include a requisition for search in Part IX and any form prescribed by Rules made under the Act of 1925 and the Civil Aviation Act, 1946, for the purpose of requisitions for search and official certificates of search in Parts I to VIII of the Register may be used accordingly :

Provided that the schedule to an official certificate of the result of a search in Part IX of the Register shall be in the form set out in the First Schedule hereto.

(4) An official certificate of the result of search in Part IX of the Register shall extend to registrations effected during the day of the date of the certificate, and shall be issued only after the registry is closed for registration on that date.

(5) A separate requisition for search in Part IX of the Register shall be made in respect of each parcel of land in respect of which search is requested, except where a certificate is required in respect of two or more contiguous parcels of land for the purpose of the same transaction. [151]

8. The fees payable for the registration, variation or revocation of entries and for searches and official certificates of search, in respect of Part IX of the Register, shall be those specified in the Second Schedule hereto. [152]

* * * * *

FIRST SCHEDULE

PART IX.—REGISTER OF SUPERVISION ORDERS MADE BY THE MINISTER OF AGRICULTURE UNDER SECTION 12 OF THE AGRICULTURE ACT, 1947

Particulars of supervision order for the time being in operation including an indication of whether the supervision order places the owner of land under the Minister's supervision so far as relates to his management of the land, or an occupier of land under the Minister's supervision so far as relates to his farming of an agricultural unit. (1)	Name, description and address of applicant for registration. (2)	Place at which inspection may be made of the supervision order referred to in Column 1 and any map or plan referred to in or illustrating such order. (3)	Date of supervision order coming into force. (4)	Date of registration of supervision order. (5)

[153]

SECOND SCHEDULE

Fees

	s.	d.
1. On registration of a supervision order	5	0
2. On variation or revocation of any entry in Part IX of the Register ..	1	6
3. On personal search in Part IX of the Register (except where such search is made in respect of the whole register and payment has been made in respect thereof)	2	0
In addition (but subject to a maximum additional charge of fourteen shillings) in respect of each parcel of land above one, where the search extends to several parcels of land	1	0
4. For an official search (including issue of certificate) in Part IX of the Register (except where such search is made in respect of the whole of the Register and payment has been made in respect thereof)	2	0
In addition (but subject to a maximum additional charge of twenty-one shillings) in respect of each parcel of land above one, where several parcels are, in accordance with the provisions of paragraph (5) of Rule 7 included in the same requisition, where such requisition is for search in Part IX of the Register and does not form part of a requisition for search in the whole or any part of the Register in respect of which such additional payment has been made	1	6
5. For an office copy of any entry in Part IX of the Register (not including a copy or extract of any plan or document filed in the Registry)	2	6

6. For an office copy of any plan or other document filed in the Registry, in respect of Part IX of the Register, such reasonable fee as may be fixed by the registrar according to the time and labour involved.

Unless the context otherwise requires " entry " for the purpose of this Schedule includes all entries made or required to be made in Part IX of the Register in respect of the relevant order.

All fees shall be paid. [154]

EXPLANATORY NOTE

(*This Note is not part of the Rules, but is intended to explain their general purport.*)

These Rules provide for the registration in Local Land Charges Registers of supervision orders made by the Minister of Agriculture and Fisheries under Section 12 *of the Agriculture Act*, 1947, *for placing the owner of land under the Minister's supervision so far as relates to his management of the land, or the occupier of land under the Minister's supervision so far as relates to his farming of an agricultural unit as defined by the Act. The supervision orders are to be registered in a new Part of the Register to be known as Part IX. Provision is made for searching the Register and for the issue of official certificates of search on payment of the fees prescribed in the Second Schedule to the Rules.*

AGRICULTURE ACT, 1947 (COMMENCEMENT) (No. 1) ORDER, 1948

S.I. 1948 *No.* 342

February 24, 1948

Whereas by sub-section (2) of section 111 of the Agriculture Act, 1947, it is provided that that Act shall come into operation on such date as His Majesty may by Order in Council appoint, and that an Order under that sub-section may appoint different dates in relation to different provisions of the said Act:

And Whereas by virtue of the Agriculture Act, 1947 (Commencement) Order, 1947, the provisions of the said Act specified in the said Order came into operation on the respective dates thereby appointed :

And Whereas it is expedient that the further provisions of the said Act hereinafter specified should come into operation on the date hereinafter appointed :

Now, therefore, His Majesty is pleased by and with the advice of His Privy Council to order, and it is hereby ordered, as follows :—

1. The following provisions of the said Act shall come into operation on the first day of March, 1948, that is to say, sections 9 to 46 and the Second, Third, Fourth, Fifth, Sixth and Seventh Schedules, section 95, section 101 and section 110 (so far as it relates to the enactments set out in the Schedule to this Order). [155]

2. This Order may be cited as the Agriculture Act, 1947 (Commencement) (No. 1) Order, 1948. [156]

* * * * *

THE SCHEDULE

ENACTMENTS REPEALED.

Session and Chapter	Short title	Extent of repeal
13 & 14 Geo. 5, ch. 9.	The Agricultural Holdings Act, 1923.	Sections one to five and eight, in section nine in subsection (3) the words " standard or ", section ten, in section eleven subsection (3), sections twelve to fourteen, in section sixteen subsection (2), in section twenty-five paragraphs (*a*) and (*b*) of subsection (2), section twenty-six, in section twenty-nine the proviso, section thirty-three, in section thirty-seven the words " for disturbance or for any improvement ", in section forty the words from " in relation to improvements " to " payable ", in section forty-nine the proviso to subsection (1) and subsections (3) to (5), section fifty, section fifty-two, in section fifty-six subsection (2), in section fifty-seven in subsection (1) the definitions of " agricultural committee ", " allotment garden ", " market garden ", " manuring ", and " rules of good husbandry " and subsection (3), and the First Schedule.
3 & 4 Geo. 6, ch. 50.	The Agriculture (Miscellaneous War Provisions) (No. 2) Act, 1940.	In section one, subsection (2).
6 & 7 Geo. 6, ch. 16.	The Agriculture (Miscellaneous Provisions) Act, 1943.	Section nine.
9 & 10 Geo. 6, ch. 73.	The Hill Farming Act, 1946.	In section nine, subsections (4) to (6).

[157]

INJURIOUS WEEDS (DELEGATION TO COUNTY BOROUGH COUNCILS) ORDER, 1948

S.I. 1948 *No.* 1135

May 31, 1948

Whereas under the Corn Production Acts (Repeal) Act, 1921, all powers conferred by the Corn Production Acts, 1917 and 1920, with respect to the destruction of injurious weeds continue to be exerciseable as if such of the provisions of the said last mentioned Acts as are specified in the Schedule to the said Act of 1921 had not been repealed but were continued in force as set out with the necessary modifications in the said Schedule :

And Whereas under paragraph (6) of the said Schedule, as amended by subsection (2) of section seventy-six of the Agriculture Act, 1947, the Minister of Agriculture and Fisheries (hereinafter called " the Minister ") may authorise the Council of any county or borough to exercise on behalf of the Minister any of the powers of the Minister under the said Schedule.

Now, therefore, in pursuance of the powers hereinbefore recited and every other power enabling him in that behalf, the Minister hereby makes the following Order :

1. The Council of any county borough may on behalf of the Minister and at the expense of the Ministry of Agriculture and Fisheries, but subject to such directions as to approval of expenditure or otherwise as may from time to time be given by the Minister, exercise within the county borough in respect of land which is not agricultural land within the meaning of the Agriculture Act, 1947, the powers of the Minister exerciseable under the provisions set out in the Schedule to the Corn Production Acts (Repeal) Act, 1921, provided that nothing in this Order shall be construed as authorising the institution of proceedings for an offence under the said Schedule aforementioned, without the previous consent of the Minister. [158]

2.—(1) This Order may be cited as the Injurious Weeds (Delegation to County Borough Councils) Order, 1948, and shall come into operation on the 14th day of June, 1948.

(2) The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament. [159]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Order, but is intended to indicate its general purport.*)

This Order delegates to County Borough Councils the powers of the Minister of Agriculture and Fisheries under the Schedule to the Corn Production Acts (Repeal) Act, 1921, *to serve notices upon occupiers of non-agricultural land in their areas requiring the cutting down or destruction of the weeds specified therein, to execute any such work where the person served is in default, and to recover the cost thereof.*

The powers were previously, by the Agricultural Committees (Injurious Weeds) Order, 1921 (*S. R. & O.,* 1926, *No.* 1498) *delegated to the Agricultural Committees of Counties and County Boroughs ; but such Committees were abolished by the Agriculture Act,* 1947.

CASES

Agriculture—Agricultural worker—Wages—Illness—Agreement that no wages be paid while worker away through illness—Validity—Agricultural Wages (Regulation) Act, 1924 (*c.* 37), *s.* 7 (1), (10); *s.* 8 (1) (*a*).

The contract of service between an employer and an agricultural worker contained a term that no wages should be paid for a period when the workman was away through illness. The worker was away through illness for eight months, but during that time he was allowed by the employer to continue to occupy a cottage rent free and his employment was not terminated. The worker claimed pay for the period that he was away ill and contended that the term of the contract that no wages were payable during illness was void under the Agricultural Wages (Regulation) Act, 1924, s. 7 (10), which provides: " Any agreement for the payment of wages in contravention of this Act, or for abstaining to exercise any right of enforcing the payment in accordance with this Act, shall be void ":—

Held: (i) the object of the Act of 1924 was to fix a minimum wage to be paid for work done, and, where the worker was employed by the week, the machinery set up by the Act fixed the minimum wage he was to receive for a week in which he worked, but the Act did not deal with a period of a week or longer in which the worker did no work, and, therefore, s. 7 (10) did not render void an agreement whereby the worker was to receive no wages, or part only of his wages, for a period when he was away from work through illness.

Seabrook & Sons, Ltd. v. *Jones*, [1929] 1 K. B. 335, *distinguished.*

(ii) the fact that under s. 8 (1) (*a*) of the Act and the Northamptonshire and Soke of Peterborough Agricultural Wages Order, dated January 19, 1942, made thereunder, the benefit of occupying a cottage rent free " may be reckoned as payment of wages " for the purpose of the minimum wage would not necessarily make it wages in other contexts.—SMART *v.* SPENCER, [1948] 2 K. B. 105; [1948] 1 All E. R. 749; [1948] L. J. R. 1061; 64 T. L. R. 238; 92 Sol. Jo. 194, C. A. [160]

Agriculture—Cultivation—Control—Directions—Delegation of Minister's power to county agricultural committee—Exercise of delegated power by county executive officer—Delegatus non potest delegare—Defence (General) Regulations, 1939 (*S. R. & O.*, 1939, *No.* 927), *regs.* 62 (1), 66.

By virtue of reg. 66 of the Defence (General) Regulations, 1939, the Minister of Agriculture and Fisheries delegated to a county war agricultural committee his powers, under reg. 62 (1), to give " directions with respect to the cultivation, management or use of land for agricultural purposes." The committee decided that eight acres of sugar beet should be grown by the occupiers of certain land, but left to its executive officer the selection of the field, which was required by the regulation to be specified in the notice to the occupier. The officer consulted a local sub-committee, appointed to make recommendations to the committee, and served a notice on the occupiers specifying the field to be so cultivated:—

Held: on the principle of *delegatus non potest delegare*, the committee could not delegate the power to determine the land to be cultivated to its officer, and, therefore, the notice was ineffective and non-compliance with it was not an offence.—ALLINGHAM *v.* MINISTER OF AGRICULTURE AND FISHERIES, [1948] 1 All E. R. 780; 112 J. P. 237; 64 T. L. R. 290; 46 L. G. R. 224. [161]

AIR RAID PRECAUTIONS

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STATUTES :—
Emergency Laws (Miscellaneous Provisions) Act, 1947, ss. 6, 12 – 60

CASES :—
Whiting *v.* Middlesex County Council, [1947] 2 All E. R. 758 —*See title* HIGHWAYS.
Re St. Luke's Hospital, Chelsea; London County Council *v.* War Damage Commissioners, [1948] 2 All E. R. 444 – – – – 61

STATUTES

EMERGENCY LAWS (MISCELLANEOUS PROVISIONS) ACT, 1947

(10 & 11 Geo. 6, c. 10)

ARRANGEMENT OF SECTIONS

Section Page

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6. Extension of s. 12 of Act of 1946 60

* * * * *

12. Short title and commencement 60

* * * * *

An Act to make further provision with respect to the Defence Regulations continued in force by the Emergency Laws (Transitional Provisions) Act, 1946, *and with respect to certain emergency and temporary enactments extended by or contained in that Act; to repeal certain other emergency enactments; and for purposes connected with the matters aforesaid.* [162] [18th December, 1947.]

* * * * *

6. Extension of section 12 of Act of 1946.—Section twelve of the Act of 1946 (which empowers local authorities to remove certain works and to restore the land affected, and is limited by subsection (4) thereof to expire on the thirty-first day of December, nineteen hundred and forty-seven) shall have effect as if for the reference to that date there were substituted a reference to the tenth day of December, nineteen hundred and fifty. [163]

General note.—By s. 1 of the present Act "the Act of 1946" is the Emergency Laws (Transitional Provisions) Act, 1946 (39 Halsbury's Statutes 879). For s. 12 thereof, see 39 Halsbury's Statutes 886. That section empowered local authorities who, in pursuance of statutory powers, had done work on land for the purpose of protecting persons and property from injury or damage in the event of air attack or for any purpose connected with the war, to remove those works and to restore the land to its former condition. The power, which was conferred principally for the purpose of enabling local authorities to remove air-raid shelters, is extended by the present section to December 10, 1950.

* * * * *

12. Short title and commencement.—(1) This Act may be cited as the Emergency Laws (Miscellaneous Provisions) Act, 1947. [164]

(2) This Act, except sections eight, ten and eleven, shall come into operation on the thirty-first day of December, nineteen hundred and forty-seven. [165]

General note.—The main effect of sub-s. (2), *supra*, is to dovetail the operation of the present Act with the relevant earlier legislation.

* * * * *

CASES

War damage—Temporary works payment—"Works reasonably executed for temporarily meeting the circumstances created by the damage"—Provision of alternative accommodation away from site of damage—Permanent structures—War Damage Act, 1943 (*c.* 21), *s.* 6 (2).

In 1941 the S. Hospital suffered severe damage by bombing. In 1942 the hospital authorities effected certain works which involved the construction on the site of a former store room, in place of a kitchen and scullery which had been rendered unusable, of a new main kitchen and scullery in the course of which construction it was necessary to take up a timber floor, fill in the cavity with rubble and lay down a thick concrete floor, and the dividing of a former ward on the ground floor into several parts which were converted into a new operating theatre, with a surgeon's dressing room, sterilising room, anaesthetising room, X-ray room, dark room and office, to replace those on the first floor which had virtually been destroyed. Wiring for electricity, the tapping of the electric main in the street, and the laying of heavy cables to the X-ray room had also been effected :—

Held : the works were neither works of temporary repair nor of temporary precaution, but were carried out to provide alternative accommodation at a distance from the area of the damage, and were not "works reasonably executed for temporarily meeting the circumstances created by the damage" within the War Damage Act, 1943, s. 6 (2).

Per VAISEY, J. : The statement of the case by the War Damage Commission seems to place some emphasis on the physical life of the works in question. It is alleged that some of them would last for twenty-five years and others for forty to fifty years. I do not think that that is the test. I do not think that the works have to be "temporary" in the sense that they are likely to decay at an early date. I think that the reference to "temporary works" in ss. 16 and 20 of the Act is somewhat misleading. The works in themselves may be as permanent as possible. The point is : Were they executed for temporarily meeting the circumstances created by the damage ?—*Re* ST. LUKE'S HOSPITAL, CHELSEA, LONDON COUNTY COUNCIL *v.* WAR DAMAGE COMMISSIONERS, [1948] 2 All E. R. 444; [1948] L. J. R. 1525; 64 T. L. R. 469; 92 Sol. Jo. 485; 41 R. & I. T. 394. [166]

ALLOTMENTS AND SMALLHOLDINGS

ORDERS, CIRCULARS AND MEMORANDA :—
Agriculture (Delegation to County Agricultural Executive Committees) Regulations, 1948—*See title* AGRICULTURE.

BETTING

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Brannan *v.* Peek, [1947] 2 All E. R. 572	61	Cutler *v.* Wandsworth Stadium, Ltd., [1947] 2 All E. R. 815	62

CASES

Gaming and wagering—Betting—"Public place"—Bets taken in public house—Street Betting Act, 1906 (*c.* 43), *s.* 1 (4)—*Police—Conduct.*

Licensed premises which are not a common inn do not constitute a "public place" within the Street Betting Act, 1906, s. 1 (4), because there is no right

of entry, restricted or otherwise, into such premises. Therefore, an information laid under s. 1 of that Act, charging the defendant with frequenting such premises for the purpose of receiving bets, is bad, because the Act has no application.

Observation on the undesirability of a police officer being sent to commit an offence with the object of detecting offences by other persons.—BRANNAN *v.* PEEK, [1948] 1 K. B. 68; [1947] 2 All E. R. 572; [1948] L. J. R. 405; 112 J. P. 10; 63 T. L. R. 592; 91 Sol. Jo. 654; 45 L. G. R. 654, D. C. [167]

Gaming and wagering—Betting—Licensed premises—Licensee permitting betting—Wording of information—Omission of "knowingly and wilfully"—Betting Act, 1853 (*c.* 119), *s.* 3—*Criminal Justice Act*, 1925 (*c.* 86), *s.* 32 (3).

The appellant was convicted by a court of summary jurisdiction on an information alleging that he, being the holder of a justices' licence, did suffer his premises to be used in contravention of the Betting Act, 1853, s. 3 (which provides that any person who is the occupier of any house or other place and shall knowingly and wilfully permit the same to be used for the purpose of betting shall commit an offence), and the Licensing (Consolidation) Act, 1910, s. 79. The appellant submitted that the information was bad because it did not disclose an offence known to the law in that, while the offence under s. 3 was "knowingly and wilfully permitting", the particulars of the offence given in the information were "in that he permitted . . .", the words "knowingly and wilfully" being omitted:—

Held: the words were technical, and need not appear in the particulars.—LOMAS *v.* PEEK, [1947] 2 All E. R. 574; 112 J. P. 13; 63 T. L. R. 593; 46 L. G. R. 15, D. C. [168]

Gaming and wagering—Dog race track where totalisator maintained—Provision of space for bookmakers—Breach of statutory duty—Competence of civil action at suit of injured bookmaker—Betting and Lotteries Act, 1934 (*c.* 58), *s.* 11 (2).

Action—Ubi jus ibi remedium—Breach of statutory duty—Civil action by private person—Bookmaker—Breach by occupier of dog racing track of duty to provide space for bookmaking—Betting and Lotteries Act, 1934 (*c.* 58), *s.* 11 (2).

Statutes—Construction—Breach of statutory duty—Civil action by private person—Bookmaker—Breach by occupier of dog racing track of duty to provide space for bookmaking—Betting and Lotteries Act, 1934 (*c.* 58), *s.* 11 (2).

An action does not lie at the suit of a bookmaker against the occupier of a licensed dog-race track on which a totalisator is maintained for breach of the occupier's obligation under s. 11 (2) (*a*) not to exclude bookmakers, or, under s. 11 (2) (*b*), to secure that space is available on the track where bookmakers can conveniently carry on bookmaking in connection with the dog races run on that track on any particular day. The occupier properly discharges his duty under s. 11 (2) (*b*) if the space provided is a "convenient" space. He is not bound to provide the best space.—CUTLER *v.* WANDSWORTH STADIUM, LTD., [1948] 1 K. B. 291; [1947] 2 All E. R. 815; [1948] L. J. R. 257; 64 T. L. R. 41; 92 Sol. Jo. 40, C. A. [169]

BLIND PERSONS

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STATUTES

NATIONAL SERVICE ACT, 1948

(11 & 12 Geo. 6, c. 64)

PRELIMINARY NOTE

One of the few aspects of the law relating to compulsory service in the Armed Forces with which local authorities are concerned is the exemption accorded to the blind.

The exemption was originally given in relation to compulsory training by s. 2 of the Military Training Act, 1939 (32 Halsbury's Statutes 594), and on the suspension of that Act at the outbreak of war, the provision was carried through to s. 11 (1) of the National Service (Armed Forces) Act, 1939 (32 Halsbury's Statutes 1052), which exempts a person "certified by a local authority, as defined by the Blind Persons Acts, 1920 and 1938, to be registered as a blind person under arrangements made by the authority under those Acts."

As from January 1, 1949, the end of the so-called "interim period", the National Service Acts, 1939 to 1947, are consolidated in the present Act, which accordingly preserves the exemption of the blind, though in slightly different terms, in ss. 1, 5 thereof and Sched. I thereto. Among the enactments repealed by s. 60 of, and Sched. VI to, the present Act is the whole of the National Service (Armed Forces) Act, 1939, *supra*.

Other relevant sections of the present Act appear in the title EDUCATION, *post*. [170]

ARRANGEMENT OF SECTIONS

PART I

SERVICE IN THE ARMED FORCES

Liability for service in armed forces

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Training during part-time service

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PART III

GENERAL

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SCHEDULES :
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* * * * *

An Act to consolidate the National Service Acts, 1939 to 1947, and the Reinstatement in Civil Employment Act, 1944, so far as that Act applies to persons called up for national service after the thirty-first day of December, nineteen hundred and forty-eight. [171] [30th July, 1948.]

PART I

SERVICE IN THE ARMED FORCES

Liability for service in the armed forces

1. Liability to be called up for service.—(1) Subject to the provisions of this Part of this Act, every male British subject ordinarily resident in Great Britain who has attained the age of eighteen years and has not attained the age of twenty-six years and is not a person mentioned in the First Schedule to this Act shall be liable to be called upon to serve in the armed forces of the Crown for two terms of service, that is to say—

(*a*) a term of whole-time service in the regular forces; and

(*b*) a term of part-time service in an auxiliary force in accordance with this section. [172]

(2) Subject to the provisions of this Part of this Act, the term of whole-time service for which a person shall be liable to be called up under this Part of this Act shall be a period of twelve months beginning with the day on which he is required by an enlistment notice served under section nine of this Act to present himself to the authority specified therein and ending when his term of whole-time service is completed in accordance with the provisions of the Second Schedule to this Act:

Provided that His Majesty may by Order in Council appoint a period shorter than twelve months as the term of whole-time service for which a person shall be liable to be called up as aforesaid. [173]

(3) On the day next after that on which the term of a person's whole-time service is completed he shall, subject to the provisions of the next following section, be deemed—

(*a*) if his last service during that term was in the royal navy or the royal marines, to be entered for service in a royal naval special reserve which the Admiralty shall raise and maintain for the purposes of this Part of this Act; or

(*b*) if that last service was in the regular army, to be enlisted for service in the territorial army or the army reserve, as the Army Council may direct; or

(*c*) if that last service was in the regular air force, to be enlisted for service in the air force reserve;

for a term of part-time service ending with the expiration of the seventh year after the beginning of his term of whole-time service; so, however, that the end of a person's part-time service shall be postponed by any period by which the term of his whole-time service was extended by virtue of proviso (*b*) to paragraph 1 of the Second Schedule to this Act. [174]

General note.—This section, which reproduces ss. 1 and 2 (1) and (2) of the National Service Act, 1947 (40 Halsbury's Statutes 1145, 1146), sets out the liability for compulsory whole-time and part-time service but exempts the persons mentioned in the First Schedule, *post*. The exemptions include those certified as blind. Only male persons are subject to the call-up.

Interpretation.—See s. 34 of the Act.

Date of operation.—The Act comes into force on January 1, 1949 (s. 62 (2), *post*).

Training during part-time service

* * * * *

5. Summoning for training during part-time service.—(1) The Service Authority may cause to be served on any person during his term of part-time service a training notice which shall state that he is summoned for

training and the period for which he is summoned and shall require him to present himself at such place and time on such day (not earlier than the thirtieth day after the date of the service of the notice), and to such authority, as may be specified in the notice. [175]

(2) Where a training notice has been served on any person, the Service Authority may at any time before the day on which he is thereby required to present himself cause to be served on him a supplementary notice varying the training notice by altering the place or time at which, but not the date on which, he is thereby required to present himself. [176]

(3) Every training notice served otherwise than by registered post shall require the person upon whom it is served to acknowledge receipt thereof within such time as may be specified in the requirement; and if acknowledgment is not received, the Service Authority may cause a further training notice to be served on him by registered post and may by that notice direct that the former notice shall be deemed never to have had effect. [177]

(4) A person who fails to comply with a training notice shall be liable to be apprehended and unless he has some reasonable excuse punished in the same manner as a person belonging to an auxiliary force failing to appear when called into actual or permanent service or on embodiment so, however, that the maximum punishment that may be awarded in respect of any such offence shall be, in the case of a person convicted by a court of summary jurisdiction, a fine of twenty-five pounds, and in any other case detention or imprisonment for a term not exceeding two years. [178]

(5) If at any time during a person's term of part-time service any change occurs in his name or address, he shall forthwith notify the change to such person and in such manner as may be notified to him under regulations of the Service Authority; and if he fails to do so, he shall be guilty of an offence under this Part of this Act. [179]

(6) A person shall not during his term of part-time service be required to perform any duty under this Part of this Act so long as he is not ordinarily resident in Great Britain or is a person specified in the First Schedule to this Act; and where by virtue of this subsection any person upon whom a training notice is served under this section is not, on the day on which he is thereby required to present himself, liable to perform any duty under this Part of this Act, he shall, for the purposes of that notice, be deemed not to have been liable to perform any such duty at the date of the service of the notice. [180]

General note.—This section, which reproduces provisions of s. 6 of the National Service Act, 1947 (40 Halsbury's Statutes 1148), exempts from duty during part-time service, *inter alia*, the persons specified in the First Schedule, *post*. This provision, contained in sub-s. (6), *supra*, meets cases where disability, as for instance blindness, has supervened.

Date of operation.—The Act comes into force on January 1, 1949 (s. 62 (2), *post*).

Interpretation.—See s. 34 of the Act.

* * * * *

PART III

GENERAL

* * * * *

61. Duration of Act.—No person who attains the age of eighteen years on or after the first day of January, nineteen hundred and fifty-four shall be liable under this Act to be called upon to serve in the armed forces of the Crown; and accordingly this Act shall continue in operation only with respect to persons who have attained that age or who have been called up for service under this Act before that date:

Provided that His Majesty may by Order in Council substitute for the said day such later day as may seem to His Majesty expedient. [181]

General note.—Reproducing the provisions of s. 27 of the National Service Act, 1947 (40 Halsbury's Statutes 1150), this section lays down a limit to the operation of the Act, though the duration may be extended by Order in Council.

62. Short title and commencement.—(1) This Act may be cited as the National Service Act, 1948. [182]

(2) This Act shall come into force on the first day of January, nineteen hundred and forty-nine. [183]

General note.—January 1, 1949, was the date for the coming into force of the main provisions of the National Service Act, 1947 (40 Halsbury's Statutes 1142). The provisions of that Act are superseded by those of the present Act.

SCHEDULES

Sections 1, 5 FIRST SCHEDULE

PERSONS NOT LIABLE TO BE CALLED UP FOR SERVICE

* * * * *

4. A person certified by a local authority, as defined for the purposes of Part III of the National Assistance Act, 1948, to be registered as a blind person under arrangements made by the authority under section twenty-nine of that Act. [184]

General note.—"*Local authority*" for the purposes of Part III of the National Assistance Act, 1948, is defined in s. 33 of that Act (see title PUBLIC ASSISTANCE, *post*). S. 29 of the same Act empowers local authorities to make welfare arrangements for blind, deaf, dumb and crippled persons.

* * * * *

ORDERS, CIRCULARS AND MEMORANDA

REGISTRATION FOR EMPLOYMENT ORDER, 1947

S. R. & O., 1947, *No.* 2409

November 11, 1947

In exercise of the powers conferred on him by Regulation 58A of the Defence (General) Regulations, 1939, as having effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945, as extended by the Supplies and Services (Extended Purposes) Act, 1947, and of all other powers him enabling, the Minister of Labour and National Service (hereinafter referred to as "the Minister") hereby makes the following Order:—

1. Short title and commencement.—This Order may be cited as the Registration for Employment Order, 1947, and shall come into force on the eighth day of December, 1947. [185]

* * * * *

3. Registration of persons.—If the Minister from time to time by public notice so requires, any person of either sex who is at the date of the notice in Great Britain, or not having been in Great Britain at that date subsequently enters it, or any such person of any class or description specified in the notice shall—

(*a*) register particulars about himself as set out in Part I of the First Schedule hereto on such date, at such times, in such manner, and at such places as may be so notified; and

(*b*) at any time and from time to time furnish to the Minister such particulars about himself in addition to any particulars already registered by him (whether by virtue of the provisions of this Order or otherwise) on such date, at such times, in such manner and at such places as the Minister may require. [186]

4. Exceptions.—(1) The provisions of Article 3 of this Order shall not apply to any person who

* * * * *

(*i*) is certified by a local authority as defined by the Blind Persons Acts, 1920 and 1938 to be registered as a blind person under arrangements made by the authority under those Acts; [187]

* * * * *

FIRST SCHEDULE

PART I

INFORMATION TO BE FURNISHED BY PERSONS AT TIME OF REGISTRATION

1. Full name
2. National Registration Identity Card number
3. Full address
4. Male or female
5. Date of Birth
6. Present occupation (if any)
7. Previous occupations (if any)
8. Employment Exchange at which already registered (if any). [188]

* * * * *

General note.—This Order, *inter alia*, enables the Minister of Labour and National Service by public notice to require men between the ages of 18 and 50 inclusive, and women between the ages of 18 and 40 inclusive, or any such men or women of a class or description specified in the notice, to register particulars about themselves as and where required by the notice.

Among the persons excepted from the Order, apart from those outside the age limits, are persons certified by local authorities to be registered as blind.

BUILDING

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ORDERS, CIRCULARS AND MEMORANDA

CONTROL OF BUILDING OPERATIONS (NO. 10) ORDER, 1947

S. R. & O., 1947, *No.* 2698

December 17, 1947

This Order, which fixed the financial limits within which building or civil engineering work could be undertaken without authorisation or licence for the period from February 1, 1948, to July 31, 1948, has been revoked by

the Control of Building Operations (No. 11) Order, 1948, *post*. It specified for that period the same limits of costs for building operations as were specified in the Control of Building Operations (No. 9) Order, 1947, which it revoked. Otherwise the terms of the two last-mentioned orders are almost identical. [189]

CONTROL OF BUILDING MATERIALS (AMENDMENT) ORDER, 1948

S.I. 1948 *No.* 980

May 7, 1948

General note.—As this volume was going to press, this Order and the Control of Building Materials (No. 1) Order, 1947, *infra*, were revoked as from November 1, 1948, by S.I. 1948 No. 2367, on the cessation of this type of control.

The Minister of Works, in exercise of the powers conferred upon him by Regulations 55, 55AA and 98 of the Defence (General) Regulations, 1939, as having effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945, as extended by the Supplies and Services (Extended Purposes) Act, 1947, and of all other powers enabling him in that behalf, hereby makes the following Order :—

1. The Schedule to this Order shall be substituted for the Schedule to the Control of Building Materials (No. 1) Order, 1947. [190]

2. This Order shall come into operation on the 15th day of May, 1948. [191]

3. This Order may be cited as the Control of Building Materials (Amendment) Order, 1948. [192]

* * * * *

SCHEDULE

1. Rainwater gutters of cast iron or asbestos cement.
2. Rainwater gutter fittings of cast iron or asbestos cement.
3. Rainwater pipes of cast iron or asbestos cement.
4. Rainwater pipe fittings of cast iron or asbestos cement.
5. Soil pipes of cast iron or asbestos cement.
6. Soil pipe fittings of cast iron or asbestos cement.
7. Cast iron smoke pipes unless supplied with and as a necessary part of a domestic independent boiler assembly.
8. Cast iron smoke pipe fittings unless supplied with and as a necessary part of a domestic independent boiler assembly.
9. Hardwall plaster.
10. Plasterboard.
11. Domestic type baths of cast iron.
12. W.C. pans.
13. Lead sheet of not less than 3 lbs. nor more than 5 lbs. weight per sq. ft. derived from material allocated to manufacturers of sheet lead for the manufacture of building supplies.
14. Lead pipe not less than ⅜ in. nor more than 4 in. bore derived from material allocated to manufacturers of lead pipe for the manufacture of building supplies.
15. Copper pipe for the conveyance of water, gas, waste or soil in building.
16. Metal conduit boxes, electrical, of types normally used for domestic purposes.
17. Metal conduit, electrical, of types normally used for domestic purposes.
18. Electrical plugs and socket outlets with or without switches three-pin up to and including 15 amp.
19. Electrical main switches, switch fuses, and fuseboards up to and including 60 amp. of types normally used for domestic purposes.
20. Electrical switches, tumbler, wall type (surface, semi-recessed or flush) and ceiling types, up to and including 15 amp. of types normally used for domestic purposes.

21. Domestic type solid fuel burning heating and cooking appliances of the following kinds :—

(*a*) Combination Grates
(*b*) Back-to-Back Grates
(*c*) Built-in Ranges
} including Chimney Pieces, Raised Kerbs, Fixed Hearths and Jamb Beads and Mouldings where these are an integral part of the fitting.

(*d*) Portable Ranges (up to and including size 42 in. wide).
(*e*) Free-Standing Cookers (not fully insulated).
(*f*) Portable Boilers. Sizes up to and including 16 gallons capacity.
(*g*) Furnace Pans. Sizes up to and including 16 gallons capacity.
(*h*) Openable Domestic Heating Stoves.
(*i*) Stove Grate Goods, Self-contained Boiler Flues, Smokeless Fuel Grates, Continuous Burning Fire Units.
(*j*) H.P. Boilers for Grates and Ranges whether wrot iron, cast iron or copper.

but excluding replacement parts for any of the above items 21 (*a*) to 21 (*j*) inclusive. [193]

EXPLANATORY NOTE

(*This Note is not part of the Order, but is intended to indicate its general purport.*)

This Order makes the following changes in the schedule of building materials controlled through the Priority Distribution Scheme for Building Materials :

1. *It excludes from the Scheme : bricks, domestic type sinks, lavatory basins, clear sheet glass, and domestic type baths of pressed steel.*

2. *It brings into the Scheme : cast iron smoke pipes and fittings unless supplied with and as necessary parts of a domestic independent boiler assembly.*

3. *It gives a list of the solid fuel appliances within the Scheme.*

CONTROL OF BUILDING OPERATIONS (NO. 11) ORDER, 1948

S.I. 1948 *No.* 1310

June 21, 1948

General note.—As this volume was going to press, this Order was superseded as from November 1, 1948, by S.I. 1948 No. 2332.

The Minister of Works, in exercise of the powers conferred on him by Regulation 56A of the Defence (General) Regulations, 1939, as having effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945, as extended by the Supplies and Services (Extended Purposes) Act, 1947, and of all other powers enabling him in that behalf, hereby orders as follows :—

1. The sum prescribed under paragraph (*c*) of the proviso to paragraph (1) of Regulation 56A of the Defence (General) Regulations, 1939, is the sum of One hundred pounds. [194]

2. Any person may, without a licence from the Minister of Works under paragraph (2) of the said Regulation 56A, carry out on any single property during the period beginning with the first day of July, nineteen hundred and forty-eight, and ending with the thirtieth day of June, nineteen hundred and forty-nine, any work to which this Article applies, if the cost of the work, together with the cost of any other such work previously carried out on that property during that period without such a licence as aforesaid does not exceed the sum of one hundred pounds. [195]

3.—(1) Article 2 of this Order applies to any work specified in Part III of the Sixth Schedule to the Defence (General) Regulations, 1939, and any maintenance work on a building or on any such works as are mentioned in Part II of that Schedule, except that it does not apply to any work carried out for a purpose specified in the first column of the Table set out in Part I of the said Schedule.

(2) In this Order, the expression " a property " means, in relation to any work carried out at any time—

(*a*) any property the full value of which was ascertained for the purposes of an assessment under Schedule A in force at that time ; or

(*b*) any property which, not being or forming part of a property to which sub-paragraph (*a*) of this paragraph applies, was at that time the subject of a valuation shown in the Valuation List for the time being in force under the Rating and Valuation Acts, 1925 to 1940, or the Rating and Valuation (Metropolis) Acts, 1869 to 1940, as the case may be ; or

(*c*) in a case where the work is carried out on property which is not and does not form part of a property to which sub-paragraph (*a*) or sub-paragraph (*b*) of this paragraph applies, the building or site on which the work is carried out, together with any land or building occupied with that building or site :

Provided that, where any building which would constitute a property for the purposes of this Order comprises two or more parts which are occupied or constructed for occupation as separate dwellings, each of those parts shall be deemed to be a separate property for the said purposes and the remainder of the building shall also be deemed for the said purposes to be a separate property. [196]

4. The Control of Building Operations (No. 10) Order, 1947, is hereby revoked. [197]

5.—(1) This Order may be cited as the Control of Building Operations (No. 11) Order, 1948.

(2) This Order shall come into operation on the first day of July, nineteen hundred and forty-eight. [198]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Order, but is intended to indicate its general purport.*)

1. *The purpose of this Order is to fix the financial limits within which building or civil engineering work can be undertaken without authorisation or licence in the calendar year 1st July, 1948 to 30th June, 1949.*

2. *The requirement that Local Authorities and certain public utility undertakings should obtain an authorisation from a Government Department for certain operations will not apply to any operation begun in that period the total cost of which does not exceed £100.*

3. *As from 1st July, 1948, work may be done on any single property without a building licence if its cost together with the cost of any previous work done without a licence since that date does not exceed £100.*

DEFENCE REGULATIONS (NO. 6) ORDER, 1948

S.I. 1948 No. 1329

June 22, 1948

His Majesty, in pursuance of section three of the Supplies and Services (Transitional Powers) Act, 1945, as extended by the Supplies and Services (Extended Purposes) Act, 1947, and of all other powers enabling Him in

that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1.—(1) The Sixth Schedule to the Defence (General) Regulations, 1939 (which determines the authorities who may authorise certain building and other operations) shall be amended in accordance with the following provisions of this Article.

(2) In Part I of the said Sixth Schedule for paragraphs 3 and 4, there shall be substituted the following paragraphs :—

" 3. The discharge by a local education authority of any of their functions.	The Minister of Education.
4. The discharge by the managers or governors of a voluntary school of functions vested in them as such managers or governors.	The Minister of Education."

(3) In the said Part I, in paragraph 6, in the second column for the words " The Electricity Commissioners " there shall be substituted the words " The Minister of Fuel and Power ". [199]

* * * * *

2. Any operation authorised by the Electricity Commissioners before the coming into operation of this Order shall be treated for the purposes of Regulation fifty-six A of the Defence (General) Regulations (which makes unlawful the execution of certain building and other operations which has not been duly authorised) as respects the period after the coming into operation of this Order as having been authorised by the Minister of Fuel and Power or the Secretary of State for Scotland, as the case may be. [200]

3.—(1) This Order may be cited as the Defence Regulations (No. 6) Order, 1948.

(2) This Order shall come into operation on the 1st day of July, 1948. [201]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

Paragraph (1) *of Regulation* 56A *of the Defence (General) Regulations,* 1939, *provides that building and other operations of the kinds set out in Part II of the Sixth Schedule to those Regulations, when carried out for any of the purposes set out in the first column of Part I of that Schedule, shall require the authority of the Government department or other body set out in the second column of Part I. . . .*

Article 1 *of this Order amends Part I . . . of the Schedule.*

Paragraphs 3 *and* 4 *of Part I of the Schedule provide that building for certain educational purposes shall require the authority of the Minister of Education. Article* 1 (2) *of this Order brings the language of those paragraphs into conformity with the terms of the Education Act,* 1944.

Paragraph 6 *of Part I of the Schedule provides that building by electricity undertakers shall require the authority of the Electricity Commissioners. Article* 1 (3) *of this Order transfers their functions under that paragraph to the Minister of Fuel and Power.*

Article 2 *of this Order contains transitional provisions consequential on Articles* 1 (3) *and* 1 (4) *of the Order.*

General note.—From this Order certain provisions applying only to Scotland have been omitted and consequential omissions occur in the official Explanatory Note, *supra.*

Reg. 56A *and Sched. VI, etc.*—Reg. 56A of the Defence (General) Regulations, 1939, and Sched. VI to those Regulations (see 40 Halsbury's Statutes 1392, 1469) were added, or substituted by S. R. & O., 1941, No. 1596, dated October 10, 1941.

By S. R. & O., 1945, No. 1619, which came into force on December 20, 1945, the said Regulation and Schedule now have effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945 (38 Halsbury's Statutes 629), the scope of which was later extended by the Supplies and Services (Extended Purposes) Act, 1947 (40 Halsbury's Statutes 1289).

Electricity Commissioners.—The Commissioners were established by s. 1 of the Electricity (Supply) Act, 1919 (7 Halsbury's Statutes 754). On the nationalisation of the electricity supply industry, the Electricity Act, 1947, s. 58 (1) (40 Halsbury's Statutes 481), empowered the Minister of Fuel and Power to dissolve the Commissioners by order, a power which was exercised as from August 1, 1948, by the Electricity Commissioners (Dissolution) Order, 1948 (S.I. 1948 No. 1769). The present Order had already taken effect from July 1, 1948.

Circular 181/47

To: County Borough Councils
Borough Councils
Urban District Councils
Rural District Councils
(England and Wales.)

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.
29th December, 1947.

SIR,

PUBLIC HEALTH ACT, 1936—BUILDING BYELAWS; EXTENSION OF PERIOD OF OPERATION

I am directed by the Minister of Health to refer to Section 68 of the Public Health Act, 1936, which provides that any building byelaw made by a local authority under Part II of the Act shall cease to have effect on the expiration of ten years from the date on which it was made unless the Minister, by order, extends that period, and to say that he is considering the further revision of the Model Series, foreshadowed in the Prefatory Memorandum, as a preliminary to the making of new byelaws by local authorities to replace those which will cease to have effect by the operation of Section 68.

In order to provide sufficient time for such revision and for the making of new byelaws and to avoid the necessity for the issue of individual orders, the Minister, in exercise of his powers under the proviso to Section 68 of the Public Health Act, 1936, has decided to extend until the 31st December, 1949:—

(*a*) Building byelaws made under Part II of the Public Health Act, 1936,
(*b*) Byelaws with respect to new streets and buildings which have, by order, been extended annually,

which are at present in force and would otherwise cease to have effect.

A copy of the appropriate Order will be forwarded to each authority. [202]

I am, Sir, etc.

* * * * *

To the Clerk of the Council.

Circular 14/48

To: Housing Authorities (England)
County Councils for information.

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.
29th January, 1948.

SIR,

BUILDING LICENSING: DEFENCE REGULATION 56A

(1) Extension of "free allowances" for further six months.
(2) Discontinuance of term "Control of Civil Building".
(3) Licensing work done under Statutory Notice.
(4) Work on Farmhouses and Farm Buildings.

1. I am directed by the Minister of Health to invite the attention of local authorities to the Control of Building Operations (No. 10) Order, 1947,

dated 17th December, 1947 (S. R. & O., 1947, No. 2698), which extends for a further six months the present free allowances within which certain building work may be carried out without a building licence. The effect of the Order is that between the 1st February, 1948, and the 31st July, 1948, work may be done without a licence on any single property if its cost including the cost of any other work done without a licence on the property during the six months period does not exceed £10; and in addition work costing a total of not more than £2 in any one month in the period may be carried out without a licence. This £2 monthly allowance is not cumulative.

2. *Civil Building—Building Licensing.*

The circumstances in which civil building was contrasted with military work no longer exist. In future, therefore, the term "Control of Civil Building" will be replaced in official communications by "Building Licensing".

3. *Licensing of work done under Statutory Notice.*

It may not always be possible, within the quota available for licensing work, to issue immediately a licence for work required by Statutory Notice, but every effort should be made to issue such licences at the earliest possible date. Inability to obtain the necessary licence is an adequate defence against proceedings for failure to obey a Statutory Notice, but it is undesirable that such a position should arise. Applicants who have been served with a Statutory Notice should be given a clear indication of the licensing position and if it is impossible to issue a licence immediately, the application should be retained and cleared as soon as possible.

4. *Work on Farmhouses and Farm Buildings.*

Some confusion has arisen over the issue of licences for work costing more than £100 on farm dwelling-houses and the buildings attached to them. Some applications have been dealt with by the Regional Licensing Officer of the Ministry of Works and others by the local authorities. It seems advisable to clarify the position. As such applications are more closely related to the demands of the agricultural programme than to housing needs it has been decided that all applications involving work in excess of £100 either on a farmhouse or on farm buildings or on both shall in future be dealt with by the Regional Licensing Officer of the Ministry of Works who will also release controlled materials.

Repair or maintenance of farmhouses or farm buildings costing less than £100 will continue to be dealt with by local authorities, and applications for this class of work should be given special consideration. It will probably be found that many of these applications have the support of the Agricultural Executive Committee and consultation with Regional Licensing Officers of the Ministry of Works, in any cases of doubt, would avoid duplication of enquiries and assist in co-ordinating regional policy.

The special restrictions on issues of licences involving the use of timber (see paragraph 3 of Circular 117/47) should not be applied to applications for repairs to farm buildings.

The issue of licences for new dwellings on small holdings will still be the responsibility of local authorities under the general terms of Circular 137/47. [203]

I am, Sir, etc.

* * * * *

The Clerk to the Authority.

Circular 40/48

To: Housing Authorities (England)
County Councils for information.

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.
15th March, 1948

SIR,

BUILDING LICENSING: DEFENCE REGULATION 56A

Licensing of Maintenance, Repair and Minor Works.
Reconditioning of Occupied Premises. Conversions and Adaptations.
Issue of "U" Licences for Special Types of Work.
Issue of Licences for Prefabricated Structures.
Contravention of Defence Regulation 56A.

1. I am directed by the Minister of Health to inform you that the Government have reviewed the present arrangements for the licensing of maintenance, repair and minor works in the light of the decisions that have had to be taken with regard to capital investment and particularly in view of paragraph 14 of the White Paper on Capital Investment in 1948 (Cmd. 7268) which states that, "It is implicit in the object of the investment review that the volume of maintenance and small works in 1948 must continue to be strictly controlled, since any significant expansion of this class of work would clearly impede the transfer of resources to more essential purposes".

2. As hitherto the volume of licences that may be issued by each local authority will be settled by Regional Building Committees at Zonal Conferences or by other convenient methods. Where Zonal Conferences are arranged representatives of the local authorities and of the Government Departments most closely concerned will participate. The aim of these Conferences will be to collate information regarding building proposals and building resources and to determine the amount of work which may be licensed each month by the various authorities concerned.

3. If it appears that as a result of the restriction on the volume of new work put in hand more operatives will be available for maintenance and repair work than in a corresponding previous period, the Ministry of Works will consult the Ministry of Labour regarding the possibility of alternative employment on essential work in the building industry or other industries. If the Ministry of Labour advise that such alternative employment is available, before any other steps are taken that Department will offer such employment to men reporting to the Employment exchange for work. On the other hand, if the Ministry of Labour advise that such alternative employment is not available, the Regional Building Committee will consider what volume of work may be licensed or authorised additional to the levels previously agreed at Zonal Conferences or otherwise. The local authority will be advised by the Secretary of the Regional Building Committee of any change in the agreed level of licensing. Local offices of the Ministry of Labour and National Service will keep a close watch on the local unemployment situation and will advise the Regional Director of the Ministry of Works of any actual or imminent unemployment among local building operatives.

4. It is important to ensure that the issue of additional licences or authorisations shall not (*a*) result in work of a luxury nature or of lesser urgency to the detriment of other schemes in the area, and (*b*) throw an unduly heavy burden upon the supply of scarce materials, particularly timber and steel. In all cases where an authorisation to obtain steel is necessary for work which is subject to a licence application, a reference should first be made to the Regional Licensing Officer of the Ministry of Works who will advise whether or not steel can be made available. Paragraph 3 of Appendix B of Circular 179/47 should be cancelled.

5. Within the monetary licensing ceilings laid down at Zonal Conferences or otherwise, the urgent and essential work set out in the five categories defined in Circular 171/46 must still come first. Where the raising of the monetary ceiling under paragraph 3 permits, any arrears of applications within the five categories must be cleared before any licences are issued for work of a less urgent character. It is particularly important that work required under a Statutory Notice should be licensed with as little delay as possible. As regards work of maintenance and repair of a less urgent character, decisions on applications must be determined by the nature of the materials required. Subject to the exceptions set out in paragraph 7, preference should be given to work requiring little or no timber and, for the present, in view of the heavy demands for sanitary-ware and fittings for new houses, licences should not be issued for work involving the use of sanitary-ware and baths.

6. It should be noted that in order to keep the non-industrial load on electrical generating stations within reasonable limits, the Electricity Commission have recently instructed Supply Undertakings to co-operate in measures designed to restrict the demand for electricity from non-industrial consumers more particularly by limiting to essential needs the connection of new supplies and the provision of appliances on hire or hire-purchase. In general, therefore, new services and apparatus, especially on hire or hire-purchase, will be provided only to (*a*) new domestic or commercial premises, (*b*) war damaged houses which have been made habitable again or houses which have been divided into separate tenancies, (*c*) farms and farm workers cottages where the County Agricultural Executive Committees certify that the installation will assist increased food production, (*d*) existing premises where the present facilities for heating and/or cooking are worn out or where serious hardship would result if the supply is not provided. In future, therefore, confirmation should be obtained that the Electricity Supply Undertaking is willing to connect and supply before a licence is granted. Regard should also be had to the materials likely to be required.

7. *Reconditioning or Improvement of Existing Houses.*

Work on the reconditioning of existing houses for which licences could be issued within the existing licensing ceilings or within the higher levels of licensing envisaged under paragraph 3, but which requires the use of sanitary-ware, baths and pipes must necessarily be limited at present by their scarcity. The current demand for these materials for the large numbers of new houses now being completed month by month and for the provision of essential replacements or for the installation of amenities in premises to be converted into flats, leaves only a small margin of supplies available for the improvement of amenities in houses where such work is either necessary or desirable.

Proposals for the reconditioning of existing houses which involve only such work as repairs to the damp-course, elimination of dry rot, repairs to roof or structure or the provision of an additional bedroom or bedrooms, should be licensed in so far as room can be found within the monetary licensing ceilings. In considering applications for other forms of reconditioning work involving the scarce materials referred to earlier, preference must be given for the time being to houses occupied by or intended for agricultural workers. Any such proposals which receive the support of the local authority and the Agricultural Executive Committee should be forwarded for consideration by the Principal Housing Officer, accompanied by a short statement indicating the cost and nature of the works to be carried out, the amount of timber, steel and additional fittings required, and whether the local authority would be able to issue a licence within the agreed monetary ceiling.

8. *Conversions and Adaptations.*

The issue of licences for work resulting in additional family units of accommodation by the conversion or adaptation of houses or other buildings is normally outside the licensing ceiling arrangements, and is linked with the arrangements for the construction of new houses. Where a conversion scheme calls for comparatively small amounts of controlled materials particularly timber (in respect of which experience has shown that less than one-fifth of a standard of softwood should normally be required) licences may be issued for—

(*a*) house now capable of occupation as a single unit which can be converted into not more than three separate units of family accommodation, and the cost is less than £500 for each *additional* unit of accommodation which results, (*e.g.* a scheme for producing three units of accommodation should not cost more than £1,000);

(*b*) stables, other buildings or houses not now capable of occupation as such, where the cost does not exceed £500 per unit of family accommodation produced; and

(*c*) larger houses which are to be converted into four or more separate units of family accommodation and the cost does not exceed £500 for each of the units of accommodation resulting.

Licences should not be granted by local authorities for schemes involving expenditure in excess of the stated limits. Where special circumstances exist such as war damage or excessive dilapidation or the local authority is satisfied that structurally satisfactory houses will remain empty or not fully used if not converted, and the cost is more than the above limits, or the timber required is much more than the normal amount as stated above, the application should be referred to the Principal Housing Officer for special consideration.

In certain types of premises where full conversion into self-contained flats is desired by the owner but cannot be undertaken within the financial limits set out above, it is suggested that the owner be advised to undertake the conversion in two stages. Such a procedure applies particularly to certain types of terrace houses which could be made available for three or four families. In the first instance a licence may be issued for the work essential to make the premises adaptable for occupation by a number of family units. At some time in the future it may be possible to issue a licence for the provision of the work temporarily deferred.

Applications for licences for work of adaptation which extends the accommodation in an occupied house only by provision of an additional bedroom or bedrooms must be dealt with under the agreed licensing ceilings.

9. The instructions in paragraphs 5, 7 and 8 above, cancel the general directions on repairs, etc., by private owners in Circulars 2871, 9/44, 49/44 and paragraph 11 of Circular 125/45.

10. *Issue of "U" Licences for Special Types of Work.*

The arrangements and instructions in Circular 117/47 (paragraphs 6 to 9) may still be operated outside the authorised monetary ceilings, and licences for this class of work may be issued where there is no shortage of labour for construction of greater priority. It should be noted, however, that unemployment or prospective unemployment of painters and decorators will in future be dealt with under the provisions of paragraph 3 of this circular, and paragraph 5 of Circular 117/47 should accordingly be cancelled. The reference to painting and decorating work in paragraph 9 of Circular 117/47 should also be cancelled.

11. *Prefabricated Structures.*

Local authorities were advised in paragraph 2 of Circular 8/47 to grant licences to applicants desiring to purchase components for prefabricated structures and not proposing to use any paid labour in their erection. Representations have now been made that the erection of small prefabricated garages, huts, greenhouses, etc., does not require the use of materials (other than cement) and requires a negligible amount of local labour to erect. In such circumstances the issue of a licence should have no detrimental effect upon other building work in the area, and local authorities may therefore issue the necessary licences outside the fixed monetary ceiling or other licensing limit determined by the Regional Building Committee at Zonal Conferences or otherwise. There can be no question of issuing authorisations for controlled materials in these cases.

12. *Contraventions of Defence Regulation* 56A.

In Circular 8/47, paragraph 11, local authorities were asked to make Quarterly Returns to the Regional Licensing Officer of the Ministry of Works giving certain information on alleged contraventions investigated by them. No provision was made in the suggested form of return for reporting cases where the investigation establishes that an offence of a minor character has been committed and where for this or other reasons proceedings cannot appropriately be instituted. As it is essential that information on such cases should be readily available in the event of any future contravention by the same person, the suggested form of return should be amended under item (*c*) to show :—

C. (vi) Names and addresses of persons against whom proceedings have not been instituted but who have been warned about offences against Defence Regulation 56A.

In making the first return under the new heading it would be an advantage if local authorities would include information (if it is readily available) on any cases dealt with in this manner since the issue of Circular 8/47. [204]

I am, Sir, etc.

* * * * *

The Clerk to the Authority.

Circular 78/48

London County Council
County Borough Councils
Borough Councils
Urban District Councils
Rural District Councils
(England and Wales).

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.
20th May, 1948.

SIR,

STATISTICS OF TRADE ACT, 1947, SECTION 14 : ADDITIONAL INFORMATION TO BE FURNISHED AS TO ESTIMATE OF COST OF NEW BUILDING

(1) I am directed by the Minister of Health to refer to Section 14 of the Statistics of Trade Act, 1947, the effect of which is to require, in addition to the particulars specified in Section 61 of the Public Health Act, 1936, and Section 84 of the London Building Acts (Amendment) Act, 1939, information as to the estimated cost of proposed new building works and, in the latter case, notification of completion of the work. It is intended that the

information so obtained shall form the basis of periodical returns which will provide comprehensive information for the whole of the country as to the extent and progress of various descriptions of building activity.

(2) While the control of new building by means of licences under Defence Regulation 56A remains in operation, such particulars will be available from the applications for building licences, and it is not proposed to ask local authorities to supply separate returns during its continuance.

(3) It is, however, important that effect should be given now to the provisions of Section 14 of the Statistics of Trade Act in order to ensure continuity, and local authorities will no doubt take steps to amend their form of application under Section 61 of the Public Health Act, 1936, or in the case of the London County Council, the prescribed notice under Section 84 of the London Building Acts (Amendment) Act, 1939, by the insertion thereon of suitable words or the attachment thereto of a slip, requiring the additional particulars specified in the Section.

(4) A further communication will be addressed to local authorities when the submission of separate returns becomes necessary and details of the particulars required and forms on which the information should be furnished will be sent to them well in advance of the date on which such returns are required to be made. [205]

I am, Sir, etc.

* * * * *

The Clerk of the Council.

Circular 104/48

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.
21*st June*, 1948.

To: All Local Authorities
County Councils for information
(England and Wales).

BUILDING LICENSING

Part I. Revised Financial Limits.
Revised Licensing Functions of Officers appointed by Local Authorities.
Unpaid Labour : Contraventions : Control of Materials.
Fees for Professional Services.
Amendment of Licences to cover increased costs.

Part II. Payment to Local Authorities in respect of licensing work undertaken by their officers on behalf of the Minister of Works.
Method of Payment : Period of Claim : To whom sent.
Arrangements for Advances.

SIR,

I am directed by the Minister of Health to inform you that the Minister of Works is making an Order amending, as set out below, the financial limits within which building work may be done without licence. Outside these limits strict control will still be necessary to ensure that building labour and materials shall not be used on less essential works to the detriment of building projects of high national importance and urgency. While, however, building controls must be maintained in effective operation, it is desirable to make such relaxations as circumstances justify. Much of the work urgently necessary to bring occupied houses up to a reasonable standard could be carried out with materials readily available, and it is to facilitate such work and to simplify the arrangements for its execution that the new Order has

been made. If experience shows that the relaxation is used for non-essential purposes and that the progress of essential work is thereby impeded, the Government will feel obliged to review the position.

PART I. FINANCIAL LIMITS UNDER NEW CONTROL OF BUILDING OPERATIONS ORDER

(1) Under the Control of Building Operations (No. 11) Order, which will come into force on the 1st July, 1948, the amount of work which may be carried out without licence on any property during the period 1st July, 1948, to the 30th June, 1949, has been fixed at £100. A copy of the Order will be sent as soon as possible.

Revised Licensing Functions of Officers appointed by Local Authorities

(2) As from 1st July, 1948, as a result of the change to the £100 limit, local authorities will no longer be concerned with applications for licences for work other than housing, and all such applications should be referred to the appropriate licensing officer of the Ministry of Works. As regards housing work the authority given by the Minister of Works to officers appointed for the purpose by local authorities is to signify his granting of licences for licensable work to private dwellings within the area of the local authority where the local authority is satisfied that the work should be allowed to proceed. The term private dwelling includes private garages, greenhouses or garden walls within the curtilage of a house, but does not include farm houses, hotels, hostels, boarding houses, holiday camps or shops (with or without living accommodation).

(3) *Unpaid Labour.*

The instructions in paragraph 2 and Appendix B of Circular 8/47 are cancelled. Any work carried out in excess of the free limit is subject to licence whether done by paid or unpaid labour, and in future the value of unpaid labour (other than the labour of the owner or occupier of a building) should be taken into account on the rough basis of normal building rates within the area in computing the cost of any building work.

(4) *Contraventions.*

There is no change in the instructions in Circular 8/47 about powers delegated to local authorities to initiate prosecutions for alleged contraventions of Defence Regulation 56A.

(5) *Controlled Materials.*

The shortage of timber and steel makes it quite impossible to introduce any relaxation at present of the restrictions on the use of these materials.

(*a*) *Timber.*—Applications for timber for licensed housing work will be dealt with by the Principal Housing Officer. Applications for timber for work to be carried out without licence within the free limits should be referred to the Area Officer of the Timber Control.

(*b*) *Steel and Building Board.*—A circular detailing modified arrangements for licences will be issued shortly.

(*c*) *Other Materials.*—Under the Control of Building Materials Order, referred to in Circular 93/48, priority in supplies of certain materials listed in a memorandum attached to that Circular will continue to be given to work providing new houses or other new accommodation.

(6) *Fees for Professional Services.*

Amendment of Licences to Cover Increased Costs.

Notes prepared by the Ministry of Works are circulated for information in Appendices A and B.

PART II. PAYMENT TO LOCAL AUTHORITIES IN RESPECT OF LICENSING WORK UNDERTAKEN BY THEIR OFFICERS ON BEHALF OF THE MINISTER OF WORKS

Representations have been made from time to time that the expenditure solely incurred on licensing work is a heavy burden upon local authorities, and it has been decided to reimburse such approved additional expenditure on licensing work in the proportion of 3 : 1 (*i.e.* 75 per cent. to be met by way of grant and the balance by local authorities) as from 1st April, 1947. Payments will be made annually on Form M.O.W. 1782, a copy of which is attached for information. It should be noted that salaries of permanent officials should be excluded in calculating additional approved expenditure, but overtime payments to permanent staff, salaries or wages of substitutes engaged solely to relieve the permanent staff for licensing work, additional rent incurred for premises used only for that purpose and printing expenses in connection with licensing may be included. Supplies of Form M.O.W. 1782 when available will be sent to Local Authorities by the Assistant Regional Director (Controls) at the Regional Office of the Ministry of Works in England, and by the Assistant Director for Wales (Controls) at 42 Park Place, Cardiff; the forms will not, however, be available for some time yet. Local authorities will no doubt appreciate this advance information to enable them to prepare their claims.

Arrangements for Advances.—Where an advance is required as indicated on page 1 of the Form, payment of the advance will be made after preliminary scrutiny of the claim. In no case will the advance payment exceed 90 per cent. of the total amount claimed. The balance will be retained pending examination of the claim by the District Auditor.

I am, Sir, etc.

* * * * *

The Clerk to the Authority.

APPENDIX A

Fees for Professional Services

Representations have been made by professional bodies that the inclusion of fees for professional services whether relating to the actual supervision of the work or to other services such as the drawing up of plans in the licensed cost, has, for various reasons, been causing difficulty. In the circumstances, it has been decided that, while the legal position is not altered in any way, professional fees of architects, surveyors and engineers may, in appropriate cases, be specifically excluded from the licensed cost. This will be done by the following endorsement on the licence after the figures specifying the permitted cost of the work :—" exclusive of any professional fees paid to any architect, surveyor, or engineer acting as such in an advisory and/or supervisory capacity in connection with the work." This endorsement should be made in all cases where an architect, surveyor, or engineer is actually employed in an advisory or supervisory capacity. It will not apply to the salary paid to an architect, surveyor, or engineer who is a member of the staff of the contractor carrying out the work.

APPENDIX B

Amendment of Licences to Cover Increased Costs

Cases arise where the licensed cost has been exceeded although no work outside the licence has been done and the architect could not know beforehand that the cost would be exceeded. In such cases the defence afforded

by proviso (*a*) to paragraph 6 of Defence Regulation 56A is available and the technical infringement is normally cleared by the issue of a letter to the effect that no further action will be taken. Such an exculpation is, however, not regarded as sufficient from the point of view of the architect who is still in the position of having to give a certificate inconsistent with the licence, and the Ministry of Works has been asked to issue retrospective licences to cover these cases.

There is no power under the Regulation to issue retrospective licences. It has, however, been decided that the cost inserted on the original licence may be amended in these cases to show the actual cost of the work on completion. In order to ensure as far as possible that the local authority or the Ministry of Works does not become a party to disputes between the architect, builder and building owner, it must be clearly understood that any amendment may only be made at the written request of the building owner or the person paying the cost of the work and may not be made at the request of any person acting on behalf of either of these parties. Only excess costs may be covered and in no circumstances may an amendment be made in any case where work outside the terms of the licence has been carried out. Where it appears that a contravention has occurred on other grounds no amendment of the licence may be made without reference to the Regional Director of the Ministry of Works.

This arrangement will not absolve the architect, builder or building owner from the necessity of applying for a supplementary licence if it becomes apparent in the course of the work that the cost will be exceeded, and prior approval will still be necessary if work outside the licence is to be done.

The amendment will be made on both the building owner's copy of the licence and on the file copy and will be signed by the local authority Licensing Officer or the person who originally signed the licence.

Form M.O.W. 1782 Page 1

MINISTRY OF WORKS

CLAIM FOR REIMBURSEMENT OF ADDITIONAL EXPENSES IN CONNECTION WITH BUILDING LICENSING :

(See Circular.....)

Name of Local Authority .....

Address ..... Date of Claim .....

Period of Claim ..... Number of applications dealt with in period of claim .....

Number of licences granted in period of claim ..... Value of licences granted in period of claim £.....

Extract of additional expenditure during the period of claim as stated below :—

Totals brought back from overleaf.	Section A	£
	,, B	£
	,, C	£
	,, D	£
		£

Certificate of Chief Financial Officer to the Local Authority

I certify that the above additional expenditure has been incurred solely in connection with Building Licensing and that due economy has been exercised. I, therefore, claim reimbursement of 75% of the total amount stated.

Date..... Signed.....

Please state :—

(1) If an advance payment is required pending examination of this claim by the District Auditor .....

(2) The estimated amount of claim for the current year £.....

Certificate of District Auditor/Appointed Auditor in Scotland

I have examined the entries in the foregoing statement and I hereby certify that to the best of my knowledge and belief the particulars entered thereon are correct.

Dated this..... day of ..... 194 .

Signature.....

Auditor

Page 2

SECTION A

Additional Rent and Rates (including occupational charges)

Address of Premises	Details of Charges	Amounts
	Total	

SECTION B

Temporary Staff Salaries and Overtime, and Travelling Expenses

Name	Grade	Weekly or Annual Salary	Salary for period of claim	Overtime for period of claim	Travelling etc., expenses for period of claim	Amount paid to each individual
					Total	

SECTION C

Overtime Payments and Travelling Expenses for Permanent Staff solely on account of Licensing Work

Name	Grade	Details of Payment	Amount
		Total	

SECTION D

Incidental Expenses (Printing, etc.)

Details	
Note. Pages 3, 4, 5 and 6 provide for duplicate and triplicate copies and have not been reproduced here.	
Total	

Notes for Completion of the Statements

1. This form should be completed in triplicate and Pages 1 to 4 detached and returned to the Assistant Regional Director (Controls) at the Regional Office of the Ministry of Works, in England; Assistant Secretary at 122, George Street, Edinburgh, for Scotland, and Assistant Director for Wales (Controls) at 42, Park Place, Cardiff, for Wales. Pages 5 to 7 should be retained for reference.

2. Only the additional expenditure authorised under the terms of Circulars 104/48 (England and Wales).....(Scotland) may be included in the claim for reimbursement of 75 per cent. of cost. Legal costs should continue to be claimed in accordance with Circulars 8/47 (England and Wales)/7/47 (Scotland).

3. All accounts, records, receipts and vouchers relating to items in this Statement should be retained for production to the District Auditor.

4. If insufficient space is provided in this form for details of expenditure (Sections A–D), supplementary sheets in duplicate should be attached to the forms to be forwarded to the Ministry of Works at above address.

5. Claims may be made at the close of each financial year and applications for Form M.O.W. 1782 should be made to the Ministry of Works as above. [206]

Circular 108/48

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.
25th June, 1948.

To all Housing Authorities
County Councils (for information)
England.

SIR,

HOUSING

Licences for Building New Houses

1. I am directed by the Minister of Health to refer to Circular 137/47 of the 15th August, 1947, and to state that he has been examining the possibility

of authorising further licences for the erection of houses by private persons, particularly those in need of a home who desire to build one for their own occupation.

2. During the last nine months, much progress has been made with the Government programme, and the houses under construction are now being completed at an efficient rate. Additional contracts are being let in accordance with the allocations made to local authorities by the Principal Housing Officers of the Ministry with a view to maintaining so far as practicable for the time being the present level of construction.

Licensing at Local Authority's Discretion out of Housing Allocations

3. The Minister has decided to leave it within the discretion of local authorities who desire to do so to utilise part of the allocations made to them after the date of this Circular for houses to be built by private persons under licence. Applications for licences for such houses need no longer be referred to the Principal Housing Officer for his prior approval.

4. This discretion is given to local authorities subject to the following conditions :—

(i) The allocations made from time to time by the Principal Housing Officers to the local authority will comprise all houses authorised to be built in the district by or with the approval of the local authority for the period stated (other than houses built in replacement of war destroyed houses which are eligible for " cost of works " payments).

(ii) The total number of houses for which licences are issued must not in any case be more than one-fifth of any such allocation.

(iii) Priority should continue to be given to applications for agricultural houses recommended by the County Agricultural Executive Committee and for houses for miners and key workers in Development Areas.

Additional Authorisations

5. Where a local authority have not yet invited tenders for all the houses covered by an allocation made before the date of this Circular and wish to devote part of the balance to licensing private building, they should submit proposals to the Principal Housing Officer.

6. Where a local authority have now or in the future used up all their allocations and wish to deal with some pressing individual cases in advance of a further allocation, they should refer the matter to the Principal Housing Officer.

General Conditions as to Issue of Licences

7. The following points should be observed by a local authority in issuing licences :—

(i) Each licence should relate to not more than one structurally separate building, *e.g.* a single house or a pair of semi-detached houses.

(ii) The plans and outline specification should be approved by the local authority. The use of scarce materials should not be permitted to a greater extent than that adopted by the local authority in their own houses.

(iii) Where it is necessary to secure mixed development, it is intended to authorise local authorities to include in their estates a proportion of houses of somewhat larger size than the standard 900–950

superficial feet. The Minister is prepared to leave to them for the same purpose a similar discretion in regard to houses to be erected under licence up to a maximum superficial area of 1,500 square feet. In determining the type and size of houses to be licensed in a particular case, the local authority should have regard to the size and composition of the family for whom it is intended.

(iv) Every house in respect of which a licence is issued must be subject to conditions limiting building cost, selling price and rent chargeable.

The building cost and the selling price, both of which will vary according to the size and type of the house and circumstances of the district, should be fixed by the local authority on the basis of the cost of houses built by them. Appropriate allowance should be made for differences in the size of the houses and for any special circumstances arising out of the cost of building on particular sites, *e.g.* building in stone to harmonise with the neighbouring village or when the cost of the land or its development is abnormal. The selling price should be the all-in, freehold figure.

The maximum amount of the rent chargeable should be fixed by reference to the selling price and to the rents payable in respect of comparable property.

(v) Special attention should be drawn to the condition of every licence that unless the work covered by the licence is started within two months from the date of the licence, the licence automatically lapses. Licensees should be requested to notify the local authority of the date on which work starts on the site. If the licensee satisfies the local authority that it was impracticable for him to start work within two months, it will be open to the local authority to issue a fresh licence valid for a further period of two months. It is essential, however, to maintain strict control over all licences that have been issued, in order to avoid an overload of commitments and a risk of subsequent dislocation of the building programme.

Houses for Sale

8. Licences should not be issued by local authorities in respect of houses built for sale to unknown purchasers. Houses for sale built under licence must go and be seen to go to persons in need of homes. It is therefore essential that where a house is intended for an owner occupier the identity of the owner occupier should be known to the local authority before the licence is issued. It is only in this way that the local authority can satisfy themselves that the issue of a licence will serve a housing need comparable to that served by the erection of a house built by them.

Houses for Letting

9. Applications may also be considered by local authorities for the building of houses for letting, provided they are satisfied that the houses will serve genuine needs. [207]

I am Sir, etc.

* * * * *

The Clerk to the Authority.

CASES

Building—Control—Permitted cost of work exceeded—Defences open to alleged offender—Cost of supplying article—Inclusion in permitted cost—Defence (General) Regulations, 1939 (*S. R. & O.*, 1939, *No.* 927, *as amended by S. R. & O.*, 1941, *Nos.* 1596 *and* 2011 ; 1945, *No.* 502), *reg.* 56A (2), (6), (8).

By an oversight in failing to apply for a supplementary licence, the plaintiffs supplied material and did repair work on the defendant's house in excess of the cost covered by licences from the Minister of Works. In an action by the plaintiffs to recover the balance due for the additional work :—

Held : (i) if a licence is granted to do certain work at a specified cost and the cost is exceeded, that is *prima facie* a contravention of reg. 56A, para. 2, of the Defence (General) Regulations, 1939, and the defences provided by provisos (*a*) and (*b*) of para. 6 of the regulation are available to the alleged offender, and it matters not that there is also an offence under para. 8 of the regulation as for a breach of a condition of the licence ; in the circumstances there had been a contravention of the regulations ; and the defendants could not bring themselves within proviso (*a*) or proviso (*b*), and, therefore, the plaintiffs' action must fail.

Dictum of Lord ELLENBOROUGH, C.J., in *Langton* v. *Hughes* (1813), 1 M. & S. 593, 596 ; *Brightman & Co.* v. *Tate*, [1919] 1 K. B. 463 ; and *Re Mahmoud and Ispahani*, [1921] 2 K. B. 716, *applied.*

(ii) if the cost of the work for which a licence was obtained included the cost of providing and fixing an article and the licensed cost was exceeded, it was not permissible to deduct the actual cost of the article from the excess and seek to reduce the apparent excess to that extent.

Quaere : whether, if a builder already has an article, or if the article is obtainable without a licence, the building licence must cover its cost as well as the cost of fitting it.—BOSTEL BROTHERS, LTD. *v.* HURLOCK, [1948] 2 All E. R. 312 ; 64 T. L. R. 495 ; 92 Sol. Jo. 361, C. A. [208]

Building—Control—Licence—Need to be in writing—Permitted cost of work exceeded—Oral permission covering excess—Retrospective effect of licence—Defence (General) Regulations, 1939 (*S. R. & O.*, 1939, *No.* 927 (*as amended*)), *reg.* 56A (2), (6).

By the Defence (General) Regulations, 1939, reg. 56A (2), the carrying out of any building specified in Sched. VI, Part III, to the regulations " shall be unlawful except in so far as there is in force in respect thereof a licence granted by " the Minister of Works. By para. (6) : " If any . . . work is carried out in contravention of ", *inter alia*, para. (2) " the person at whose expense . . . the work is carried out, and . . . the person undertaking . . . the carrying out of the work . . . shall each be guilty of an offence against this regulation." Para. (6A) imposes a fine and imprisonment for a contravention of the regulation.

On May 10, 1946, the plaintiffs, a firm of builders, obtained a licence under reg. 56A (2), on behalf of the defendant, for work (described as " repairs to garages ") to be carried out at a total cost not exceeding £35. The licence was in writing, in the form prescribed by the Minister of Works, and was granted by the borough surveyor on behalf of the local authority which was empowered to act for the Minister in the matter. While carrying out the work, the plaintiffs found that the total cost would exceed £35 and they obtained oral permission from the borough surveyor to complete the work, provided that the total cost did not exceed £100. The work was accordingly completed, the total cost amounting to £69 18*s.* 2*d.* Some months later, in response to a written application by the plaintiffs, the borough surveyor issued a written licence, expressed to be supplementary to the

licence of May 10, 1946, for " further repairs to garages " at a total cost not exceeding £34 18*s*. In an action by the plaintiffs to recover the cost of the work, the defendant contended that the plaintiffs were debarred from recovering the excess over the £35 as there was no licence in force in respect thereof as required by reg. 56A (2), and the additional work was, therefore, illegal :—

Held : (i) the " supplementary " licence was of no effect, because the wording of reg. 56A (2) prevented a licence having any retrospective effect and required the licence to precede the work.

(ii) [JENKINS, J., *dissenting*] : in view of the fact that persons contravening reg. 56A were liable to prosecution and that the effective enforcement of the licensing system could not be achieved except by means of written licences, the licence contemplated by reg. 56A (2) must be a written document, and accordingly the oral permission given to the plaintiffs did not amount to a licence within the meaning of the regulation.

(iii) therefore, the additional work was illegal and the plaintiffs were debarred from claiming payment for it.

Per SCOTT, L.J. : *Observations* on (*a*) the desirability of publicity in regard to anything that amounts in law to sub-delegated legislation, and (*b*) the validity of the practice of delegating to the Minister of Health or to local authorities the powers given to the Minister of Works.—JACKSON, STANSFIELD & SONS *v.* BUTTERWORTH, [1948] 2 All E. R. 558 ; 112 J. P. 377 ; 64 T. L. R. 481 ; 92 Sol. Jo. 469, C. A. [209]

BYELAWS

ORDERS, CIRCULARS AND MEMORANDA :—
Town and Country Planning (Enforcement of Restriction of Ribbon Development Acts) Regulations, 1948.—*See title* TOWN AND COUNTRY PLANNING.

CHARITIES

ORDERS, CIRCULARS AND MEMORANDA :— PAGE
House to House Collections Regulations, 1947 - - - - - - - - 87

ORDERS, CIRCULARS AND MEMORANDA

HOUSE TO HOUSE COLLECTIONS REGULATIONS, 1947

S. R. & O., 1947, *No.* 2662

December 12, 1947

In pursuance of the powers conferred upon me by section 4 of the House to House Collections Act, 1939, I [*i.e.* the Secretary of State] hereby make the following regulations :—

1. Title and extent.—(1) These regulations may be cited as the House to House Collections Regulations, 1947, and shall come into operation on the twenty-ninth day of December, 1947.

(2) These regulations shall not extend to Scotland. [210]

2. Interpretation.—(1) In these regulations, unless the context otherwise requires,—

" the Act " means the House to House Collections Act, 1939 ;

" chief promoter ", in relation to a collection, means a person to

whom a licence has been granted authorising him to promote that collection or in respect of whom an order has been made directing that he shall be exempt from the provisions of subsection (2) of section 1 of the Act as respects that collection;

"collecting box" means a box or other receptacle for monetary contributions, securely closed and sealed in such a way that it cannot be opened without breaking the seal;

"licence" means a licence granted by a police authority under section 2 of the Act;

"order" means an order made by the Secretary of State under section 3 of the Act;

"prescribed badge" means a badge in the form set out in the Fourth Schedule to these regulations;

"prescribed certificate of authority" means a certificate in the form set out in the Third Schedule to these regulations;

"receipt book" means a book of detachable forms of receipt consecutively numbered with counterfoils or duplicates correspondingly numbered;

"street collection" means a collection or sale to which regulations made under section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act, 1916, apply.

(2) A mark shall for the purposes of these regulations be deemed to have been made on a collecting box if it is made on a wrapper securely gummed to the collecting box.

(3) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [211]

3. Local collections of a transitory nature.—(1) Every certificate granted under subsection (4) of section 1 of the Act shall be in the form set out in the First Schedule to these regulations, and sections 5 and 6 and subsections (4) and (5) of section 8 of the Act shall be set forth on the back of every such certificate.

(2) Where such a certificate is granted as aforesaid, the provisions of these regulations shall not apply, in relation to a collection made for the purpose specified on the certificate, within the locality and within the period so specified, to the person to whom the certificate is granted or to any person authorised by him to act as a collector for the purposes of that collection. [212]

4. Applications for licences and orders.—(1) An application for a licence shall be in the form set out in the Second Schedule to these regulations, and shall give the particulars there specified.

(2) An application for a licence or for an order shall be made not later than the first day of the month preceding that in which it is proposed to commence the collection:

Provided that the police authority or, as the case may be, the Secretary of State may grant the application notwithstanding that it was not made within the time required by this paragraph if satisfied that there are special reasons for so doing. [213]

5. Responsibility of promoters as respects collectors.—Every promoter of a collection shall exercise all due diligence—

(*a*) to secure that persons authorised to act as collectors for the purposes of the collection are fit and proper persons; and

(*b*) to secure compliance on the part of persons so authorised with the provisions of these regulations. [214]

6. Certificates of authority, badges, collecting boxes and receipt books.—(1) No promoter of a collection shall permit any person to act as a collector, unless he has issued or caused to be issued to that person—

(*a*) a prescribed certificate of authority duly completed (except as regards the signature of the collector) and signed by or on behalf of the chief promoter of the collection ;

(*b*) a prescribed badge, having inserted therein or annexed thereto a general indication of the purpose of the collection ; and

(*c*) if money is to be collected, a collecting box or receipt book marked with a clear indication of the purpose of the collection and a distinguishing number, which indication and number shall, in the case of a receipt book, also be marked on every receipt contained therein in addition to the consecutive number of the receipt.

(2) Every promoter of a collection shall exercise all due diligence to secure—

(*a*) that no prescribed certificate of authority, prescribed badge, collecting box or receipt book is issued, unless the name and address of the collector to whom it is issued have been entered on a list showing in respect of any collecting box or receipt book the distinguishing number thereof ; and

(*b*) that every prescribed certificate of authority, prescribed badge, collecting box or receipt book issued by him or on his behalf is returned when the collection is completed or when for any other reason a collector ceases to act as such.

(3) In the case of a collection in respect of which a licence has been granted—

(*a*) every prescribed certificate of authority shall be given on a form obtained from His Majesty's Stationery Office, and every prescribed badge shall be so obtained ; and

(*b*) every prescribed certificate of authority shall be authenticated, and the general indication on every prescribed badge of the purpose of the collection shall be inserted therein or annexed thereto, in a manner approved by the chief officer of police for the area in respect of which the licence was granted. [215]

7. Duties of collectors in relation to certificates and badges.—Every collector shall—

(*a*) sign his name on the prescribed certificate of authority issued to him and produce it on the demand of any police constable or of any occupant of a house visited by him for the purpose of collection ;

(*b*) sign his name on the prescribed badge issued to him and wear the badge prominently whenever he is engaged in collecting ; and

(*c*) keep such certificate and badge in his possession and return them to a promoter of the collection on replacement thereof or when the collection is completed or at any other time on the demand of a promoter of the collection. [216]

8. Age limit.—No person in the metropolitan police district or the City of London under the age of eighteen years, or elsewhere under the age of sixteen years, shall act or be authorised to act as a collector of money. [217]

9. Importuning.—No collector shall importune any person to the annoyance of such person, or remain in, or at the door of, any house if requested to leave by any occupant thereof. [218]

10. Collection of money.—(1) Where a collector is collecting money by means of a collecting box, he shall not receive any contribution save by

permitting the person from whom it is received to place it in a collecting box issued to him by a promoter of the collection.

(2) Where a collector is collecting money by other means than a collecting box, he shall, upon receiving a contribution from any person, forthwith and in the presence of such person enter on a form of receipt in a receipt book issued to him by a promoter of the collection and on the corresponding counterfoil or duplicate the date, the name of the contributor and the amount contributed, and shall sign the form of receipt, the entries and signature being in ink or indelible pencil, and shall hand the form of receipt to the person from whom he received the contribution. [219]

11. Duty of collectors to return boxes and books.—Every collector, to whom a collecting box or receipt book has been issued, shall—

(*a*) when the collecting box is full or the receipt book is exhausted, or
(*b*) upon the demand of a promoter of the collection, or
(*c*) when he does not desire to act as a collector, or
(*d*) upon the completion of the collection,

return to a promoter of the collection that collecting box with the seal unbroken or that receipt book with a sum equal to the total amount of the contributions (if any) entered therein. [220]

12. Examination of boxes and books.—(1) Subject as provided in paragraph (2) of this regulation, a collecting box when returned shall be examined by, and, if it contains money, be opened in the presence of, a promoter of the collection and another responsible person.

(2) Where a collecting box is delivered unopened to a bank, it may be examined and opened by an official of the bank in the absence of a promoter of the collection.

(3) As soon as a collecting box has been opened, the contents shall be counted and the amount shall be entered with the distinguishing number of the collecting box on a list, which shall be certified by the persons making the examination.

(4) Every receipt book when returned and all sums received therewith shall be examined by a promoter of the collection and another responsible person, and the amount of the contributions entered in the receipt book shall be checked with the money and entered with the distinguishing number of the receipt book on a list, which shall be certified by the persons making the examination. [221]

13. Provision for envelope collections.—(1) Where the promoter of a collection to whom an order has been granted informs the Secretary of State that he desires to promote an envelope collection, and the Secretary of State is of opinion that the collection is for a charitable purpose of major importance and is suitably administered, the Secretary of State may, if he thinks fit, give permission for the promotion of an envelope collection.

(2) Where an envelope collection is made in accordance with this regulation—

(*a*) every envelope used shall have a gummed flap by means of which it can be securely closed;
(*b*) no collector shall receive a contribution except in an envelope which has been so closed; and
(*c*) these regulations shall have effect subject to the following modifications:—

(i) sub-paragraph (*c*) of paragraph (1) of regulation 6 shall not apply;
(ii) regulation 10 shall not apply;

(iii) regulations 11 and 12 shall have effect as if each envelope in which a contribution is received were a collecting box ;

(iv) in regulation 11 for the words " with the seal unbroken " there shall be substituted the word " unopened " ;

(v) in paragraph (3) of regulation 12 for the words " As soon as a collecting box has been opened " there shall be substituted the words " As soon as the envelope has been opened " and the words " with the distinguishing number of the collecting box " shall be omitted.

(3) In this regulation " envelope collection " means a collection made by persons going from house to house leaving envelopes in which money may be placed and which are subsequently called for. [222]

14. Promoters to furnish accounts.—(1) The chief promoter of a collection in respect of which a licence has been granted shall furnish an account of the collection to the police authority by which the licence was granted within one month of the expiry of the licence :

Provided that if licences are granted to the same person for collections to be made for the same purpose in more than one police area, a combined account of the collections made in all or any of those police areas may, by agreement between the chief promoter and the respective police authorities, be made only to such of the respective police authorities as may be so agreed.

(2) The chief promoter of a collection in respect of which an order has been made shall furnish an account annually to the Secretary of State so long as the order remains in force, and if the order is revoked a final account shall be furnished within three months of the date of the revocation of the order.

(3) The police authority or the Secretary of State may extend the period within which an account is required to be furnished to the authority or to him, as the case may be, if satisfied that there are special reasons for so doing.

(4) The chief promoter of a collection which is made in connection in whole or in part with a street collection of which an account is required to be furnished to a police authority by regulations made under section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act, 1916, may, if the said police authority agrees, combine the accounts of the house to house collection, in so far as it is made in connection with the street collection, with the accounts of the street collection, and the amount so included in the combined account shall not be required to form part of the account required to be furnished under paragraph (1) or, as the case may be, paragraph (2) of this regulation, so, however, that in the case of an account furnished under the said paragraph (2) the account shall show, in addition to an account in respect of moneys received from house to house collections not made in connection with a street collection, a statement showing the total proceeds of all combined collections, the total expenses and the balance applied to charitable purposes. [223]

15. Form and certification of accounts.—The account required by the preceding regulation—

(*a*) where money has been collected, shall be furnished in the form set out in the Fifth Schedule to these regulations and, where property has been collected and sold, shall be furnished in the form set out in the Sixth Schedule to these regulations, and in either case shall be certified by the chief promoter of the collection and by an independent responsible person as auditor ; and

(*b*) where property (other than money) has been collected and given away or used, shall be furnished in the form set out in the Seventh Schedule to these regulations and shall be certified by the chief promoter and by every person responsible for the disposal of the property collected. [224]

16. Vouching of accounts.—(1) Every account furnished under paragraph (*a*) of regulation 15 of these regulations shall be accompanied by vouchers for each item of the expenses and application of the proceeds and, in the case of a collection of money, by every receipt book used for the purposes of the collection and by the list referred to in paragraph (2) of regulation 6 of these regulations and the list referred to in regulation 12 of these regulations.

(2) Paragraph (1) of this regulation shall not apply to an account certified by an auditor who is a member of an association or society of accountants incorporated at the date of these regulations or is on other grounds accepted as competent by the authority to which the account is submitted, but where in such a case the vouchers, receipt books and lists mentioned in the said paragraph (1) are not submitted with an account, the chief promoter shall ensure that they are available for three months after the account is submitted and shall, if the authority to which the account was submitted so requires at any time within that period, submit them to that authority. [225]

17. Disposal of disused certificates of authority, etc.—The chief promoter of a collection shall exercise all due diligence to secure that all forms of prescribed certificates of authority and prescribed badges obtained by him for the purposes of the collection are destroyed when no longer required in connection with that collection or in connection with a further collection which he has been authorised to promote for the same purpose. [226]

* * * * *

Regulation 3

FIRST SCHEDULE

FORM OF CERTIFICATE OF EXEMPTION OF A LOCAL COLLECTION OF A TRANSITORY NATURE

In pursuance of section 1 (4) of the House to House Collections Act, 1939, I hereby certify that I am satisfied that the collection, of which particulars are given below, is for a charitable purpose which is local in character, and is likely to be completed within a short period of time.

Accordingly the provisions of that Act (other than those set forth over-leaf*) will not apply, in relation to a collection made for the purpose and within the locality and period indicated below, to the promoter(s) named below or to any person authorised by $\frac{\text{him}}{\text{them}}$ to act as a collector for the purposes of the collection.

(*Signed*).....

PARTICULARS OF COLLECTION

Name(s) of promoter(s).
Purpose of collection.
Locality to which collection is to be confined.
Date of commencement of collection.
Date beyond which collection must not continue.

* *Sections* 5, 6, 8 (4) *and* 8 (5) *of the Act are to be set forth on the back of the certificate.* [227]

Regulation 4

SECOND SCHEDULE

FORM OF APPLICATION FOR LICENCE

To the Police Authority for (*here insert name of police area*).

In pursuance of section 2 of the House to House Collections Act, 1939, I hereby apply for a licence authorising me to promote the collection, of which particulars are given below.

Date..... (*Signed*).....

PARTICULARS OF COLLECTION

1. Surname of applicant (*in block letters*).
   Other names.
2. Address of applicant.
3. Particulars of charitable purposes to which proceeds of collection are to be applied. (Full particulars should be given and, where possible, the most recent account of any charity which is to benefit should be enclosed.)
4. Over what parts of the police area is it proposed that the collection should extend ?
5. During what period of the year is it proposed that the collection should be made ?
6. Is it proposed to collect money ?
7. Is it proposed to collect other property ? If so, of what nature ? and is it proposed to sell such property or to give it away or to use it ?
8. Approximately how many persons is it proposed to authorise to act as collectors in the area of the police authority to which the application is addressed ?
9. Is it proposed that remuneration should be paid out of the proceeds of the collection—
   (*a*) to collectors ?
   (*b*) to other persons ?
   If so, at what rates and to what classes of persons ?
10. Is application being made for licences for collections for the same purpose in other police areas ?
    If so, to what police authorities ?
    And, approximately, how many persons in all is it proposed to authorise to act as collectors ?
11. Has the applicant, or to the knowledge of the applicant, anyone associated with the promotion of the collection, been refused a licence or order under the Act, or had a licence or order revoked ?
    If so, give particulars.

12. Is it proposed to promote this collection in conjunction with a street collection? If so, is it desired that the accounts of this collection should be combined wholly or in part with the account of the street collection?

13. If the collection is for a War Charity, state if such charity has been registered or exempted from registration under the War Charities Act, 1940, and give name of registration authority and date of registration or exemption. [228]

Regulations 2, 6 THIRD SCHEDULE

FORM OF PRESCRIBED CERTIFICATE OF AUTHORITY

HOUSE TO HOUSE COLLECTIONS ACT

COLLECTOR'S CERTIFICATE OF AUTHORITY

(*Here insert name of collector in block letters*)

of (*here insert address of collector*)

is hereby authorised to collect for

(*here insert the purpose of the collection*)

in (*here insert the area within which the collector is authorised to collect, being an area within which the collection has been authorised*)

*during the period (*here insert the period during which the collector is authorised to collect, being a period during which the collection has been authorised*)

Signature of collector—	*Signed*—

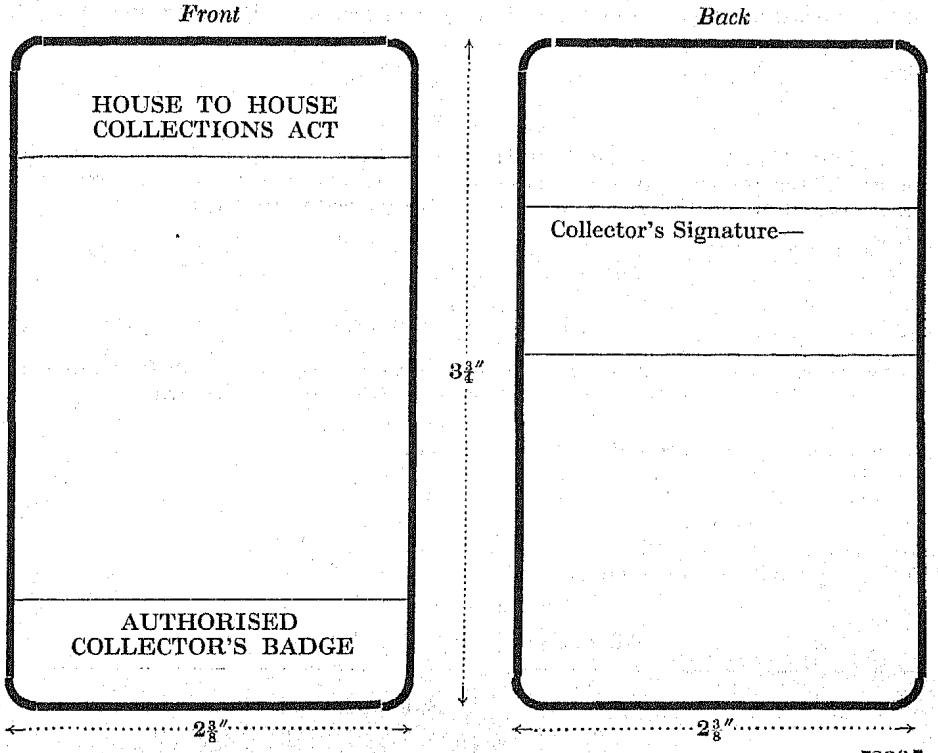
* This entry may be omitted in the case of a collection in respect of which an order has been made.

Regulation 7 is to be set forth on the back of the certificate. [229]

Regulations 2, 6

FOURTH SCHEDULE

FORM OF PRESCRIBED BADGE



[230]

Regulation 15

FIFTH SCHEDULE

FORM OF ACCOUNT OF EXPENSES, PROCEEDS AND APPLICATION OF PROCEEDS OF COLLECTION OF MONEY

(*a*) Surname of chief promoter (*in block letters*).
(*b*) Other names (*in block letters*).
Address of chief promoter.
Purpose of collection.
Area to which account relates.
Period to which account relates.

All amounts to be entered *gross*

PROCEEDS OF COLLECTION	£ s. d.	EXPENSES AND APPLICATION OF PROCEEDS	£ s. d.
From collectors, as in lists of collectors and amounts attached hereto.		Printing and stationery Postage ... ... Advertising ... ... Collecting boxes ...	
Bank Interest		Other items (if any) :—	
Other items (if any) :—		..... Disposal of Balance (insert particulars) :—	
Total		Total	

CERTIFICATE OF CHIEF PROMOTER

I certify that to the best of my knowledge and belief the above is a true account of the expenses, proceeds and application of the proceeds of the collection to which it relates.

Date..... (*Signed*).....

CERTIFICATE OF AUDITOR

I certify that I have obtained all the information and explanations required by me as auditor and that the above is in my opinion a true account of the expenses, proceeds and application of the proceeds of the collection to which it relates.

Date..... (*Signed*).....

Qualifications..... [231]

Regulation 15

SIXTH SCHEDULE

FORM OF ACCOUNT OF EXPENSES, PROCEEDS AND APPLICATION OF PROCEEDS OF COLLECTION OF PROPERTY SOLD OR COLLECTED FOR SALE

(*a*) Surname of chief promoter (*in block letters*).
(*b*) Other names (*in block letters*).
Address of chief promoter.
Purpose of collection.
Area to which account relates.
Period to which account relates.

CASH ACCOUNT

All amounts to be entered *gross*

MONETARY RECEIPTS	£ s. d.	EXPENSES AND APPLICATION OF MONETARY RECEIPTS	£ s. d.	£ s. d.
Amount obtained during period of account by sales of property collected.		Items of expense incurred during period of account, *other than* expenses incurred for the purpose of converting property collected into cash, viz. :—		
Bank Interest		.....		
Other items (if any) :—		.....		£
.....		Items of expense incurred during period of account for the purpose of converting property collected into cash, viz. :—		
.....		.....		
.....		.....		£
		Disposal of Balance (insert particulars) :—		
		.....		
		.....		£
Total		Total		

VALUATION OF PROPERTY COLLECTED

Estimated value of property collected during period of account ... ...

If the estimated value is not equal to the difference between the "amount obtained by sales of property collected" and the total of the "items of expense incurred during period of account for the purpose of converting property collected into cash", as stated in the cash account, an explanation should be given.

CERTIFICATE OF CHIEF PROMOTER

I certify that to the best of my knowledge and belief the above is a true account of the expenses and the value and application of the proceeds of the collection to which it relates, and that none of the property to which it relates has been disposed of otherwise than by sale, unless found useless and destroyed or otherwise disposed of as rubbish.

Date..... (*Signed*).....

CERTIFICATE OF AUDITOR

I certify that I have obtained all the information and explanations required by me as auditor and that the above is in my opinion a true account of the monetary receipts and expenses and application of the monetary receipts of the collection to which it relates.

Date..... (*Signed*).....

[232]

Regulation 15 SEVENTH SCHEDULE

FORM OF ACCOUNT OF COLLECTION OF PROPERTY (OTHER THAN MONEY) GIVEN AWAY, USED OR COLLECTED FOR GIVING AWAY

(*a*) Surname of chief promoter (*in block letters*).
(*b*) Other names (*in block letters*).
Address of chief promoter.
Purpose of collection.
Area to which account relates.
Period to which account relates.

I certify that to the best of my knowledge and belief all property collected in the collection of which particulars are given above (unless found useless and destroyed or otherwise disposed of as rubbish) has been given away or used for charitable purposes as follows :—

(*Here insert particulars of disposal of property collected.*)

(*Signed*) ..... Chief promoter.

....
....
....

Date.....

I further certify that the above certificate has been signed by every person responsible for the disposal of the property collected.

Date..... (*Signed*).....
Chief promoter. [233]

CINEMATOGRAPHS

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CASES

Theatres and places of entertainment—Cinematograph—Sunday performance —Permission—Condition—Prohibition of admission of child under fifteen—Sunday Entertainments Act, 1932 (*c.* 51), *s.* 1 (1).

It is not *ultra vires* a licensing authority when allowing, under s. 1 (1) of the Sunday Entertainments Act, 1932, a cinematograph theatre in their area to be opened on Sundays, to take into consideration matters concerning the well-being and the physical and moral health of children and to impose a condition that children under the age of fifteen years, whether accompanied by an adult or not, shall be excluded from the theatre.

The court is entitled to investigate the action of the local authority with a view to seeing whether it has taken into account matters which it ought not to take into account, or, conversely, has refused to take into account matters which it ought to take into account. Once that question is answered in favour of the local authority, it may still be possible to say that the local authority, nevertheless, has come to a conclusion so unreasonable that no reasonable authority could ever have come to it, and in such a case the court can interfere. The power of a court, however, to interfere in any case is not that of an appellate authority to override a decision of the local authority, but is that of a judicial authority which is concerned, and concerned only, to see whether the local authority has contravened the law by acting in excess of the powers which Parliament has confided in it.

Harman v. *Butt*, [1944] 1 K. B. 491; [1944] 1 All E. R. 558, *applied*.

Decision of HENN COLLINS, J., [1947] 1 All E. R. 498, *affirmed*.—ASSOCIATED PROVINCIAL PICTURE HOUSES, LTD. *v.* WEDNESBURY CORPN., [1948] 1 K. B. 223; [1947] 2 All E. R. 680; [1948] L. J. R. 190; 177 L. T. 641; 112 J. P. 55; 63 T. L. R. 623; 92 Sol. Jo. 26; 45 L. G. R. 635, C. A. [234]

COMPUTATION OF TIME

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ORDERS, CIRCULARS AND MEMORANDA

SUMMER TIME ORDER, 1949

S.I. 1949 *No.* 373

March 4, 1949

His Majesty, in pursuance of subsection (2) of section one of the Summer Time Act, 1947, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. This Order may be cited as the Summer Time Order, 1949. [235]

2. Subject to the provisions of subsection (3) of the said section one of the Summer Time Act, 1947 (which provides that nothing in any Order in Council under that section shall affect the definition of the hours of darkness

for the purposes of section one of the Road Transport Lighting Act, 1927) the period of summer time for the purposes of the Summer Time Acts, 1922 and 1925 shall, in relation to the year nineteen hundred and forty-nine, be the period beginning at two o'clock, Greenwich mean time, in the morning of the third day of April and ending at two o'clock, Greenwich mean time, in the morning of the thirtieth day of October. [236]

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DESTRUCTIVE INSECTS AND PESTS

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ORDERS, CIRCULARS AND MEMORANDA

DEFENCE REGULATIONS (NO. 4) ORDER, 1948

S.I. 1948 *No.* 1002

May 12, 1948

His Majesty, in pursuance of section three of the Supplies and Services (Transitional Powers) Act, 1945, as extended by the Supplies and Services (Extended Purposes) Act, 1947, and all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered as follows :—

1. Regulation 63 of the Defence (General) Regulations, 1939, in its application to England and Wales is hereby revoked and shall accordingly have effect with the following modifications, that is to say, for the references to the Minister of Agriculture and Fisheries there shall be substituted references to the Secretary of State ; for the reference in paragraph (5B) to subsection (1) of section five of the Prevention of Damage by Rabbits Act, 1939, there shall be substituted a reference to the provision of section six of the Ground Game Act, 1880, which restricts the use of spring traps ; at the beginning of paragraph (6A) there shall be inserted the words " This regulation shall extend to Scotland and Northern Ireland only and " ; and in paragraph (6) the words from the beginning to the words " spring traps ; and " shall cease to have effect. [237]

2. This Order may be cited as the Defence Regulations (No. 4) Order, 1948, and shall come into operation on the first day of June, 1948. [238]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

Regulation 63 *enables the Minister of Agriculture and Fisheries, in the case of England and Wales, and the Secretary of State in the case of Scotland*

and Northern Ireland, for the purpose of preventing agricultural damage, to make Orders requiring the destruction of game and pests. The Regulation is superseded in England and Wales by sections 98 to 100 of the Agriculture Act, 1947, which come into operation on the first of June, 1948. Accordingly this order revokes the Regulation in its application to England and Wales, but, as it continues to apply to Scotland and Northern Ireland, makes the necessary adaptations for its continued application to those countries alone.

AGRICULTURE ACT, 1947 (COMMENCEMENT) (NO. 3) ORDER, 1948

S.I. 1948 *No.* 1005

May 12, 1948

Whereas by subsection (2) of section 111 of the Agriculture Act, 1947, it is provided that that Act shall come into operation on such date as His Majesty may by Order in Council appoint, and that an Order under that subsection may appoint different dates in relation to different provisions of the said Act :

And Whereas by virtue of the Agriculture Act, 1947 (Commencement) Order, 1947, the Agriculture Act, 1947 (Commencement) (No. 1) Order, 1948, and the Agriculture Act, 1947 (Commencement) (No. 2) Order, 1948, the provisions of the said Act specified in the said Orders came into operation on the respective dates thereby appointed :

And Whereas it is expedient that the further provisions of the said Act hereinafter specified should come into operation on the date hereinafter appointed :

Now, therefore, His Majesty is pleased by and with the advice of His Privy Council to order, and it is hereby ordered, as follows :—

1. Sections 98 to 100 of the said Act and section 110 thereof (so far as it relates to the enactments set out in the Schedule to this Order) shall come into operation on the 1st day of June, 1948. [239]

2. This Order may be cited as the Agriculture Act, 1947 (Commencement) (No. 3) Order, 1948. [240]

* * * * *

THE SCHEDULE

Enactments Repealed

Session and Chapter	Short Title	Extent of Repeal
22 & 23 Geo. 5, c. 12.	The Destructive Imported Animals Act, 1932.	Section four.
2 & 3 Geo. 6, c. 48.	The Prevention of Damage by Rabbits Act, 1939.	Part I.

[241]

AGRICULTURE (DELEGATION OF PEST CONTROL FUNCTIONS TO COUNTY AGRICULTURAL EXECUTIVE COMMITTEES) REGULATIONS, 1948

S.I. 1948 *No.* 1069

May 20, 1948

In pursuance of section seventy-two of the Agriculture Act, 1947, (hereinafter called " the Act ") and of all other powers enabling him in that behalf, the Minister of Agriculture and Fisheries (hereinafter called " the Minister ") hereby makes the following regulations :—

1. The functions of the Minister specified in the Schedule hereto shall, as from the date when these regulations come into operation, be exercisable by a County Agricultural Executive Committee in accordance with the provisions of section seventy-one of the Act. [242]

2. The functions exercisable by a County Agricultural Executive Committee in accordance with the said provisions shall include such other powers or duties of the Minister arising under the Act or under any other enactment as may be necessary or incidental to the exercise of the functions specified in the Schedule hereto. [243]

3. Nothing in the preceding regulations shall be construed as limiting, qualifying or derogating from the right or power of the Minister to exercise any of his functions specified in the Schedule hereto, or any other of his functions, at any time while these regulations are in force. [244]

4.—(1) The Interpretation Act, 1889, shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

(2) These regulations may be cited as the Agriculture (Delegation of Pest Control Functions to County Agricultural Executive Committees) Regulations, 1948, and shall come into operation on the 1st day of June, 1948. [245]

* * * * *

SCHEDULE

Function of the Minister.	*Relevant enactment.*
Service of notices for the prevention of damage by pests in relation to animals to which the section applies and the following birds, namely : wood-pigeons, rooks, jackdaws and pheasants.	Section 98 (1) and (4) of the Act.
Service of notices for the prevention of escape of captive animals.	Section 99 of the Act.
Entering and taking steps to secure compliance with a requirement, and recovery of cost.	Section 100 (2) of the Act.
Giving directions authorising the keeping of animals, birds or eggs killed or taken, and authorising the disposal of such animals, birds or eggs. [246]	Section 100 (3) of the Act.

EXPLANATORY NOTE

(*This Note is not part of the Regulations, but is intended to indicate their general purport.*)

The provisions of the Agriculture Act, 1947, *conferring powers upon the Minister of Agriculture and Fisheries relating to the prevention of damage by pests and the prevention of escape of captive animals, and supplementary provisions relating thereto, (sections* 98 *to* 100 *of the Act) are brought into*

operation on 1st June, 1948, by the Agriculture Act, 1947 (Commencement) (No. 3) Order, 1948 (S.I. 1948 No. 1005). The present Regulations, made under section 72 of the Act, delegate to County Agricultural Executive Committees with effect from the same date the Minister's functions under the above-mentioned provisions, in relation to the animals to which the relevant section applies and in relation to the following birds, namely: wood-pigeons, rooks, jackdaws and pheasants.

The functions delegated to County Agricultural Executive Committees by these Regulations are additional to the functions delegated to them by the Agriculture (Delegation to County Agricultural Executive Committees) Regulations, 1948 (S.I. 1948 No. 187).

DISEASES

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ORDERS, CIRCULARS AND MEMORANDA

COUNTY OF LONDON (MEASLES AND WHOOPING COUGH) AMENDMENT REGULATIONS, 1948

S.I. 1948 *No.* 420

February 25, 1948

The Minister of Health in exercise of the powers conferred on him by section 143 of the Public Health Act, 1936, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

1.—(1) These regulations may be cited as the County of London (Measles and Whooping Cough) Amendment Regulations, 1948, and shall be read as one with the County of London (Measles and Whooping Cough) Regulations, 1938 and 1940 (hereinafter referred to as " the principal regulations ") and these regulations and the principal regulations may be cited together as the County of London (Measles and Whooping Cough) Regulations, 1938 to 1948.

(2) These regulations shall come into operation on the first day of April, 1948. [247]

2. Paragraph (2) of Regulation 2 of the County of London (Measles and Whooping Cough) Amendment Regulations, 1940, shall be rescinded. [248]

3. Subsection (6) of section 192 of the Public Health (London) Act, 1936, as modified and set out in the First Schedule to the principal regulations shall read as follows :—

" (6) Every sanitary authority shall gratuitously supply forms of certificates for the purposes of this section to any medical practitioner residing or practising in their district who applies therefor, and shall pay to a medical practitioner for each certificate sent by him in accordance with this section a fee of two shillings and sixpence if the case occurs in

his private practice, or of one shilling if the case occurs in his practice as medical officer of a public body or institution.

A medical practitioner who is also a district medical officer of health shall be entitled under this subsection to the same fee as if he were not such an officer." [249]

* * * * *

MEASLES AND WHOOPING COUGH AMENDMENT REGULATIONS, 1948

S.I. 1948 *No.* 421

February 25, 1948

The Minister of Health in exercise of the powers conferred on him by section 143 of the Public Health Act, 1936, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

1.—(1) These regulations may be cited as the Measles and Whooping Cough Amendment Regulations, 1948, and shall be read as one with the Measles and Whooping Cough Regulations, 1940 (hereinafter referred to as " the principal regulations ") and these regulations and the principal regulations may be cited together as the Measles and Whooping Cough Regulations, 1940 and 1948.

(2) These regulations shall come into operation on the first day of April, 1948. [250]

2. The First Schedule to the principal regulations shall be amended as follows :—

In subsection (1) of section 145 of the Public Health Act, 1936, as modified and set out therein, the words " one shilling " shall be deleted and there shall be substituted therefor the words " two shillings and sixpence if the case occurs in his private practice, and a fee of one shilling if the case occurs in his practice as medical officer of any public body or institution." [251]

* * * * *

PUBLIC HEALTH (VENEREAL DISEASES REGULATIONS) REVOCATION REGULATIONS, 1948

S.I. 1948 *No.* 928

April 30, 1948

The Minister of Health, in exercise of his powers under section 143 of the Public Health Act, 1936, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

1. These regulations may be cited as the Public Health (Venereal Diseases Regulations) Revocation Regulations, 1948, and shall come into operation on the fifth day of July, 1948. [252]

2. The Public Health (Venereal Diseases) Regulations, 1916, are hereby revoked. [253]

3. Subsection (2) of section 38 of the Interpretation Act, 1889, shall apply to these regulations as if they and the Public Health (Venereal Diseases) Regulations, 1916, were Acts of Parliament. [254]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These regulations bring to an end the existing arrangements for the treatment of Venereal Diseases as from the fifth day of July, 1948, *when the new provisions with respect to treatment under the National Health Service Act,* 1946, *come into operation.*

Circular 180/47

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.
29th December, 1947.

Local Authorities
County Councils.

SIR,

SCABIES ORDER, 1941 : EXPIRY OF DEFENCE REGULATION 33A

I am directed by the Minister of Health to inform you that under the Emergency Laws (Transitional Provisions) Act, 1946, and the Emergency Laws (Miscellaneous Provisions) Act, 1947, Regulation 33A of the Defence (General) Regulations, 1939, will expire on 31st December, 1947, and that the Scabies Order, 1941, which was made under that Regulation, will accordingly also cease to be operative after that date.

The Regulation and the Scabies Order were introduced, as authorities are aware, as an emergency war-time measure to combat an exceptional increase of scabies which threatened to be detrimental to the war effort. It would not be warrantable, in the view of the Minister, to keep in force any longer the drastic powers of entry into residential premises, and of compulsory examination and treatment (as contained in the Order) which were justified under the stress of war. The time has come to revert to reliance on normal statutory powers, as contained in the Public Health Acts, for dealing with verminous conditions, and the Minister is confident that authorities will continue, as before the war, to do all they can in tracing the existence of such conditions and in taking appropriate measures, within those powers to remedy them.

A copy of this Circular is being forwarded to the Medical Officer of Health. [255]

I am, Sir, etc.

* * * * *

The Clerk of the Council
or
The Town Clerk.

EDUCATION

See also SPECIAL EDUCATION VOLUME (THIRD EDITION)

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STATUTES

EMPLOYMENT AND TRAINING ACT, 1948

(11 & 12 Geo. 6, c. 46)

PRELIMINARY NOTE

This Act, which came into force on receiving the Royal Assent on July 13, 1948, has two purposes, dealt with respectively in Parts I and II of the Act. Part I consolidates with modifications the enactments relating to the functions of the Minister of Labour and National Service as to employment and training for employment. Part II implements recommendations of the Committee on the Juvenile Employment Service, presided over by Sir Godfrey Ince, which reported in September, 1945, and provides for the establishment of a comprehensive Youth Employment Service. Finally, Part III of the Act contains a number of supplementary provisions.

S. 1 of the Act places on the Minister (who may appoint advisory committees to assist him) a general duty to provide services and facilities for promoting employment, and the remaining sections of Part I of the Act (except s. 6, which saves existing powers) deal in detail with the Minister's powers for carrying out this duty.

S. 2, replacing generally the Labour Exchanges Act, 1909 (20 Halsbury's Statutes 650), authorises the establishment and maintenance of employment exchanges (as labour exchanges are now called) and the collection and furnishing of information for any of the purposes mentioned in s. 1. The Minister is enabled to defray, or contribute towards, the cost of employment bureaux established by local authorities under other Acts (for example, the Labour Bureaux (London) Act, 1902; 20 Halsbury's Statutes 649) or by non-profit-making bodies such as the British Legion. The existing provisions regarding the making of arrangements with employers for the notification of vacancies, and as to penalties for false statements, are substantially continued, as is also the provision prohibiting the disqualification of a person from employment exchange facilities for refusing work in the event of a trade dispute affecting his trade or where the wages offered are too low. A new provision enables the Minister to pay, by way of grant or loan, the expenses of persons attending an employment exchange, and the fees of any medical practitioners who may examine such persons.

The Minister's power of providing training courses, which hitherto has been limited to the unemployed and certain other specified categories of persons (see the Unemployment Insurance Act, 1935, s. 77; 28 Halsbury's Statutes 547, as amended by the Unemployment Insurance Act, 1939, s. 8; 32 Halsbury's Statutes 746), is extended to cover all persons above the upper limit of compulsory school age (*i.e.* at present, fifteen) whether employed or not (s. 3). The same section also extends the power which the Minister formerly had under the Unemployment Insurance Act, 1935, s. 79, of defraying or contributing towards the cost of courses provided by other authorities or persons. This extension of scope will enable effect to be given to the policy laid down in the White Paper on Employment Policy issued in 1944 (Cmd. 6527) for the extended use of training to facilitate post-war redeployment of labour.

Substantially re-enacting the Unemployment Insurance Act, 1935, s. 100 (28 Halsbury's Statutes 560), s. 4 of the present Act enables the Minister to assist any scheme for promoting greater regularity of employment in industry.

S. 5 (1), which replaces provisions made by the Labour Exchanges Act, 1909, s. 2 (20 Halsbury's Statutes 650), and the Unemployment Insurance Act, 1935, s. 102 (28 Halsbury's Statutes 561), extends the Minister's power of making loans or grants in respect of the removal and resettlement expenses of workers and their dependants, first, to cover foreign workers, and secondly, to cover the further removal of such workers when their employment comes to an end. These extensions are designed to facilitate the recruitment of foreign workers, which the Government is desirous of promoting. S. 5 (2) and (3) authorise the recovery of travelling expenses from the person assisted in certain circumstances, detailed provision for repayment out of the National Insurance Fund in connection with loans for travelling

expenses being made by the Employment and Training (Payment of Travelling Expenses) Regulations, 1948 (S.I. 1948 No. 1668), *post*.

Since statutory provision in this matter was first made in the years 1909–10, responsibility for the provision of employment services for juveniles in England has been divided between two authorities, employment exchanges and local education authorities. Though difficulties arose from this dual control the general effect of Part II of the Act is to retain the previous system while modifying and extending it in a number of important respects. Part II, which follows in the main the recommendations of the Ince Committee, applies to all persons under the age of eighteen and persons over that age who are still at school (s. 7 (2)).

The Act, while preserving the ultimate responsibility of the Minister of Labour and National Service, provides for the central administration of the service by a Central Youth Employment Executive staffed by officers of that Minister and of the Minister of Education and the Secretary of State for Scotland (s. 7 (1); Ince Report, para. 146). A National Youth Employment Council, together with advisory committees for Scotland and Wales, have been established to advise the Minister as to the service generally (s. 8 (1); Ince Report, paras. 169–180; and S.I. 1948 No. 2081, *post*), while area Youth Employment Committees are to advise the Minister or the local education authority, as may be appropriate, on matters relating to local administration (ss. 9, 10 (2) (*c*); Ince Report, paras. 181–184).

In order that the service, whether provided locally by the officers of the Minister or by the local education authority, may be in a position to give adequate advice to all persons who wish to use it, regulations may be made requiring proprietors of schools to furnish reports on the health, ability, educational attainments and aptitudes of their pupils on leaving school or attaining a prescribed age (s. 13; Ince Report, para. 44). These reports will be confidential documents, though parents or guardians of the persons to whom they relate will be entitled to examine them, but not to copy them, in the presence of the officers responsible (s. 13 (3)). Proprietors of schools failing to comply with the regulations will be guilty of an offence (s. 13 (4)).

Subject to a temporary saving for existing schemes, the Unemployment Insurance Act, 1935, s. 81 (28 Halsbury's Statutes 550), which empowered local education authorities to provide employment services for juveniles under approved schemes, is repealed (s. 21 (1) and Sched. II), being replaced with modifications by ss. 10–12 of the present Act. Any local education authority may now be authorised by means of a scheme approved by the Minister of Labour under s. 10 to undertake any such functions as are conferred on the Minister with regard to employment exchanges and services connected therewith. The persons to be covered by such schemes are persons at school or persons under eighteen who are residing or employed in their area or who apply in the area for advice as to employment.

The four most important modifications with regard to schemes are as follows :—

(1) No scheme may be submitted after January 13, 1949 (s. 10 (5); Ince Report, para. 159). This removes an element of instability inherent in the previous system by ensuring that by that date the authorities responsible for administering the service in all areas will be determined once and for all;

(2) All schemes must be in effective operation within six months after approval, or such longer period as may be allowed (s. 12 (5); Ince Report, para. 160);

(3) A scheme must apply to the whole area of a local education authority (s. 10 (1); Ince Report, para. 162). Under the Unemployment Insurance Act, 1935, *supra*, which contained no such provision, a number of schemes were approved which applied to part only of an authority's area, resulting in administrative difficulties for the Minister of Labour who had to provide for the remaining part which was often a straggling fringe round an urban area; and

(4) Where a local education authority wish to terminate a scheme, an order of the Minister and six months' notice are necessary (s. 12 (3); Ince Report, para. 161). Hitherto an authority has been able to terminate a scheme on as little as three months' notice, which often gave insufficient time for the Ministry of Labour to provide an alternative service.

Existing schemes are continued in force until January 13, 1949, and if before that date a local education authority submits a new scheme under s. 10, the Minister has power to prolong the life of the old scheme until the new one is in operation (s. 21 (3)).

A scheme under s. 10 must contain, *inter alia*, provisions for consultation and co-operation with the authority responsible for administering the service in any other area, and for delegating prescribed functions to a committee of the local education authority (s. 10 (2)). In addition, a scheme must provide for the administration by the authority of unemployment benefit and national assistance (s. 11 ; Ince Report, para. 137).

Grants of 75 per cent. of the administrative expenses of an authority under a scheme will be paid by the Minister (s. 10 (3) and the Youth Employment Service (Administrative Expenses) Regulations, 1948 ; S.I. 1948 No. 1742), *post*). Provision is made for the amendment and revocation of schemes, including provision for revocation where a scheme is not being conducted efficiently (s. 12 (4) ; Ince Report, para. 151).

Finally, Part III of the Act contains various ancillary sections, including provisions as to expenses (s. 14), offences (s. 16) and regulations (s. 17). Provision is made for amending the qualifications required for appointment as a member of the National Youth Employment Council or of the Advisory Committees for Scotland and Wales, and for varying the number of such members (s. 15). [256]

ARRANGEMENT OF SECTIONS

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SCHEDULES :—
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An Act to make fresh provision with respect to the functions of the Minister of Labour and National Service relating to employment and training for employment; to provide for the establishment of a comprehensive youth employment service; to consolidate with amendments certain enactments relating to the matters aforesaid; and for purposes connected therewith. [257]

[13th July, 1948.]

PART I

FUNCTIONS OF MINISTER AS TO EMPLOYMENT SERVICES

1. General functions of Minister as to employment and training for employment.—(1) Subject to the provisions of this Act, it shall be the duty of the Minister of Labour and National Service (in this Act referred to as "the Minister") to provide such facilities and services as he considers expedient for the purpose of assisting persons to select, fit themselves for, obtain and retain employment suitable to their age and capacity, of assisting employers to obtain suitable employees, and generally for the purpose of promoting employment in accordance with the requirements of the community. [258]

(2) For the purpose of advising and assisting him in the performance of his functions under this Act, the Minister may appoint such advisory committees as he thinks fit, and any such committee may be appointed either in respect of the whole of Great Britain or in respect of any area therein. [259]

(3) The Minister may make regulations with respect to the constitution and functions of any such advisory committee as aforesaid. [260]

General note.—This section imposes a general duty on the Minister of Labour and National Service to provide services for promoting employment. The succeeding sections of this Part of the Act deal with his functions in more detail, while Part II contains special provisions relating to the Youth Employment Service.

Promoting employment in accordance with the requirements of the community.—As to these words, see 156 H. of L. Official Report 632. It should be noted that the Act contains no power for the compulsory direction of labour, though power exists independently under reg. 58A of the Defence (General) Regulations, 1939 (S. R. & O., 1939, No. 927, as amended).

Advisory committees.—Advisory committees were previously established for a more limited purpose under the Labour Exchanges Act, 1909, s. 2 (5) (20 Halsbury's Statutes 651).

Regulations.—Up to the time of going to press no regulations under this section had been made. Until superseded, the Employment Exchanges (Advisory Committee) Regulations, 1917 (S. R. & O., 1917, No. 601), made under the Labour Exchanges Act, 1909, s. 2 (20 Halsbury's Statutes 650), will continue in force as if made under sub-s. (3), *supra* (see s. 21 (2), *post*).

2. Employment exchanges and employment services.—(1) The Minister may establish and maintain, in such places as he thinks fit, employment exchanges, that is to say offices or places for the collection and furnishing of information, either by the keeping of registers or otherwise, respecting persons who seek to engage employees and persons who seek employment. [261]

(2) Without prejudice to the provisions of the last foregoing subsection, the Minister may make such arrangements as he considers expedient, whether by means of employment exchanges or otherwise, for the collection and furnishing of information, and the provision of advice, guidance or other services for persons of any class (whether employed or not) for any of the purposes mentioned in section one of this Act. [262]

(3) Subject to the approval of the Treasury, the Minister may defray or contribute towards expenditure incurred by any local authority under any enactment other than this Act in the provision of any such services as are mentioned in the last foregoing subsection, and may make such contributions as he may, with the consent of the Treasury, determine towards the funds of any voluntary association having among its objects the provision of any such services. [263]

(4) The Minister may make regulations with respect to the management of employment exchanges provided by him under this section, and otherwise with respect to the exercise of his functions thereunder. [264]

(5) No person shall be disqualified or otherwise prejudiced in respect of facilities provided at any employment exchange as aforesaid on account of his refusal to accept employment found for him through such an exchange if the ground of his refusal is that a trade dispute which affects his trade exists, or that the wages offered are lower than those current in the trade in the district where the employment is found. [265]

(6) Subject to the approval of the Treasury, the Minister may, in such cases and subject to such conditions as he thinks fit, make payments by way of grant or loan to persons travelling to or attending at any employment exchange or other place for the purpose of availing themselves of services provided under this section, and may pay to medical practitioners, in respect of the examination of persons availing themselves of such services, such fees as he may determine. [266]

(7) If any person, for the purpose of obtaining employment or procuring employees, knowingly makes any false statement or false representation to an officer of any employment exchange provided by the Minister under this section, or to any person acting for or for the purposes of any such exchange, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding ten pounds. [267]

(8) The Minister shall, so far as practicable, make arrangements with employers for the notification by them to employment exchanges of situations in their employment which are or are about to become vacant. [268]

General note.—This section re-enacts in modified form the provisions of the Labour Exchanges Act, 1909 (20 Halsbury's Statutes 650) (repealed by s. 21 (1) and Sched. II, *post*), dealing with the establishment of employment exchanges and the furnishing of information, advice and other services.

The Minister.—The Minister of Labour and National Service (s. 1 (1), *ante*).

Employment exchange.—This term is defined by sub-s. (1), *supra*, substantially reproducing the definition of "labour exchange" in the Labour Exchanges Act, 1909, s. 5 (20 Halsbury's Statutes 651). The exchanges have, for many years past, been officially designated employment exchanges.

Under any enactment other than this Act.—These words are necessary since special provision regarding the defrayal of local authority expenditure under the Act is made by ss. 10 (3) and 11, *post*.

Regulations.—Up to the time of going to press no regulations had been made under this section. Until superseded, the General Regulations for Labour Exchanges managed by the Ministry of Labour, 1910 (S. R. & O., 1910, No. 800), as amended by S. R. & O., 1917, No. 601, made under the Labour Exchanges Act, 1909, s. 2 (20 Halsbury's Statutes 650), will continue in force as if made under sub-s. (4), *supra* (see s. 21 (2), *post*).

Trade dispute.—The expression "trade dispute" is not defined by the Act of 1909 or by the present Act. But see the National Insurance Act, 1946, s. 13 (6) (*b*) (39 Halsbury's Statutes 433); the National Assistance Act, 1948, s. 64 (1) (see title PUBLIC ASSISTANCE, *post*); the Industrial Courts Act, 1919, s. 8 (19 Halsbury's Statutes 719); and *National Association of Local Government Officers* v. *Bolton Corporation*, [1943] A. C. 166; [1942] 2 All E. R. 425, H. L.

Offence.—Proceedings for an offence under the Act may not be instituted except by or with the consent of the Minister (s. 16, *post*).

Definitions.—For definitions of "local authority" and "voluntary association", see s. 18 (1), *post*.

3. Provisions as to training for employment.—(1) The Minister may provide such training courses for persons, whether employed or not, who are above the upper limit of the compulsory school age as he thinks necessary or expedient for any of the purposes mentioned in section one of this Act. [269]

(2) For the purposes aforesaid, the Minister may, in such cases and subject to such conditions as he may with the approval of the Treasury determine, defray or contribute towards the cost of training courses provided by any other authority or person for any such persons as are mentioned in the last foregoing subsection. [270]

(3) References in this section to the provision of a training course shall be construed as including references—

(*a*) to the making of payments to persons who attend at any such course, in respect of their maintenance or in respect of their travelling expenses;

(*b*) to the provision of residential accommodation, board and facilities for recreation and welfare for such persons;

(*c*) to the provision of any other facilities or services incidental to the purposes of the course. [271]

(4) Without prejudice to the foregoing provisions of this section, where, in pursuance of arrangements made with the Minister, provision is made by an employer for the training of persons in his employment, the Minister may, with the approval of the Treasury, make any payment or provide any facility or service to or for the benefit of those persons which he could make or provide if they were attending at a training course provided by him under this section. [272]

(5) Nothing in this section shall be construed as authorising the Minister to defray or contribute towards the cost of any course of instruction provided by a local education authority under section seventy-six of the Unemployment Insurance Act, 1935, or to make any payment or provide any facility or service to or for the benefit of persons attending at such a course. [273]

(6) Subject as hereinafter provided the Minister of National Insurance may, with the consent of the Treasury, authorise the payment out of the National Insurance Fund of contributions towards expenses incurred by the Minister under this section in respect of persons entitled to unemployment benefit under the National Insurance Act, 1946, and persons who would be so entitled but for regulations made under that Act:

Provided that contributions under this subsection shall not exceed half a million pounds in any year. [274]

General note.—This section empowers the Minister of Labour and National Service (*a*) to provide training courses for all persons above the upper limit of the compulsory school age; and (*b*) to make payments and provide facilities in respect of training courses provided by any other authority or person for such persons, or by an employer for his employees, whatever their age.

The section replaces and extends the Unemployment Insurance Act, 1935, s. 77 (28 Halsbury's Statutes 547), as amended by the Unemployment Insurance Act, 1939, s. 8 (32 Halsbury's Statutes 746), now repealed by s. 21 (1) and Sched. II, *post*. The wider powers provided by the present section implement the policy, laid down in the White Paper on Employment Policy issued in 1944 (Cmd. 6527), of providing training courses to facilitate the post-war redeployment of labour.

The Minister.—The Minister of Labour and National Service (s. 1 (1), *ante*).

Training courses.—This term includes a course of instruction or course of occupation (s. 18 (1)).

Courses for persons under eighteen.—It is not the Minister's intention to provide training courses specifically for persons under eighteen years of age, since such persons are primarily the responsibility of the local education authorities (H. of C. Official Report, S.C.A., May 4, 1948, col. 22).

Upper limit of the compulsory school age.—This means the age that is for the time being that limit by virtue of s. 35 of the Education Act, 1944 (37 Halsbury's Statutes 165), together with any Order in Council under that section or any order made under s. 108 (3) of that Act (37 Halsbury's Statutes 214). At present the upper limit is fifteen years, but it is intended when practicable to raise the limit to sixteen.

Whether employed or not.—These words embody the principal change effected by this section. Hitherto training courses could be provided only for persons not in whole-time employment and for members of the armed forces.

Sub-s. (4).—This subsection contains an extension of the scope of the previous law, and is inserted to implement a recommendation contained in para. 134 of the Report of the Committee on the Juvenile Employment Service for a scheme of training and maintenance

grants to enable suitable boys and girls to take a course of training for a skilled occupation away from home where no facilities are available in their home neighbourhood.

Unemployment Insurance Act, 1935, s. 76.—28 Halsbury's Statutes 546. That section is prospectively repealed by the Education Act, 1944, s. 121, Sched. IX, Part II (37 Halsbury's Statutes 222, 238); see ss. 41–47 of that Act. But see also s. 21 (1) and Sched. II, *post*.

Sub-s. (5).—The provision made by this subsection, results from the fact that, since by s. 83 (1) of the Unemployment Insurance Act, 1935 (28 Halsbury's Statutes 551), an authorised course of instruction is deemed to be a school, any expenditure incurred by local education authorities in providing such a course qualifies for a grant under the Education Act, 1944, s. 100 (37 Halsbury's Statutes 207).

National Insurance Act, 1946.—39 Halsbury's Statutes 412. As to entitlement to unemployment benefit, see ss. 11–13 of that Act (39 Halsbury's Statutes 729 *et seq.*).

Definition.—For definition of "local education authority", see s. 18 (1), *post*.

4. Schemes for promoting regularity of employment.—(1) Where any scheme for promoting greater regularity of employment in any industry is approved by the Minister on the joint application of an organisation representing employers and an organisation representing workmen in that industry, the Minister may, in accordance with arrangements made with the consent of the Treasury, assist the administration of the scheme by attaching officers of the Ministry of Labour and National Service to help in the administration thereof, and by such other means as he thinks fit. [275]

(2) The Minister may, in accordance with such arrangements as aforesaid, issue on behalf of employers to persons to whom any such scheme applies any sums payable to those persons whether by way of wages or otherwise:

Provided that any arrangements making provision for the issue of any such sums shall also make provision for paying to the Minister any sums so issued by him and any expenses incurred by him which are attributable to the scheme. [276]

(3) If an organisation representing employers and an organisation representing workmen in any industry make to the Minister a joint representation as to any difficulty in the operation of any scheme for promoting greater regularity of employment in the industry, or in making any further scheme for that purpose for the industry, the Minister may appoint one or more persons to hold an inquiry into the circumstances giving rise to the difficulty and to make a report to him with respect thereto. [277]

(4) The fee to be paid by the Minister to any person holding such an inquiry as aforesaid shall be such as the Minister may with the consent of the Treasury direct. [278]

General note.—This section substantially re-enacts s. 100 of the Unemployment Insurance Act, 1935 (28 Halsbury's Statutes 560), which is repealed by s. 21 (1) and Sched. II, *post*. The powers provided by that section have not recently been used, but the Government has thought it desirable to retain them (see 156 H. of L. Official Report 633).

The Minister.—The Minister of Labour and National Service (s. 1 (1), *ante*).

5. Payments towards cost of removal and resettlement of workers.—(1) Subject to the approval of the Treasury, the Minister may, for the purposes of his functions under section one of this Act, make provision by way of grant or loan or otherwise—

(*a*) for facilitating the removal of any persons, with or without their dependants, to or from any place in Great Britain for the purpose of obtaining employment;

(*b*) for the maintenance and welfare of persons so removed in the course of their removal or pending their resettlement, and, in the case of persons removed to any place in Great Britain, for their resettlement;

(*c*) where any persons removed as aforesaid for the purpose of obtaining employment fail to obtain employment, or employment obtained by persons so removed comes to an end, for facilitating the further removal of those persons, with or without their dependants, to any place whether in Great Britain or elsewhere. [279]

(2) Where any payment by way of loan has been made by the Minister under this section to or in respect of any person, being a person satisfying the contribution conditions for unemployment benefit under the National Insurance Act, 1946, on account of expenses of travelling to any place for the purpose of obtaining employment, the Minister of National Insurance may, whether or not that person obtains employment at that place, repay out of the National Insurance Fund such part of the advance as may be prescribed by regulations made by that Minister with the consent of the Treasury; and except as provided by the following provisions of this section, any sum so repaid out of the National Insurance Fund shall not be recoverable from the person to whom the loan was made. [280]

(3) If, in the event of employment being found for a person to or in respect of whom any such payment as is mentioned in the last foregoing subsection has been made, that person either fails without reasonable excuse to enter on that employment, or, within seven days of entering on it, leaves that employment without reasonable excuse, the sum repaid under the last foregoing subsection out of the National Insurance Fund may be recovered from him or deducted from any unemployment benefit, sickness benefit or retirement pension under the National Insurance Act, 1946, which may thereafter become payable to him. [281]

(4) Any sums recoverable under the last foregoing subsection may, without prejudice to any other remedy, be recovered by the Minister of National Insurance summarily as a civil debt, and any sums recovered under that subsection shall be paid into the National Insurance Fund. [282]

General note.—Sub-s. (1), *supra*, reproduces with modifications part of s. 2 (1) of the Labour Exchanges Act, 1909 (20 Halsbury's Statutes 650), and also s. 102 of the Unemployment Insurance Act, 1935 (28 Halsbury's Statutes 561), both of which are repealed by s. 21 (1) and Sched. II, *post*. Sub-s. (1) of the present section is of wider application, chiefly in order to facilitate the recruitment of foreign workers. In the first place, assistance towards resettlement is no longer restricted to persons coming from a place within the United Kingdom, and secondly, sub-s. (1) (c) enables provision to be made for the further removal to any place, whether in Great Britain or elsewhere, of assisted persons when their employment comes to an end.

The remaining subsections are subsidiary. Sub-ss. (2) and (3) reproduce, with slight modifications, s. 103 of the Unemployment Insurance Act, 1935 (28 Halsbury's Statutes 561).

The Minister.—The Minister of Labour and National Service (s. 1 (1), *ante*).

National Insurance Act, 1946.—39 Halsbury's Statutes 412. As to unemployment and sickness benefit, see ss. 11–13 thereof (39 Halsbury's Statutes 429 *et seq.*); as to retirement pensions, see ss. 20 and 21 thereof (39 Halsbury's Statutes 439 *et seq.*). The contribution conditions for receipt of unemployment benefit are set out in Sched. III, para. 1, to the same Act (39 Halsbury's Statutes 494).

National Insurance Fund.—This Fund was established under the National Insurance Act, 1946, s. 35 (39 Halsbury's Statutes 453).

Regulations.—See the Employment and Training (Payment of Travelling Expenses) Regulations, 1948, *post*, which provide that the amount repayable out of the National Insurance Fund under sub-s. (2), *supra*, shall be one-half of the amount (if any) by which the loan exceeds four shillings. As to regulations generally, see s. 17, *post*.

Civil debt.—As to the recovery of civil debts in courts of summary jurisdiction, see the Summary Jurisdiction Act, 1879, s. 35 (11 Halsbury's Statutes 342).

6. Saving for existing powers.—The powers conferred on the Minister by this Part of this Act shall be additional to and not in substitution for any powers exercisable by the Minister or by any other authority under any other enactment. [283]

The Minister.—The Minister of Labour and National Service (s. 1 (1), *ante*).

PART II

THE YOUTH EMPLOYMENT SERVICE

7. Central Youth Employment Executive.—(1) For the purpose of facilitating the establishment of a comprehensive youth employment service, the Minister may make arrangements with the Minister of Education and the

Secretary of State for the performance of any of his functions under this Act in relation to persons to whom this Part of this Act applies through an executive body, to be known as the Central Youth Employment Executive, consisting of such persons, being officers of the Minister, the Minister of Education or the Secretary of State, as may be appointed in accordance with the arrangements. [284]

(2) The persons to whom this Part of this Act applies are persons under the age of eighteen years and persons over that age who are for the time being attending school. [285]

General note.—The terms of reference of the Ince Committee, whose recommendations are implemented in this Part of the Act, stated that the new comprehensive Youth Employment Service would be administered as a joint service by the Minister of Labour and National Service, the Minister of Education and the Secretary of State for Scotland, but that the Minister of Labour and National Service would continue to be the Minister responsible to Parliament. It was stated that, centrally, the service would be administered by a Juvenile Employment Executive staffed from all three departments and advised by a Central Joint Council appointed by the three Ministers jointly but owing responsibility in the first instance to the Minister of Labour and National Service. Locally, the machinery for operating the service was to continue on much the same lines as before. The present section accordingly provides for the establishment of a Central Youth Employment Executive which will be responsible for questions of policy and procedure.

The Minister.—The Minister of Labour and National Service (s. 1 (1), *ante*).

Definition.—For definition of " school ", see s. 18 (1), *post*.

8. National Youth Employment Council.—(1) Without prejudice to the powers conferred on the Minister by this Act to appoint advisory committees, there shall be constituted, in accordance with the provisions of Part I of the First Schedule to this Act, a council, to be known as the National Youth Employment Council, and Advisory Committees on Youth Employment for Scotland and Wales respectively. [286]

(2) It shall be the duty of the National Youth Employment Council (in this Act referred to as " the Council ") to advise the Minister as to the performance of his functions and the functions of local education authorities under this Act in relation to persons to whom this Part of this Act applies, and for that purpose to make to him such reports as the Minister may require and such representations as they consider expedient: and it shall be the duty of the said Advisory Committees to advise the Council as to the matters aforesaid so far as they relate to Scotland and Wales respectively, and for that purpose to make to the Council such reports as the Council may require and such representations as they consider expedient. [287]

(3) The supplementary provisions contained in Part II of the First Schedule to this Act shall have effect in relation to the Council and in relation to the Advisory Committees constituted under this section. [288]

General note.—This section, in conjunction with Sched. I, *post*, implements with one minor modification the recommendations as to national advisory machinery made by the Ince Committee in paras. 169–180 of their Report. The modification mentioned concerns the number of members of the Council (see the notes to Sched. I, *post*).

The National Council and the Advisory Committees for Scotland and Wales take the place of the National Advisory Councils for England and Wales, and for Scotland set up by the Minister of Labour in 1928. By the National Youth Employment Council and Advisory Committees for Scotland and Wales Regulations, 1948 (S.I. 1948 No. 2081), *post*, which came into operation on October 1, 1948, provision was made for the appointment of the first members of the National Council and Advisory Committees; it was further provided that the term of office of a member of the National Council or of an Advisory Committee should normally be three years, and the circumstances in which the office of a member should be vacated were prescribed.

The Minister.—The Minister of Labour and National Service (s. 1 (1), *ante*).

Powers to appoint advisory committees.—For the powers in this connection conferred on the Minister by the present Act, see s. 1 (2), *ante*, and s. 9, *post*.

Persons to whom this Part of this Act applies.—See s. 7 (2), *ante*.

Definition.—For definition of " local education authority ", see s. 18 (1), *post*.

9. Youth Employment Committees.—(1) Regulations made by the Minister under section one of this Act shall provide for the constitution, for such areas as the Minister may determine, of advisory committees, to be

known as Youth Employment Committees, for the purpose of advising the Minister as to the performance in those areas of his functions under this Act in relation to persons to whom this Part of this Act applies and of performing in relation to such persons in those areas such other duties connected with the Minister's said functions as may be specified in the regulations:

Provided that no such committee shall be appointed for any area in respect of which a scheme approved by the Minister under the next following section is for the time being in force. [289]

(2) The chairman and members of any such committee shall be appointed by the Minister, and shall include persons possessing experience and knowledge of education, employment and other conditions affecting the welfare of persons to whom this Part of this Act applies. [290]

General note.—This section, with s. 10 (2) (*b*), *post*, which together implement paras. 181–183 of the Ince Committee Report, provide for the appointment of local advisory committees to be known as Youth Employment Committees. Such committees, under slightly different names, are not new. In an area for which the Minister of Labour and National Service provided a youth employment service such committees were principally known as Juvenile Advisory Committees, while in a local education authority area they were called Juvenile Employment Committees. The Ince Report recommended the retention of such committees, but that they should in all cases be called Juvenile Employment Committees. The substitution of "Youth" for "Juvenile", which applies throughout the Act, was effected on the Report stage of the Bill.

Regulations.—Regulations for the constitution of Youth Employment Committees are to be made under s. 1, *ante*. Up to the time of going to press no such regulations had been made. As to regulations generally, see s. 17, *post*.

The Minister.—The Minister of Labour and National Service (s. 1 (1), *ante*).

Persons to whom this Part of this Act applies.—See s. 7 (2), *ante*.

A scheme.—Where a Youth Employment Service is being provided by a local education authority under a scheme made under s. 10, *post*, the Youth Employment Committee will be appointed by the authority in accordance with the scheme, instead of by the Minister (see the proviso to sub-s. (1), *supra*, and s. 10 (2) (*b*), *post*).

10. Powers of local education authorities.—(1) Subject to the provisions of this section, any local education authority may be authorised by means of a scheme approved by the Minister under this section to undertake, in respect of the whole area of that authority, any such functions as are conferred on the Minister by section two of this Act in relation to persons to whom this Part of this Act applies, being persons who are for the time being attending school or residing or employed in any part of that area, or who apply in that area for advice as to employment whether in that area or elsewhere. [291]

(2) Any scheme approved by the Minister under this section—

(*a*) shall contain such provisions as appear to the Minister to be expedient for requiring the local education authority to consult and co-operate with the local education authority for any other area for which a scheme under this section is in force or, where no such scheme is in force, with the Minister;

(*b*) shall provide for the exercise by a committee of the local education authority of such of the functions of that authority under the scheme as may be prescribed by the scheme; and

(*c*) shall provide for the appointment by the said committee of one or more sub-committees, to be known as Youth Employment Committees, constituted in such manner as may be prescribed by the scheme, and for the performance by any such sub-committee of such advisory functions and such other duties connected with the functions of the local education authority under the scheme as may be so prescribed. [292]

(3) Where a scheme under this section is in force, the Minister shall from time to time pay to the local education authority in respect of their administrative expenses under the scheme such sums as may be determined

in accordance with regulations made by the Minister with the consent of the Treasury. [293]

(4) Subject to the provisions of the next following subsection, the Minister may approve any scheme submitted to him for his approval under this section either without modification or subject to such modifications as he considers expedient after consultation with the local education authority. [294]

(5) No scheme shall be approved by the Minister under this section unless it is submitted to him within six months after the commencement of this Act :

Provided that if any scheme so submitted is not approved by the Minister, he may authorise the local education authority to submit to him a fresh scheme within such period as he may direct, and may approve any fresh scheme submitted by that authority within that period. [295]

General note.—This section, as supplemented by ss. 11 and 12, *post*, replaces s. 81 of the Unemployment Insurance Act, 1935 (28 Halsbury's Statutes 550), which had been found defective in several respects. The present section, implementing recommendations made by the Ince Committee (see paras. 158–162 of their Report) accordingly, *inter alia*, provides that a scheme must apply to the whole area of an authority, and limits the time within which a scheme may be submitted to six months from July 13, 1948. A temporary saving for schemes in force under the Unemployment Insurance Act, 1935, s. 81, *supra*, is effected by s. 21 (3), *post*.

The Minister.—The Minister of Labour and National Service (s. 1 (1), *ante*).

Persons to whom this Part of this Act applies.—These are persons under the age of eighteen years and persons over that age who are for the time being attending school (see s. 7 (2), *ante*). Schemes under the present section will therefore cover a slightly wider range of persons than the previous schemes (see the Unemployment Insurance Act, 1935, s. 81; 28 Halsbury's Statutes 550), which only applied to persons under the age of eighteen.

Regulations.—As to regulations generally, see s. 17, *post*. Under sub-s. (3), *supra*, the Minister has made Youth Employment Service (Administrative Expenses) Regulations, 1948 (S.I. 1948 No. 1742), *post*, which came into operation on July 31, 1948.

Six months.—The period of six months allowed to local education authorities for making up their minds whether or not to submit a choice of employment scheme, was criticised at the Committee Stage of the Bill as being too short. It was pointed out, however, by the Government spokesman that the power to submit schemes had existed since 1910 when the Education (Choice of Employment) Act, 1910 (10 Edw. 7 & 1 Geo. 5, c. 37) was passed, and the Report of the Committee on the Juvenile Employment Service which recommended the six months' period had been available since September, 1945. Moreover, all local education authorities had been circularised with a model scheme in August, 1947. The Minister stated that while he could not agree to any extension of this period, which would unduly delay the establishment of a comprehensive service, all that was required in the first instance were paper schemes of what local education authorities planned to do, and that an extension of time for overcoming any difficulties on the practical side would be allowed where necessary (H. of C. Official Report, S.C.A., May 11, 1948, cols. 51, 58). As to the time within which a scheme is to be brought into effective operation, see s. 12 (5), *post*.

Definitions.—For definitions of "local education authority" and "school", see s. 18, *post*.

11. Administration by local education authorities of unemployment benefit and national assistance.—(1) Any scheme approved under the last foregoing section shall provide, in addition to the matters specified in that section, for the performance by the local education authority of such functions as may be prescribed by the scheme in connection with—

(*a*) the administration of unemployment benefit claimed under the National Insurance Act, 1946, by persons under the age of eighteen years ;

(*b*) the grant of assistance under the National Assistance Act, 1948, to persons under that age. [296]

(2) There shall in each year be paid out of the National Insurance Fund to every local education authority performing such functions as are mentioned in paragraph (*a*) of the last foregoing subsection, sums equal to the aggregate amount from time to time paid by that authority in unemployment benefit under the National Insurance Act, 1946. [297]

(3) The National Assistance Board shall in each year pay to every local education authority performing such functions as are mentioned in paragraph (*b*) of subsection (1) of this section, sums equal to the aggregate amount

of the expenses from time to time incurred by that authority in giving assistance under the National Assistance Act, 1948, not being expenses in respect of which payments may be made by the Minister under subsection (3) of section ten of this Act. [298]

General note.—This section, which is supplementary to *s.* 10, *ante*, makes it obligatory to include in any scheme under that section provision for the administration of unemployment benefit and national assistance by the local education authority, who are entitled to be reimbursed by the Minister of National Insurance out of the National Insurance Fund and by the National Assistance Board, respectively. The provisions made by the present section give effect to the views of the Ince Committee (see paras. 136 and 137 of their Report), that employment and unemployment problems are so inextricably interwoven that whoever administers the service must deal with the juvenile in respect of both matters.

National Insurance Act, 1946.—39 Halsbury's Statutes 412. As to unemployment benefit, see ss. 11–13 of that Act (39 Halsbury's Statutes 429 *et seq.*). The National Insurance Fund was constituted under *s.* 35 thereof (39 Halsbury's Statutes 453).

National Assistance Act, 1948.—See title PUBLIC ASSISTANCE, *post*. Assistance for persons in need is granted under Part II of that Act by the National Assistance Board, formerly the Assistance Board but re-named by *s.* 2 of that Act.

Definition.—For definition of "local education authority", see *s.* 15, *post*.

12. Amendment and revocation of schemes under *s.* 10.—(1) A scheme approved by the Minister under section ten of this Act may be amended by a subsequent scheme so approved, and subsection (5) of that section shall not apply to any such amending scheme. [299]

(2) If it appears to the Minister that any such scheme as aforesaid should be amended, he may after consultation with the local education authority give directions to the local education authority requiring them to submit for his approval a scheme amending the first mentioned scheme in respect of such matters as may be specified in the directions; and if any such directions are not complied with within such time as may be specified therein, the Minister may, after consultation with the Council, by order revoke the scheme. [300]

(3) A scheme approved by the Minister under section ten of this Act may, if application is made in that behalf by the local education authority, be revoked by order made by the Minister as from such date (not being earlier than six months from the date on which the application is made) as may be specified in the order. [301]

(4) If it appears to the Minister that all or any of the functions of the local education authority under any such scheme as aforesaid have not been or are not being adequately performed, he may after consultation with the local education authority give to that authority such directions for remedying the default as he considers appropriate; and if any such directions are not complied with to the satisfaction of the Minister, he may, after consultation with the Council, by order revoke the scheme as from such date as may be specified in the order. [302]

(5) Without prejudice to the foregoing provisions of this section, if it appears to the Minister after consultation with a local education authority on whose application a scheme has been approved under section ten of this Act that the said authority have not taken, within the period of six months from the date on which that scheme was so approved, or such longer period as may be allowed by the Minister in any particular case, such steps as are necessary for putting the scheme into effective operation, he shall by order revoke the scheme. [303]

The Minister.—The Minister of Labour and National Service (*s.* 1 (1), *ante*).

The Council.—The National Youth Employment Council (*s.* 8 (2), *ante*).

Sub-s. (3).—The length of notice required to discontinue a scheme operating under *s.* 81 of the Unemployment Insurance Act, 1935 (28 Halsbury's Statutes 350), was only three months, which allowed insufficient time for the Ministry of Labour and National Service to get a scheme under their auspices into operation. The Ince Committee, in para. 161 of their Report, proposed a minimum period of six months, and the present subsection enables effect to be given to this recommendation. It may be noted that revocation can only be effected by order of the Minister, who is not bound to make any such order.

Sub-s. (4).—This subsection implements the recommendation in para. 151 of the Ince Committee's Report that, where a scheme is not being operated efficiently and in accordance

with his requirements, the Minister should have power to terminate the scheme on giving the responsible authority six months' notice.

Sub-s. (5).—This subsection implements para. 160 of the Ince Committee's Report, which recommended that the date by which a local education authority must put a scheme into operation should be not later than six months after the submission of their proposal and that if by that date they had not put a scheme into operation the proposal should lapse, unless the Minister agreed for good cause to extend the period.

It will be noted that while the period allowed for submitting a scheme (see s. 10 (6), *ante*) and for bringing it into operation is, in each case, six months, the latter period can be extended whereas the former can not. See the note to s. 10, *ante*, headed "Six months".

Definition.—*For definition of* "local education authority", *see* s. 18 (1), *post*.

13. Notification of particulars.—(1) The Minister may make regulations for requiring the proprietors of schools to furnish to the Minister in such manner as may be prescribed by the regulations such particulars as may be so prescribed with respect to pupils leaving school or who, while attending school, attain such age as may be prescribed by the regulations. [304]

(2) The particulars prescribed by any such regulations for the purposes of the last foregoing subsection shall be such particulars relating to the health, ability, educational attainments and aptitudes of the persons to whom they relate as appear to the Minister to be required for enabling adequate advice and assistance to be given to those persons in accordance with the provisions of this Act. [305]

(3) Any regulations made under this section shall make provision for restricting the disclosure of any particulars furnished thereunder, for prescribing the conditions under which records of any such particulars shall be maintained and the purposes for which they may be used and for requiring such records to be destroyed after such period as may be prescribed by the regulations:

Provided that any person being a parent or the guardian of a person of whom particulars have been so furnished shall be entitled, on application to the officer having the custody thereof, to examine those particulars in his presence, but shall not be entitled to receive or take copies thereof. [306]

(4) If any person contravenes or fails to comply with any requirement imposed on him by regulations made under this section, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding ten pounds. [307]

(5) In relation to any area in which a scheme under section ten of this Act is for the time being in force, subsection (1) of this section shall have effect as if for the second reference to the Minister there were substituted a reference to the local education authority, and as if the references to schools did not include any school maintained by that authority:

Provided that subsection (3) of this section shall apply to any particulars kept by the local education authority in accordance with the scheme with respect to pupils of any school so maintained, as if those particulars had been furnished in pursuance of regulations made under the said subsection (1). [308]

General note.—This section enables effect to be given to a recommendation of the Ince Committee in para. 44 of their Report to the effect that every school should be required to register with the Youth Employment Service in such manner as might be prescribed every school-leaver or every person attaining the age of seventeen if still at school. In para. 45, the Committee stated that they contemplated that registration would in practice be effected by transferring to the Service the school record card or an abstract based on it.

These provisions are designed to facilitate the giving of vocational guidance to pupils before they leave school. The obligation to register is the only element of compulsion in the Youth Employment Service. The Ince Committee, in para. 44, already referred to, further recommended that persons registered by their school should be compelled to attend for interview by an officer of the Service, but this recommendation was not accepted.

The Minister.—The Minister of Labour and National Service (s. 1 (1), *ante*).

Regulations.—As to regulations generally, see s. 17, *post*. Up to the date of going to press, no regulations under this section had been made.

Sub-s. (3), *proviso.*—In the section as originally drawn the restriction on the disclosure of reports made by schools under the section was absolute, but following criticism the proviso to sub-s. (3), *supra*, was inserted in the Bill at the Committee Stage in the House of Lords.

Offence.—Proceedings for offences cannot be instituted except by or with the consent of the Minister (s. 16, *post*).

Definitions.—For definitions of "local education authority", "proprietor" and "school", see s. 18 (1), *post*.

PART III

SUPPLEMENTAL

14. Expenses.—(1) Subject to the provisions of this Act with respect to payments to be made out of the National Insurance Fund or by the National Assistance Board, there shall be paid out of moneys provided by Parliament, to such amount as may be sanctioned by the Treasury,—

(*a*) any expenditure of the Minister or the Minister of Education or the Secretary of State under this Act;

(*b*) such expenses or allowances payable to the members of the Council, of the Advisory Committees for Scotland and Wales, of any other committee appointed by the Minister under this Act, or of any committee or sub-committee thereof, as the Minister may with the consent of the Treasury determine. [309]

(2) Any sums paid out of the National Insurance Fund in respect of expenditure of the Minister under this Act shall be paid as an appropriation in aid of moneys provided by Parliament for that expenditure. [310]

Provisions with respect to payments out of National Insurance Fund, etc.—For the provisions of the Act in this connection, see ss. 8 (6), 5 (2) and 11 (2), (3), *ante*.
The Minister.—The Minister of Labour and National Service (s. 1 (1), *ante*).
The Council.—The National Youth Employment Council (s. 8 (1), *ante*).
Committees.—As to the appointment of Committees by the Minister under this Act, see ss. 1 (2), 8 (1) and 9, *ante*.

15. Supplementary provisions as to National Youth Employment Council, etc.—(1) His Majesty may by Order in Council amend any of the provisions of Part I of the First Schedule to this Act relating to the number or qualification of the persons to be appointed as members of the Council or of the Advisory Committee for Scotland or Wales. [311]

(2) Any such Order in Council may be varied or revoked by a subsequent Order in Council. [312]

(3) A draft of any Order in Council under this section shall be laid before Parliament, and the draft shall not be submitted to His Majesty unless each House of Parliament presents an Address to His Majesty praying that the Order be made. [313]

Order in Council.—Up to the time of going to press no Order in Council under this section had been made.
The Council.—The National Youth Employment Council (s. 8 (1), *ante*).
May be varied or revoked.—The general power of variation and revocation conferred by s. 32 (3) of the Interpretation Act, 1889 (18 Halsbury's Statutes 1003), does not apply to Orders in Council; hence the express provision.
The draft shall not be submitted, etc.—Under existing procedure the two Houses of Parliament have no power to amend draft Orders in Council on their being laid before them for affirmative approval: they must either give or withhold their approval of the drafts as they stand.

16. Provisions as to offences.—Proceedings for any offence under this Act shall not be instituted except by or with the consent of the Minister. [314]

Offence under this Act.—See ss. 2 (7) and 13 (4), *ante*. The present provision avoids the danger of malicious action by a private individual.
The Minister.—The Minister of Labour and National Service (s. 1 (1), *ante*).

17. General provisions as to regulations.—Any power of the Minister or the Minister of National Insurance to make regulations under this Act shall be exercisable by statutory instrument, and every such instrument

shall be subject to annulment in pursuance of a resolution of either House of Parliament. [315]

The Minister.—The Minister of Labour and National Service (s. 1 (1), *ante*).

Statutory instrument.—Statutory instruments, which since January 1, 1948 (see S.I. 1948 No. 3), have superseded the earlier Statutory Rules and Orders, are defined in s. 1 of the Statutory Instruments Act (30 Halsbury's Statutes 784). As to statutory instruments which are subject to annulment by resolution of either House of Parliament, see s. 5 of that Act. This "negative resolution procedure" may be contrasted with the "affirmative resolution procedure" referred to in s. 15, *ante*.

18. Interpretation.—(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say :—

"compulsory school age" has the meaning assigned to it by section thirty-five of the Education Act, 1944 ;

"industry" means any class or classes of establishments or undertakings or of branches or departments of establishments or undertakings, or any class or classes of such establishments, undertakings, branches or departments in any area, which the Minister may determine to be an industry for the purposes of this Act ;

"local authority" means the council of a county, county borough or county district, the common council of the City of London and the council of any metropolitan borough ;

"local education authority" means a local education authority as defined by section one hundred and fourteen of the Education Act, 1944 ;

"proprietor" in relation to a school maintained by a local education authority means that authority, and in relation to any other school means the person or body of persons responsible for the management of the school ;

"school" means a school as defined by section one hundred and fourteen of the Education Act, 1944 ;

"training course" includes a course of instruction or course of occupation ;

"voluntary association" includes any company which is required by its constitution to apply its profits, if any, or other income in promoting its objects and prohibited thereby from paying any dividend to its members. [316]

(2) Any reference in this Act to any other enactment shall, unless the context otherwise requires, be construed as a reference to that enactment as amended by or under any other enactment. [317]

"*Compulsory school age*".—The Education Act, 1944, s. 35 (38 Halsbury's Statutes 165) defines "compulsory school age" as meaning any age between five years and fifteen years, and provides that accordingly a person shall be deemed to be of compulsory school age if he has attained the age of five years and has not attained the age of fifteen years and a person shall be deemed to be over compulsory school age as soon as he has attained the age of fifteen years. A proviso to the said section provides for the eventual raising of the school-leaving age to sixteen.

The Minister.—The Minister of Labour and National Service (s. 1 (1), *ante*).

"*Local education authority*".—By the Education Act, 1944, s. 114 (1) (38 Halsbury's Statutes 217), "local education authority" means, in relation to any area for which a joint education board is constituted as the local education authority under the provisions of Part I of the First Schedule to that Act, the board so constituted, and save as aforesaid means, in relation to a county, the council of the county, and, in relation to a county borough, the council of the county borough.

"*School*".—By the Education Act, 1944, s. 114 (1) (38 Halsbury's Statutes 217), "school" means an institution for providing primary or secondary education or both primary and secondary education, being a school maintained by a local education authority, an independent school, or a school in respect of which grants are made by the Minister to the proprietor of the school; and the expression "school", where used without qualifications, includes any such school or all such schools as the context may require.

19. Application to Scotland. [318]

20. Provisions as to Northern Ireland. [319]

21. Repeals.—(1) Subject to the provisions of this section, the enactments specified in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule. [320]

(2) Any regulations made under the Labour Exchanges Act, 1909, and any rules or other instruments having effect by virtue of such regulations, shall, if in force immediately before the commencement of this Act, continue in force and have effect as if the regulations had been made under the corresponding provisions of this Act, and may be amended or revoked accordingly. [321]

(3) Any scheme in force under section eighty-one of the Unemployment Insurance Act, 1935, immediately before the commencement of this Act shall continue in force until the expiration of six months from the commencement of this Act, and if within that period a scheme under section ten of this Act has been submitted to the Minister by the local education authority, shall continue in force for such further period as the Minister may direct; and while any such scheme is in force, the enactments repealed by this section shall have effect in relation thereto as if this section had not been enacted. [322]

(4) Notwithstanding the repeal by this section of section one hundred and thirty-five of the Education (Scotland) Act, 1946, any agency which, immediately before the commencement of this Act, is maintained by an education authority under that section may be maintained thereunder until the expiration of six months from the commencement of this Act, and if within that period a scheme under section ten of this Act has been submitted to the Minister by that authority, may be so maintained for such further period as the Minister may direct. [323]

(5) Nothing in this section shall affect the validity of any regulations made, whether before or after the commencement of this Act, under paragraph (g) of subsection (1) of section sixty-nine of the National Insurance Act, 1946, in relation to any enactment repealed by that Act. [324]

Labour Exchanges Act, 1909.—20 Halsbury's Statutes 650.

Regulations.—Regulations made under the Labour Exchanges Act, 1909, *supra*, which were in force on the commencement of the present Act, were the General Regulations for Labour Exchanges (S. R. & O., 1910, No. 806, as amended by S. R. & O., 1917, No. 601); and the Employment Exchanges (Advisory Committee) Regulations, 1917 (S. R. & O., 1917, No. 601).

Commencement of this Act.—July 13, 1948.

Sub-s. (3).—The subsection effects a temporary saving for former Youth Employment Service schemes made under s. 81 of the Unemployment Insurance Act, 1935 (28 Halsbury's Statutes 550), which is repealed by sub-s. (1), *supra*, and Sched. II, *post*, pending the coming into operation of new schemes under s. 10, *ante*.

The Minister.—The Minister of Labour and National Service (s. 1 (1), *ante*).

National Insurance Act, 1946, s. 69 (1) (*g*).—29 Halsbury's Statutes 480. That paragraph concerns regulations providing for any savings or additional savings from the effect of any repeal or amendment effected by that Act.

Definition.—For definition of "local education authority", see s. 18, *ante*.

22. Short title and extent.—(1) This Act may be cited as the Employment and Training Act, 1948. [325]

(2) This Act, except section twenty thereof, shall not extend to Northern Ireland. [326]

SCHEDULES

Section 8

FIRST SCHEDULE

NATIONAL YOUTH EMPLOYMENT COUNCIL AND ADVISORY COMMITTEES FOR SCOTLAND AND WALES

PART I

CONSTITUTION OF COUNCIL AND COMMITTEES

1. The members of the Council shall be appointed by the Minister and shall be not more than thirty-six in number, consisting of—

(*a*) a chairman and not more than six other persons (including the chairman of the Advisory Committees for Scotland and Wales) appointed as being independent persons ;

(*b*) one person nominated by each of the following bodies, that is to say :—

The County Councils Association,
The Association of Education Committees,
The Association of Municipal Corporations,
The London County Council,
The Association of County Councils in Scotland,
The Association of Councils of Counties of Cities in Scotland, and
The Welsh Federation of Education Committees ;

(*c*) three persons appointed as representing teachers in England, one as representing teachers in Scotland, and one as representing teachers in Wales ;

(*d*) four persons appointed as representing employers in England, two as representing employers in Scotland, and one as representing employers in Wales ;

(*e*) four persons appointed as representing workmen in England, two as representing workmen in Scotland, and one as representing workmen in Wales ;

(*f*) two persons appointed as representing Youth Employment Committees appointed by the Minister in England, and one as representing Youth Employment Committees so appointed in Scotland.

2. Before appointing any of the persons specified in sub-paragraphs (*c*) to (*e*) of the foregoing paragraph the Minister shall consult with such organisations as may appear to him for that purpose to represent the classes of persons referred to in those sub-paragraphs respectively.

3. The members of the Advisory Committee for Scotland shall be appointed by the Minister, and shall be nineteen in number, consisting of—

(*a*) a chairman and two other persons appointed as being independent persons ;

(*b*) the members of the Council nominated by the Association of County Councils in Scotland and the Association of Councils of Counties of Cities in Scotland and two other persons nominated by those Associations ;

(*c*) the member of the Council appointed as representing teachers in Scotland and one other person appointed as representing such teachers ;

(*d*) the members of the Council appointed as representing employers in Scotland and two other persons appointed as representing such employers ;

(*e*) the members of the Council appointed as representing workmen in Scotland, and two other persons appointed as representing such workmen ;

(*f*) the member of the Council appointed as representing Youth Employment Committees in Scotland, and one other person appointed as representing Youth Employment Committees appointed by the Minister in Scotland.

4. The members of the Advisory Committee for Wales shall be appointed by the Minister and shall be fourteen in number, consisting of—

(*a*) a chairman and one other person appointed as being independent persons ;

(*b*) the member of the Council nominated by the Welsh Federation of Education Committees and two other persons nominated by that Federation ;

(*c*) the member of the Council appointed as representing teachers in Wales and one other person appointed as representing teachers in Wales ;

(*d*) the member of the Council appointed as representing employers in Wales, and two other persons appointed as representing employers in Wales ;

(*e*) the member of the Council appointed as representing workmen in Wales, and two other persons appointed as representing such workmen ;

(*f*) one person appointed as representing Youth Employment Committees appointed by the Minister in Wales.

5. Before appointing any of the persons specified in sub-paragraphs (*c*) to (*e*) of paragraph 3 or paragraph 4 of this Schedule (other than persons appointed by reason of their being members of the Council) the Minister shall consult with such organisations as may appear to him for that purpose to represent the classes of persons referred to in those sub-paragraphs respectively. [327]

PART II

SUPPLEMENTARY PROVISIONS

6. The Minister may make regulations with respect to the appointment, tenure of office and vacation of office of members of the Council and of the Advisory Committees for Scotland and Wales.

7. The Minister may appoint a Secretary to the Council and to each of the said Advisory Committees.

8. The Council may appoint such committees, and the said Advisory Committees may appoint such sub-committees, as they think fit, to consider and report upon questions referred to them by the Council or the Advisory Committees, as the case may be, and any such committee or sub-committee may include persons who are not members of the Council or of the Advisory Committees, as the case may be.

9. The Council and the said Advisory Committees shall have power to regulate their own procedure.

10. The proceedings of the Council or of any such Advisory Committee shall not be invalidated by any vacancy in the membership of the Council or committee or by any defect in the appointment or qualification of any member thereof. [328]

General note.—Both Parts of this Schedule may conveniently be considered together. Part I sets out provisions in accordance with which the Minister is to constitute the National Youth Employment Council and the two Advisory Committees for Scotland and Wales respectively (s. 8 (1), *ante*), while Part II contains supplementary provisions having effect in relation to the Council and the Advisory Committees by virtue of s. 8 (3), *ante*.

See, generally, the notes to s. 8, *ante*.

Any of the provisions of Part I of this Schedule relating to the number or qualification of members of the Council or of the Advisory Committees may be amended by Order in Council (see s. 15, *ante*).

Thirty-six members.—The constitution of the Council accords exactly with the recommendations made by the Ince Committee (see para. 171 of their Report), except that there is power to appoint two additional persons as independent members, the intention being that there should be power to appoint representatives of probation officers and of voluntary youth organisations if that proved desirable.

The Minister.—The Minister of Labour and National Service (s. 1 (1), *ante*).

Regulations.—For regulations under para. 6, *supra*, see the National Youth Employment Council and Advisory Committees for Scotland and Wales Regulations, 1948 (S.I. 1948 No. 2081), *post*, which came into operation on October 1, 1948.

Section 21

SECOND SCHEDULE

ENACTMENTS REPEALED

Session and Chapter	Short title	Extent of repeal
9 Edw. 7, c. 7.	The Labour Exchanges Act, 1909.	The whole Act.
6 & 7 Geo. 5, c. 68.	The New Ministries and Secretaries Act, 1916.	In the Schedule, the words "Labour Exchanges Act, 1909".
25 & 26 Geo. 5, c. 8.	The Unemployment Insurance Act, 1935.	The whole Act except sections seventy-six and seventy-eight and, so far as they relate to those sections, section sixty-one, seventy-nine, eighty, eighty-three, one hundred and four and one hundred and five, and in section one hundred and thirteen the definitions of "authorised course" and "education authority".
2 & 3 Geo. 6, c. 29.	The Unemployment Insurance Act, 1939.	The whole Act.
9 & 10 Geo. 6, c. 67.	The National Insurance Act, 1946.	In section sixty-eight, subsection (2). Part II of the Eleventh Schedule and the Twelfth Schedule.
9 & 10 Geo. 6, c. 72.	The Education (Scotland) Act, 1946.	Section one hundred and thirty-five. [329]

Labour Exchanges Act, 1909.—20 Halsbury's Statutes 650.
New Ministries and Secretaries Act, 1916, *Sched.*—3 Halsbury's Statutes 415.
Unemployment Insurance Act, 1935.—28 Halsbury's Statutes 499. The Act was largely repealed as from July 5, 1948, by the National Insurance Act, 1946, s. 65 and Sched. IX (39 Halsbury's Statutes 475, 498).
Unemployment Insurance Act, 1939.—32 Halsbury's Statutes 741. The whole of this Act, with the exception of s. 8, was repealed as from July 5, 1948, by the National Insurance Act, 1946, s. 65 and Sched. IX (39 Halsbury's Statutes 475, 498).
National Insurance Act, 1946, s. 98 (2), *Sched. XI, Part II, and Sched. XII.*—39 Halsbury's Statutes 478, 502, 507.

NATIONAL SERVICE ACT, 1948

(11 & 12 Geo. 6, c. 64)

PRELIMINARY NOTE

When the National Service Act, 1947 (40 Halsbury's Statutes 1142), extended the compulsory call-up of youths for the Armed Forces, provision was made, by ss. 10 and 11 of that Act (40 Halsbury's Statutes 1151, 1152) for transferring to the Service Authorities the obligation of local education authorities to provide educational facilities for conscripts during their period of whole-time service, though power was given to make arrangements as to education with the service authorities. In addition, local education authorities and others were placed under a duty to supply the Minister of Labour and National Service with such information as to male pupils or ex-pupils as the Minister might require " for the purpose of assisting his consideration of questions connected with their being called up for service."

The bulk of the provisions of the Act of 1947, including the sections mentioned above, were only, however, to come into force as from January 1, 1949, and on July 30, 1948, the present Act was passed with a view to consolidating, without amendment, the National Service Acts, 1939 to 1947, and other legislation. Accordingly, ss. 10 and 11 of the Act of 1947 are repealed and replaced as from January 1, 1949, by ss. 28 and 29 of the present Act. The new and the old sections are identical save for the closing words of s. 29 of the latter Act which read " under this Part of this Act " as against " under this Act " in s. 11 of the former. The whole of the National Service Act, 1947, is repealed as from January 1, 1949, by s. 60 of the present Act and Sched. VI thereto.

Other relevant sections of the present Act appear in the title BLIND PERSONS, *ante*. [380]

ARRANGEMENT OF SECTIONS

PART I

SERVICE IN THE ARMED FORCES

Section — Page

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Supplemental

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PART III

GENERAL

* * * * *

61. Duration of Act 125
62. Short title and commencement 125

* * * * *

An Act to consolidate the National Service Acts, 1939 to 1947, and the Reinstatement in Civil Employment Act, 1944, so far as that Act applies to persons called up for national service after the thirty-first day of December, nineteen hundred and forty-eight. [331] [30th July, 1948.]

PART I

SERVICE IN THE ARMED FORCES

* * * * *

Supplemental

* * * * *

28. Further education during whole-time service.—(1) The duty of local education authorities under section forty-one of the Education Act, 1944, to secure the provision for their area of adequate facilities for further education shall not extend to any person during his term of whole-time service; and a person shall, during his term of whole-time service, be exempt from compulsory attendance for further education under that Act. [332]

(2) It shall be the duty of the Service Authorities to provide, so far as may be practicable, further education within the meaning of the said section forty-one for persons during their terms of whole-time service; and, notwithstanding the provisions of the last foregoing subsection, every local education authority shall have power to provide, or secure the provision of, such facilities for further education for such persons as aforesaid as may be agreed between them and any Service Authority, upon such terms, if any, as may be so agreed. [333]

(3) In making arrangements for such further education as aforesaid the Service Authorities shall have regard to any representations made to them by or on behalf of bodies of persons concerned with education. [334]

General note.—This section supersedes s. 10 of the National Service Act, 1947 (40 Halsbury's Statutes 1151), its terms being identical with that section. S. 41 of the Education Act, 1944 (27 Halsbury's Statutes 170), requires local education authorities to secure the provision of facilities for (*a*) full-time and part-time education for persons over compulsory school age, and (*b*) leisure-time occupation in training and recreation, when desired, and the object of the present section is to transfer the obligation to the Service Authorities as regards national service men during their whole-time service. Local education authorities may, however, make educational arrangements with the Service Authorities. The obligation of local education authorities under s. 41 remains unchanged during the subsequent part-time service.

The term "local education authority" is defined in s. 114 (1) of the Education Act, 1944 (27 Halsbury's Statutes 217).

Date of operation.—This section comes into force on January 1, 1949 (s. 62 (2), *post*).

29. Information to be furnished by education authorities.—It shall be the duty of every local education authority, and of the governing body or other persons having the management of any university, school or other educational institution, to give to the Minister, on his request, such information in their possession, or reasonably available to them, about male persons receiving, or who have received, education for which the local education authority are responsible, or, as the case may be, education at the university, school or other institution, as the Minister may from time to time require for the purpose of assisting his consideration of questions connected with their being called up for service under this Part of this Act. [335]

General note.—This section supersedes s. 11 of the National Service Act, 1947 (40 Halsbury's Statutes 1152), without substantial change.

The Minister.—The Minister of Labour and National Service (s. 34 (1) of the Act).

For the purpose of assisting, etc.—The Minister might wish to check a man's registration particulars; the authorities might be in process of calling up someone and might find that there were two people of the same name, or of similar names and registration numbers, and

they might not be sure which was which. It was therefore desired to be able to ask educational authorities for men's names, registration numbers, home addresses, etc. (see 437 H. of C. Official Report 737). Similar provision was made by s. 10 of the Military Training Act, 1939 (32 Halsbury's Statutes 605), which expired by effluxion of time on May 30, 1942.

Date of operation.—This section comes into force on January 1, 1949 (s. 62 (2), *post*).

30. False statements and forgery.—Any person who—

(*a*) in giving any information for the purposes of this Part of this Act knowingly or recklessly makes a statement which is false in a material particular, or

(*b*) with intent to deceive—

(i) forges or uses, or lends to or allows to be used by any other person, any certificate issued under this Part of this Act, or

(ii) makes, or has in his possession, any document so closely resembling any certificate so issued as to be calculated to deceive,

shall be guilty of an offence and liable, on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds or to both such imprisonment and such fine. [336]

General note.—This section reproduces s. 16 of the National Service (Armed Forces) Act, 1939 (32 Halsbury's Statutes 1057), which Act had been the principal Act relating to military conscription since its passing on September 3, 1939. As from January 1, 1949, the whole of the Act of 1939 is repealed by s. 60 of the present Act and Sched. VI thereto.

Date of operation.—This section comes into force on January 1, 1949 (s. 62 (2), *post*).

* * * * *

PART III

GENERAL

* * * * *

61. Duration of Act.—No person who attains the age of eighteen years on or after the first day of January, nineteen hundred and fifty-four shall be liable under this Act to be called upon to serve in the armed forces of the Crown; and accordingly this Act shall continue in operation only with respect to persons who have attained that age or who have been called up for service under this Act before that date:

Provided that His Majesty may by Order in Council substitute for the said day such later day as may seem to His Majesty expedient. [337]

General note.—This section sets a limit to the duration of compulsory service in the Armed Forces, but the limit may be extended by Order in Council.

Proviso.—Under the National Service Act, 1947, ss. 27 and 22 (1) (40 Halsbury's Statutes 1159, 1157) it appeared that an affirmative resolution of both Houses was required before the limit could be so extended, and this was confirmed by the Minister of Defence in the course of the debates on the Bill. The present Act makes no such provision, but it is provided by s. 4 of the National Service (Amendment) Act, 1948 (12 & 13 Geo. 6, c. 6), that in case of an Order in Council under the proviso a draft of the Order is to be laid before Parliament and is not to be submitted to His Majesty except in pursuance of an address presented by each House of Parliament.

62. Short title and commencement.—(1) This Act may be cited as the National Service Act, 1948. [338]

(2) This Act shall come into force on the first day of January, nineteen hundred and forty-nine. [339]

January 1, 1949.—This is the date when the bulk of the provisions of the National Service Act, 1947 (40 Halsbury's Statutes 1142), including ss. 10 and 11 thereof relating to local education authorities, was to have taken effect. The provisions of that Act are, however, reproduced in the present Act.

* * * * *

ORDERS, CIRCULARS AND MEMORANDA

EMPLOYMENT AND TRAINING (PAYMENT OF TRAVELLING EXPENSES) REGULATIONS, 1948

S.I. 1948 *No.* 1668

July 19, 1948

The Minister of National Insurance, with the consent of the Treasury, in exercise of the powers conferred by subsection (2) of section 5 of the Employment and Training Act, 1948, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

1. Citation, commencement and interpretation.—(1) These regulations may be cited as the Employment and Training (Payment of Travelling Expenses) Regulations, 1948, and shall come into operation on the 24th July, 1948.

(2) Reference in these regulations to any enactment shall, unless the context otherwise requires, be construed as a reference to that enactment as amended by or under any other enactment.

(3) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [340]

2. Repayment out of National Insurance Fund in connection with loans for travelling expenses.—Where any payment by way of loan has been made by the Minister of Labour and National Service under the provisions of section 5 of the Employment and Training Act, 1948 (which section provides for payments towards cost of removal and resettlement of workers) to or in respect of any person, being a person satisfying the contribution conditions for unemployment benefit under the National Insurance Act, 1946, on account of expenses of travelling to any place for the purpose of obtaining employment, whether or not that person obtains employment at that place, the amount which the Minister of National Insurance may repay out of the National Insurance Fund shall be one half of the amount (if any) by which the said payment exceeds four shillings. [341]

* * * * *

YOUTH EMPLOYMENT SERVICE (ADMINISTRATIVE EXPENSES) REGULATIONS, 1948

S.I. 1948 *No.* 1742

July 22 1948

The Minister of Labour and National Service (hereinafter referred to as " the Minister ") by virtue of the powers conferred on him by section 10 (3) of the Employment and Training Act, 1948 (hereinafter referred to as " the Act "), and of all other powers in that behalf, and with the consent of the Treasury, hereby makes the following Regulations :—

1. Short title, commencement and interpretation.—(1) These Regulations may be cited as the Youth Employment Service (Administrative Expenses) Regulations, 1948, and shall come into operation on the 31st day of July, 1948.

(2) The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

(3) In these Regulations, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them, that is to say:—

"approved scheme" means a scheme approved by the Minister under section 10 of the Act;

"authority" means a local education authority as defined in section 18 or, in the application of these Regulations to Scotland, in section 19 of the Act;

"financial year" has the meaning assigned to that expression by section 305 of the Local Government Act, 1933, or, in the application of these Regulations to Scotland, by section 174 of the Local Government (Scotland) Act, 1947.

(4) Any reference in these Regulations to any enactment shall, unless the context otherwise requires, be construed as a reference to that enactment as amended by or under any other enactment. [342]

2. Application to Scotland. [343]

3. Payment of grant.—Subject to the provisions of these Regulations a substantive grant will be payable to authorities by the Minister for each financial year in respect of their administrative expenses incurred in that year in connection with functions undertaken by them under an approved scheme. [344]

4. Amount of grant.—The grant payable for a financial year to an authority will be equal to three-quarters of the net administrative expenses of that year of that authority incurred as aforesaid, recognised by the Minister as expenditure in aid of which parliamentary grants should be made to the authority. [345]

5. Method of claim and conditions for grant.—(1) Each authority undertaking functions under an approved Scheme shall submit to the Minister annual estimates of expenditure in such form and at such time as the Minister may direct. The amount of grant estimated to be payable for the year will, subject to the provision by Parliament of the necessary moneys, be payable by one or more instalments on account during the year.

(2) The inclusion by the Minister of expenditure for the purpose of calculating the instalments of grant payable on account shall not be regarded as committing the Minister to the recognition of such expenditure for the purpose of these Regulations.

(3) The authority shall make a claim to the grant in such form as the Minister may direct and shall furnish such other returns in connection therewith as the Minister may require, and the balance of the grant will be paid after the claim has been duly certified by the District Auditor of the Ministry of Health.

(4) The grant is conditional upon the Minister being satisfied—

(i) that the provisions of the approved scheme have been observed,

(ii) that the functions undertaken by the authority have been efficiently discharged, and

(iii) that the authority have supplied punctually such information and returns as the Minister has required.

If the Minister is not satisfied on any of these matters, he may withhold or make a deduction from the grant. [346]

6. Ascertainment of net administrative expenses.—For the purpose of these Regulations net administrative expenses shall be ascertained by deducting from the total of the recognised administrative expenditure incurred as aforesaid all income relating to the functions under the approved scheme except income from rates raised by the authority or grants paid by the Minister under these Regulations. [347]

7. Interpretation of Regulations.—If any question arises as to the interpretation of these Regulations or as to the amount of net administrative expenses incurred by an authority in respect of which a grant may be made under these Regulations or as to the inclusion or exclusion of any items of income or expenditure for the purpose of calculating the said grant, the decision of the Minister shall be final. [348]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations provide for the payment by the Minister of three-quarters of the net approved administrative expenses of a local education authority administering the Youth Employment Service established by Part II of the Employment and Training Act, 1948, ante, *in accordance with a scheme approved by the Minister under section* 10 *of that Act.*

NATIONAL YOUTH EMPLOYMENT COUNCIL AND ADVISORY COMMITTEES FOR SCOTLAND AND WALES REGULATIONS, 1948

S.I. 1948 *No.* 2081

September 13, 1948

Whereas before the coming into operation of the Employment and Training Act, 1948 (hereinafter called "the Act") the following councils and committees were constituted by the Minister of Labour and National Service (hereinafter called "the Minister") for the purpose of considering matters affecting the organisation, procedure and development of the Juvenile Employment Service, that is to say, (*a*) the National Juvenile Employment Council, (*b*) the Scottish Advisory Committee on Juvenile Employment, and (*c*) the Welsh Advisory Committee on Juvenile Employment (hereinafter referred to as "the existing council and committees");

And Whereas by Section 8 of the Act it is provided that there shall be constituted in accordance with the provisions of Part I of the First Schedule to the Act, a council to be known as the National Youth Employment Council (hereinafter called "the National Council") and Advisory Committees on Youth Employment (hereinafter called "the Advisory Committees") for Scotland and Wales respectively;

And Whereas the constitution of the existing council and committees is, in all material respects, the same as that provided for the National Council and the Advisory Committees by Part I of the First Schedule to the Act;

And Whereas by Part II of the said First Schedule the Minister is empowered to make Regulations with respect to the appointment, tenure of office and vacation of office of members of the National Council and of the Advisory Committees;

Now, therefore, the Minister, by virtue of the powers conferred on him by Section 8 of, and Part II of the First Schedule to, the Act and of all other powers in that behalf, hereby makes the following Regulations:—

1. Citation and commencement.—(1) These Regulations may be cited as the National Youth Employment Council and Advisory Committees for Scotland and Wales Regulations, 1948, and shall come into operation on the 1st day of October, 1948.

(2) The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [349]

2. Constitution and functions of the National Council and Advisory Committees.—The existing council and committees shall henceforth be known respectively as the National Youth Employment Council and the Advisory Committees on Youth Employment for Scotland or Wales, as the case may be, and shall perform the functions specified in Section 8 of the Act. [350]

3. First members of the National Council and Advisory Committees and tenure of office.—All persons who, immediately before the coming into operation of these Regulations, were members of the existing council and committees shall be the first members respectively of the National Council or the Advisory Committees for Scotland or Wales as the case may be and, subject to the provisions of these Regulations, shall continue to hold office until the 31st day of March, 1950. [351]

4. Tenure of office of future members of the National Council and Advisory Committees.—Subject to the provisions of these Regulations, the term of office of any person hereafter appointed to be a member of the National Council or of either of the Advisory Committees shall be for a period of three years or such shorter period as may be specified by the Minister at the time of his appointment; provided that a member appointed to fill a casual vacancy shall hold office for the unexpired term of office of his predecessor. [352]

5. Vacation of office.—(1) The Minister may determine the appointment of any member of the National Council, or of either of the Advisory Committees, in any of the following circumstances :—

(*a*) where the Minister is of the opinion that a member appointed as an independent member has ceased to be independent, or that a member appointed to represent teachers, employers, workmen or Youth Employment Committees, has ceased to be so representative;

(*b*) where a member has been appointed on the nomination of any of the bodies referred to in paragraphs 1 (*b*), 3 (*b*) or 4 (*b*) of the First Schedule to the Act and the body by whom he was nominated has given written notice to the Minister withdrawing the nomination;

(*c*) if the Minister is of the opinion that any member is no longer capable of giving efficient service as a member.

(2) A member of the National Council or of either of the said Advisory Committees may resign his office by notice in writing addressed to the Minister. [353]

6. Eligibility for re-appointment.—A member vacating his seat for any reason shall be eligible for re-appointment. [354]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

Section 8 of the Act provides for the constitution, in accordance with the provisions of Part I of the First Schedule to the Act, of a National Youth Employment Council and Advisory Committees on Youth Employment for Scotland and Wales respectively. These Regulations provide for the appointment of the first members of the National Council and Advisory Committees, that the term of office of a member of the National Council, or of either of the Advisory Committees, shall normally be three years, and prescribe the circumstances in which the office of a member may be vacated.

ELECTIONS

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STATUTES

REPRESENTATION OF THE PEOPLE ACT, 1948

(11 & 12 Geo. 6, c. 65)

PRELIMINARY NOTE

This Act, which received the Royal Assent on July 30, 1948, and is based on the Reports of the Committee on Electoral Law Reform, substantially amends the law relating to parliamentary and local government elections, and corrupt and illegal practices in connection therewith, but it is not in the nature of a code. It is divided into six Parts and has thirteen Schedules; its provisions are to come into force on different dates (s. 80).

The Act repeals and supersedes, *inter alia*, most of the provisions of the existing Representation of the People Acts; in particular, virtually the whole of the Representation of the People Act, 1918 (7 Halsbury's Statutes 548), the Parliamentary Electors (War-Time Registration) Act, 1943 (*i.e.* Part I of the Parliament (Elections and Meeting) Act, 1943; 36 Halsbury's Statutes 93), the Parliamentary Electors (War-Time) Registration Act, 1944 (37 Halsbury's Statutes 238), and most of the Representation of the People Act, 1945 (38 Halsbury's Statutes 67). It also partly repeals and otherwise amends, *inter alia*, the Ballot Act, 1872 (7 Halsbury's Statutes 427), the Corrupt and Illegal Practices Prevention Act, 1883 (7 Halsbury's Statutes 465), the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (7 Halsbury's Statutes 511), the Local Government Act, 1933 (26 Halsbury's Statutes 295), the London Government Act, 1939 (32 Halsbury's Statutes 259), and the House of Commons (Redistribution of Seats) Act, 1944 (37 Halsbury's Statutes 389).

Part I of the Act relates to the parliamentary franchise and its exercise. While retaining the machinery for the redistribution of seats introduced by the House of Commons (Redistribution of Seats) Act, 1944, *supra*, and the time-honoured distinction between county and borough constituencies, the Act entirely recasts the distribution of seats at parliamentary elections, abolishing altogether university and two-member constituencies (s. 1 (1) and Sched. I).

The parliamentary franchise is also placed on a new basis, the main alterations being, besides the disappearance of the university franchise, the abolition of the business premises qualification and the substitution of a qualifying date for the qualifying period in connection with the residence qualification, which is now to be the only qualification conferring the franchise (ss. 1 (2), (3), 2; and see s. 71 (3)). The exercise of the right to vote will, however, continue to depend on registration, while, on the other hand, no one will be permitted at a general election to vote as an elector in more than one constituency (s. 1 (2), proviso).

The law relating to the registration of electors is re-enacted on much the same lines as it was enacted by the Representation of the People Act, 1918, *supra*. This involves the retention of the system of registration officers (s. 4), as well as the re-establishment of the two annual registers of electors, the spring register and the autumn register (s. 5). But where two or more constituencies have the same registration officer, they will together form a registration area (s. 4 (2)). Moreover, there will be not only an absent voters list, but also a list of proxies and a list of persons entitled to vote by post as proxy, but all three lists are only to be prepared if and when a poll is to be taken (Sched. III, Part II, para. 15 (1)).

Special provision is made so as to enable persons who have or are about to acquire what the Act calls a "service qualification", to be registered on the strength of a "service declaration". The effect of such a declaration may be that the declarant is to be treated for the purposes of registration as having been resident on the qualifying date at an address at which he was not in fact residing, and the declaration may be made notwithstanding the declarant is not yet of age (s. 6).

The existing law as to the division of constituencies into polling districts and the designation of polling places is substantially re-enacted, provision being made that in the case of a county constituency each parish is, in the absence of special circumstances, to form a separate polling district or separate polling districts (s. 7).

On principle all persons voting as electors will have to do so in person at the polling station allotted to them under the Ballot Act, 1872, *supra*. Exception is, however, made (i) for persons registered as service voters; (ii) for persons unable or unlikely to go in person to the polling station for certain specified reasons; (iii) for persons unable or likely to be unable, by reason of blindness or some other physical incapacity, to go in person to the polling station, or, if able to go, to vote unaided; (iv) for persons unable or likely to be unable to go in person from their qualifying address to the polling station without making a journey by air or sea; and (v) for persons no longer residing at their qualifying address. Any such person may, in general, vote by post if he applies to be treated as an absent voter and furnishes an address in the United Kingdom to which a ballot paper is to be sent. A person registered as a service voter may vote by proxy, and so may a person not so registered if unable or likely to be unable to go in person to the polling station by reason either of the general nature of his occupation, service or employment, or of his service as a member of His Majesty's reserve or auxiliary forces, if he applies to be treated as an absent voter and is likely to be at sea or out of the United Kingdom on the date of the poll. Moreover, a person not registered as a service voter, if he is entitled to vote in person, but unable or likely to be unable to go in person to his polling station by reason of the particular circumstances of his employment, on the date of the poll, as a constable or, for election purposes, by the returning officer may vote at any other polling station of the constituency on production and surrender of a certificate as to employment. On the other hand, a person whose application to be treated as an absent voter is allowed is not entitled to vote in person (s. 8, in conjunction with Sched. III, Part III, para. 4 (1)).

An application to be treated as an absent voter is to be made to, and decided by, the registration officer, who is to keep a record of absent voters and the addresses furnished by them to which their ballot papers are to be sent. Such applications are, in general, to be for a particular election only, but in certain cases are to be for an indefinite period (s. 9).

Proxies are to be appointed by the registration officer by means of a proxy paper issued by him on the application of the elector. The appointment, which is free of stamp duty, may be cancelled by the elector by means of notice to the registration officer and will cease to be in force on the issue of a proxy paper appointing a different person to vote for the elector. Otherwise, it will remain in force for all elections for which the elector is registered pursuant to the same service declaration or, as the case may be, at which he is entitled to vote by proxy pursuant to the same application to be treated as an absent voter. A proxy must be a British subject of full age and not subject to any legal incapacity to vote at the election, and no person may vote as proxy at the same election in any constituency on behalf of more than two electors of whom that person is not the spouse, parent, grandparent, brother, sister, child or grandchild. A record of electors for whom proxies have been appointed and of the names and addresses of the persons appointed is to be kept by the registration officer (s. 10).

A proxy must, in general, vote in person at the elector's polling station, but the proxy of a person registered as a service voter may in certain circumstances vote by post if he applies so to do and furnishes an address in the United Kingdom to which a ballot paper can be sent. The application is to be made to the registration officer, who is to keep a record of all persons for the time being allowed to vote by post as proxy and of the addresses furnished by them to which their ballot papers are to be sent (s. 11).

The proceedings at a general election or bye-election are to be conducted in accordance with a time-table laid down in the Act, and there are new provisions

as to the procedure up to the poll, the poll itself, and the counting of votes. In particular, the period for the delivery of nomination papers is extended; any reference in the description of the candidate on his nomination paper to his political activities is prohibited; a deposit by means of a banker's draft may only be refused if the returning officer does not know that the drawer carries on business as a banker in the United Kingdom; provision is made for the issue of official poll cards to electors and their proxies; the candidate's spouse and his election agent are given the right to attend at the counting of the votes; and the returning officer is enabled to limit the number of the counting agents who may attend at the counting of the votes (s. 12 (1), in conjunction with Sched. III).

The Act also provides for the circumstances in which an infringement of the rules as to the conduct of elections is not to invalidate the elections (s. 12 (2)).

The register of electors and the special lists to be prepared under the Act (see *supra*) are to be conclusive for the purposes of an election on certain questions; and, as far as the poll and the counting of the votes are concerned, in fact conclusive on other questions (s. 13 (1)–(3)). There is also a very wide provision under which the misnomer or inaccurate description of a place or person in the register of electors or other document is not to affect the operation of that document with respect to that person or place where the description is such as to be commonly understood (s. 13 (4)).

In the event of a tie the returning officer is, by s. 14, no longer entitled to a casting vote; instead the decision in such a case is to be by lot.

The existing provisions as to the return or forfeiture of a candidate's deposit are re-enacted with some modifications. Most of the modifications are consequential, but the return of the deposit of a candidate who is elected is no longer dependent on his taking the oath as a member (s. 15).

The provisions in force as to returning officers at parliamentary elections and as to the discharge of their functions are substantially re-enacted, too. However, the returning officer is required to give to the acting returning officer written notice of any duties which he reserves to himself (ss. 16 and 17).

The existing law as to payments by and to the returning officer is also re-enacted without important modifications (s. 18). But there are no provisions corresponding to those of s. 6 of the Parliamentary Elections (Returning Officers) Act, 1875 (7 Halsbury's Statutes 457), which related to the use of ballot boxes, etc., provided for municipal or school board elections.

Supplementary provisions relate to infringements of secrecy and tampering with postal votes (s. 19) and breaches of official duty (s. 20).

Part II of the Act contains general provisions as to the local government franchise and its exercise. The franchise for local government elections, *i.e.*, elections of councillors under the Local Government Act, 1933 (26 Halsbury's Statutes 295), or the London Government Act, 1939 (32 Halsbury's Statutes 259), is similar to the parliamentary franchise (see *supra*), but in addition to the residential qualification there is a non-residential qualification based on the occupation as owner or tenant of rateable land or premises of the yearly value of not less than £10 (ss. 21 and 22). Here, again, the exercise of the right to vote continues to depend on registration, while, on the other hand, no one will be permitted, at an ordinary election for any local government area which is not a single electoral area, to vote as an elector in more than one electoral area (s. 21 (1), proviso).

Whenever a registration officer prepares a register of parliamentary electors, he is also to prepare a register of local government electors for the local government areas, or parts thereof, included in the area for which he acts; and the two registers are, so far as practicable, to be combined, the names of persons registered only as local government electors being marked to indicate that fact and a person entitled as a resident to be registered as an elector in any local government area not being entitled to be so registered as a non-resident. A service declaration made for parliamentary elections is also available for local government elections, and the only persons who may make special service declarations for local government elections are peers who are subject to a legal incapacity to vote at parliamentary elections (s. 23).

At any local government election the polling station allotted to electors from a parliamentary polling district wholly or partly within the electoral area is, in the absence of special circumstances, to be in the parliamentary polling place for that district unless the polling place is outside the electoral area; and any power to

constitute polling districts for local government elections is to be exercised with that in view (s. 24).

The provisions as to the manner and place of voting at local government elections are similar to those applicable to parliamentary elections as noted above. The most important differences are as follows: There is no exception from the general rule requiring voting at the elector's polling station in favour of persons no longer resident at their qualifying address. A person registered as a service voter may not vote by post as an absent voter. Postal voting is not allowed at rural district or parish elections. A person may not vote as an absent voter by proxy on the ground of the general nature of his occupation, service or employment, or of his service as a member of His Majesty's reserve or auxiliary forces. But where a person is registered, otherwise than as a service voter, at the same qualifying address as a parliamentary and as a local government elector and there is in force an appointment of a proxy for parliamentary elections based on the general ground of his occupation, service or employment, then, in respect of that registration, at local government elections at which postal voting is allowed, he is to be treated as an absent voter and may only vote by proxy (s. 25, in conjunction with Sched. IV, Part II, para. 7 (4)).

The provisions as to applications to be treated as an absent voter at local government elections are almost identical with those applicable to parliamentary elections (s. 26; and see *supra*).

Appointments of proxies for parliamentary elections have effect also for local government elections, and the only persons for whom the proxies may be specially appointed for local government elections are service voters who are peers and as such subject to a legal incapacity to vote at parliamentary elections. Otherwise the provisions as to proxies and voting by proxies are the same as, or similar to, those applicable in the case of parliamentary elections (s. 27; and see *supra*).

What the Act calls the "local elections rules", *i.e.*, Sched. II to the Local Government Act, 1933 (26 Halsbury's Statutes 474), and Sched. II to the London Government Act, 1939 (32 Halsbury's Statutes 354), are adapted in relation to voting by post or proxy and amended so as to bring them into conformity with the rules governing parliamentary elections as amended by the Act (s. 28 (1), (3), in conjunction with Sched. IV). However, it must not be assumed that all these rules are now identical. In particular, the provisions as to deposit and as to the issue of official poll cards are not adopted. On the other hand, it is provided that a candidate's consent to nomination is to contain a statement that he is qualified as required by law and that the statement is to give particulars of his qualification (s. 28 (2)).

There are also provisions as to when an infringement of the "local elections rules" is not to invalidate an election (s. 28 (4)), as to the effect of the register, etc. (s. 29), as to tampering with postal votes (s. 30), and as to breaches of official duty (s. 31). All these provisions are similar to the corresponding provisions applicable in the case of parliamentary elections and noted above.

Part III of the Act deals with corrupt and illegal practices and other matters relating to the election campaign. It amends and supplements, in particular, the Corrupt and Illegal Practices Prevention Act, 1883 (7 Halsbury's Statutes 465), and the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (7 Halsbury's Statutes 511). Some of its provisions apply only to parliamentary elections, some only to local government elections, and some to both parliamentary elections and local government elections. The following provisions may be noted here. There is a new limit of expenses for parliamentary elections, and the provisions as to declarations and returns as to expenses at such elections are also altered (s. 32, in conjunction with Sched. IX, Part II). The use of motor vehicles at parliamentary elections for conveying electors to or from the poll is restricted (s. 33). Candidates at parliamentary elections are given the right to send their election addresses free of postage (s. 34) and to use certain schools and halls for election meetings (s. 35, in conjunction with Sched. V). At the same time the category of schools in which committee rooms may not be set up is re-defined and extended (s. 36). Ss. 24 and 26–35 of the Act of 1883 (7 Halsbury's Statutes 476 *et seq.*), which relate to election agents and election expenses, are applied with modifications to local government elections, but this does not apply to parish elections, for which special provision is made (ss. 38, 39); and where there is no election agent, the candidate at a parliamentary or local government election is to be treated as his own election

agent (s. 44). No premises are to be rateable by reason of being used for holding election meetings (s. 41).

For the purposes of this Part of the Act, local government elections include municipal elections in the City of London, but the provisions of this Part apply to such elections only subject to modifications (s. 56).

Part IV of the Act contains special provisions as to local elections. The dates for the ordinary election of councillors are changed. Such elections are to be held, in the case of county councillors, in April and, in the case of other councillors, in May. But the Act defines in the first instance only the week in which the election is to be held, leaving it, in the case of borough councillors, to the Secretary of State and, in the case of other councillors, to the county council in question to fix the day of election. In connection with the change of dates the Act also enacts certain ancillary provisions and consequential amendments (s. 57, in conjunction with Sched. VI). The time-table for the election of county councillors and borough councillors is also recast, the time-limits being now the same in either case (s. 58). The provisions of s. 11 (2) and (3) of the London Government Act, 1939 (32 Halsbury's Statutes 270), which relate to the election of members of the London County Council, are re-enacted with modifications, the number of councillors being raised to three for each parliamentary constituency; and there are also ancillary provisions in connection therewith (s. 59). The ordinary election of parish councillors is in all cases to be conducted by means of nomination and, if necessary, a poll (s. 60); and provision is made for the extension of the hours of poll at district and parish elections in the same way as, under the Local Government (Hours of Poll) Act, 1938 (31 Halsbury's Statutes 411), in the case of county and borough elections (s. 61).

Part VI of the Act contains general provisions relating, *inter alia*, to the discharge of registration duties (s. 66); the payment and ascertainment of registration expenses (ss. 68 and 69); registration appeals (s. 70); superannuation rights (s. 72); the interpretation of the Act and application of local government provisions (ss. 71 (1), (2) and 75 *et seq.*, in conjunction with Sched. XII); the interpretation and adaptation of other Acts (s. 74 (1)–(3), in conjunction with Sched. X); a new form of writ for parliamentary elections (s. 74 (4), in conjunction with Sched. IX, Part I); repeals (ss. 74 (5), 80 (7), in conjunction with Scheds. XI and XIII); and the commencement of the provisions of the Act (see *supra*). [355]

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An Act to amend the law relating to parliamentary and local government elections and to corrupt and illegal practices, and for purposes connected therewith. [356] [30th July, 1948.]

PART I

PARLIAMENTARY FRANCHISE AND ITS EXERCISE

Operation of this Part of the Act.—Except where otherwise expressly provided, this Part of the Act is to come into force so as to enable the first register of electors prepared hereunder to be the autumn register of 1949, and is to have effect with respect to that register and subsequent registers under the Act and the elections for which they are used (s. 80 (1), *post*).

There is, however, a qualification to this general provision: the provisions of this Part relating to the constituencies which are to return members are, again except where otherwise expressly provided, to come into force for the purposes of the first general election after the passing of the present Act (namely, July 30, 1948), and are not to affect the present House of Commons or any right to vote at an election to fill a vacancy in a university constituency in the present House or the conduct of such an election. Certain advance preparations are also authorised (s. 80 (2), *post*). Moreover, none of the provisions of this Part is to apply in relation to any parliamentary bye-election begun before the provision in question comes into force (s. 80 (8), *post*), the beginning of an election for this purpose being the day on which notice of the election is given (s. 80 (10) (*b*), *post*).

Parliamentary franchise and distribution of seats

1. Constituencies and electors.—(1) Subject to any Order in Council hereafter made under the House of Commons (Redistribution of Seats) Act, 1944, there shall for the purpose of parliamentary elections be the county

and borough constituencies, each returning a single member, which are described in the First Schedule to this Act, and no other constituencies. [357]

(2) The persons entitled to vote as electors at a parliamentary election in any constituency shall be those resident there on the qualifying date who, on that date and on the date of the poll, are British subjects of full age and not subject to any legal incapacity to vote:

Provided that a person shall not be entitled to vote as an elector in any constituency unless registered there in the register of parliamentary electors to be used at the election nor, at a general election, to vote as an elector in more than one constituency. [358]

(3) The qualifying date for parliamentary elections shall be determined by reference to the date fixed for the poll as follows:—

(*a*) in Great Britain—

(i) where the date fixed for the poll is between the fifteenth day of March and the second day of October in any year, the qualifying date shall be, in England and Wales, the twentieth day of the preceding November and, in Scotland, the first day of the preceding December;

(ii) where the date fixed for the poll is between the first day of October in any year and the sixteenth day of the following March, the qualifying date shall in all parts of Great Britain be the fifteenth day of the preceding June;

(*b*) in Northern Ireland (subject to the following provisions of this Act)—

(i) where the date fixed for the poll is between the first day of April and the second day of October in any year, the qualifying date shall be the thirty-first day of October in the preceding year;

(ii) where the date fixed for the poll is between the first day of October in any year and the second day of the following April, the qualifying date shall be the thirteenth day of the preceding April. [359]

Commencement of section.—See note at the head of this Part of the Act, *ante*.

General note.—This section deals with the composition of the House of Commons and with the parliamentary franchise.

The composition of the House of Commons was previously governed (as far as Great Britain was concerned) by s. 37 of, and the Ninth Schedule to, the Representation of the People Act, 1918 (7 Halsbury's Statutes 569, 589), in conjunction with the Representation of the People (Reading University) Act, 1938 (7 Halsbury's Statutes 652), and the House of Commons (Redistribution of Seats) Acts, 1944 and 1947, *i.e.* the House of Commons (Redistribution of Seats) Act, 1944 (37 Halsbury's Statutes 389), as amended by the Representation of the People Act, 1945 (38 Halsbury's Statutes 67), and the House of Commons (Redistribution of Seats) Act, 1947 (40 Halsbury's Statutes 677).

The parliamentary franchise was previously regulated by Part I of the Act of 1918, as amed. by various statutes (see 7 Halsbury's Statutes 548), in conjunction with the Parliamentary Electors (War-Time Registration) Acts, 1943 and 1944 (*i.e.* the Parliamentary Electors (War-Time Registration) Act, 1943 = Part I of the Parliament (Elections and Meeting) Act, 1943; 36 Halsbury's Statutes 93), and the Parliamentary Electors (War-Time Registration) Act, 1944; 37 Halsbury's Statutes 238), with Part III of the Representation of the People Act, 1945, as amended by the Elections and Jurors Act, 1945 (38 Halsbury's Statutes 78), and with ss. 1 *et seq.* of the last-mentioned Act (38 Halsbury's Statutes 100 *et seq.*).

House of Commons (Redistribution of Seats) Act, 1944.—See *supra*.

As to the making of Orders in Council thereunder, see ss. 4 and 5 thereof, as set out in Sched. II, *post*.

Parliamentary election.—S. 17 of the Interpretation Act, 1889 (18 Halsbury's Statutes 1000) defined the expression "parliamentary election" as meaning "the election of a member or *members* to serve in Parliament for a county or division of a county, or parliamentary borough or division of a parliamentary borough, or for a university or combination of universities", but the words "or members" in this definition are repealed by s. 80 and Sched. XIII, *post*.

County and borough constituencies, etc.—Note that university constituencies and two-member constituencies are abolished.

Persons.—Under s. 19 of the Interpretation Act, 1889 (18 Halsbury's Statutes 1001), the expression "person", unless the contrary intention appears, includes any body of persons corporate or unincorporate. There can be no doubt, however, that the expression means here "individual" (cf. *Wills* v. *Tozer* (1904), 53 W. R. 74). But a person who is a corporation sole may, of course, be entitled to the franchise in his individual capacity (see *Harris* v. *Phillips*, [1891] 1 Q. B. 267).

Women are "persons" for this purpose, just as much as men (cf. s. 1 (1) of the Act of 1889; 18 Halsbury's Statutes 992, and Sex Disqualification (Removal) Act, 1919, s. 1; 10 Halsbury's Statutes 79).

Resident there.—Residence is now the sole basis of the franchise, the business premises and university franchises being abolished.

For rules for determining questions of residence, see s. 2, *post*.

As to the notional residence of persons with a service declaration in force, see also s. 6 (5) (*a*), *post*.

Qualifying date.—Note that there is no longer a qualifying period, and that the periods mentioned in sub-s. (3), *supra*, do not include the days by reference to which they are described, so that, where, for instance, the date fixed for the poll is March 15, the qualifying date in England and Wales is that laid down in sub-s. (3) (*a*) (ii), *supra*.

For special provisions where part of the register is not published in time, see s. 5 (3), *post*; and as to the qualifying date in connection with the first register prepared under the Act, see s. 80 (9) (*a*), *post*, and S.I. 1949 No. 327, reg. 72.

On that date and on the date of the poll.—This applies only to the words following, and the residence qualification need not exist at the date of the poll.

British subjects.—As from January 1, 1949, British nationality is governed by the British Nationality Act, 1948 (11 & 12 Geo. 6, c. 56). By virtue of s. 3 (2) of that Act, the present Act is to "continue to have effect in relation to citizens of Eire who are not British subjects in like manner as it has effect in relation to British subjects." See also as to a presumption in the case of a person with a service declaration in force, s. 6 (5) (*b*), *post*.

Of full age.—A person attains full age on the day preceding the anniversary of his twenty-first birthday (*Re Shurey, Savory* v. *Shurey*, [1918] 1 Ch. 263).

As to a presumption in the case of a person having a service declaration in force, see further s. 6 (5) (*b*), *post*.

Not subject to any legal incapacity to vote.—For definition of "legal incapacity", see s. 76 (1), *post*. See further, as to a presumption in the case of persons with a service declaration in force, s. 6 (5) (*b*), *post*.

Peers are disqualified from voting at common law, but the disqualification does not extend to a peer of Ireland who "shall for the time being be actually elected and shall not have declined to serve for any county, city or borough of Great Britain" (see *Rhondda's (Viscountess) Claim*, [1922] 2 A. C. 339, at p. 368, *per* Lord BIRKENHEAD, C.). Moreover, notwithstanding the repeal of s. 9 (5) of the Representation of the People Act, 1918 (7 Halsbury's Statutes 555), which enacted that the incapacity should not extend to peeresses in their own right, there can be no doubt that any incapacity of a peeress to vote in her own right which may have subsisted at common law is not revived by the present Act (cf. Interpretation Act, 1889, s. 38 (2); 18 Halsbury's Statutes 1005, and s. 80 (7), proviso (*a*), *post*). It is also clear that the incapacity does not extend to a peeress by marriage, nor, of course, to the holder of a courtesy title.

A candidate at a parliamentary election may vote if otherwise qualified (*Harwich Case, Robinson's Case* (1803), 1 Peck. 381, 383). So may a returning officer, the restrictions of s. 2 of the Ballot Act, 1872 (7 Halsbury's Statutes 428), being repealed by s. 80 and Sched. XIII, *post*.

Idiots are disqualified from voting at common law (see *Bedford (County) Case, Burgess' Case* (1785), 2 Lud. E. C. 381, 567; contrast *Oakhampton Case, Robin's Case* (1791), 1 Fras. 69, 162, and *Bridgewater Case, Tucker's Case* (1803), 1 Peck. 101, 108). But on general principles it would appear that a person of unsound mind may vote during a lucid interval (see *Beverley's Case* (1603), 4 Co. Rep. 123b).

By s. 2 of the Forfeiture Act, 1870 (5 Halsbury's Statutes (2nd Edn.) 841), a person who has been sentenced for treason or felony to death, or penal servitude, or any term of imprisonment with hard labour, or exceeding twelve months, is, until he has suffered the punishment to which he has been sentenced, or such other punishment as may be substituted therefor by competent authority, or receives a free pardon from His Majesty, disqualified from voting (except in Scotland); and it is to be noted in this connection that a "ticket-of-leave man" has not suffered his punishment and is still under sentence. By the Criminal Justice Act, 1948 (11 & 12 Geo. 6, c. 58), s. 1 (2), sentences of imprisonment with hard labour may no longer be imposed, and by s. 83 of, and Part I of Sched. X to, the same Act, the reference to hard labour in s. 2 of the Act of 1870 is, as respects England and Wales, repealed, but a subsisting disqualification attaching by virtue of a sentence of imprisonment with hard labour is not affected (see the Criminal Justice Act, 1948, s. 78 and Sched. VII, para. 2.

Numerous disqualifications from voting are also imposed by enactments relating to corrupt and illegal practices (see note to s. 5 ("Enactments imposing any disqualification, etc."), *post*).

Register of parliamentary electors, etc.—See s. 5, *post*.

2. Residence.—(1) For the purposes of the foregoing section, any question as to a person's residence on the qualifying date for an election shall be determined in accordance with the general principles formerly applied in determining questions arising under the Representation of the People Act, 1918, as to a person's residence on a particular day of the qualifying period, and in particular regard shall be had to the purpose and other circumstances,

as well as to the fact, of his presence at or absence from the address in question. [360]

(2) Without prejudice to the said general principles, a person's residence in a dwelling house shall not be deemed for the purposes of the foregoing section to have been interrupted—

(*a*) by reason of that person's absence in the performance of any duty arising from or incidental to any office, service or employment held or undertaken by him, if he intends to resume actual residence within six months of giving it up and will not be prevented by the performance of the duty aforesaid; or

(*b*) by reason of permission being given by letting or otherwise for its occupation furnished by some other person—

(i) if the permission is given in the expectation that throughout the period for which it is given the person giving it or his wife or her husband will be absent in the performance of any such duty as aforesaid; or

(ii) if the first mentioned person intends to resume actual residence within nine weeks of giving it up and will not be prevented by the permission given as aforesaid. [361]

(3) A person who is a patient in any establishment maintained wholly or mainly for the reception and treatment of persons suffering from mental illness or mental defectiveness, or who is detained in legal custody at any place, shall not by reason thereof be treated for the purposes aforesaid as resident there. [362]

Commencement of section.—See note at the head of this Part of the Act, *ante*.

General note.—This section relates to the determination of questions of residence for the purposes of s. 1, *ante*. Sub-s. (2) (*a*), *supra*, may be compared with s. 1 (1) of the Representation of the People Act, 1921, as amended by s. 9 (2) (*b*) of, and Sched. III to, the Economy (Miscellaneous Provisions) Act, 1926 (7 Halsbury's Statutes 646), and sub-s. (2) (*b*) with s. 7 (2) of the Representation of the People Act, 1918, as amended by the provisions just cited of the Act of 1926 (7 Halsbury's Statutes 553).

General principles formerly applied.—The term "residence" had been fairly clearly defined by a series of judicial decisions long before the Representation of the People Act, 1918 (see *infra*) was passed, the meaning of the term approximating to "inhabitance". In substituting the new test of residence on a "qualifying date" instead of for a "qualifying period" the Legislature was anxious not to be thought to imply that the old line of cases had ceased to apply. In enacting the present section it has been careful to preserve the case-law applicable to questions "as to a person's residence on a particular day of the qualifying period" rather than over the period itself.

The word "residence" implies "home" (*Barlow* v. *Smith* (1892), 9 T. L. R. 57); and actual residence is a question of fact in each case, sleeping on the premises not being conclusive (*R.* v. *Exeter (Mayor), Wescomb's Case* (1868), L. R. 4 Q. B. 110; *Oldham Case, Cobbett* v. *Hibbert and Platt, Baxter's Case* (1869), 20 L. T. 302, 308). Residence as a guest (*Horsham Case, Andrews' Case* (1866), 14 L. T. 274), or as a trespasser (*Beal* v. *Ford* (1877), 3 C. P. D. 73), does not seem to disqualify. And see *Tewkesbury Case, Marshall's Case* (1844), Bar. & Arn. 259.

The vote of a person who stayed occasionally in a house in which he kept two servants and allowed guests to stay was held good (*Northallerton Case, Johns* v. *Hutton, Whithorn* v. *Thomas* (1869), 1 O'M. & H. 171). If a voter's family are in the house, and he can return if he so wishes, his vote is good (*Berwick-on-Tweed Case, Robison's Case* (1860), Wolf. & B. 171). Mere absence does not disqualify if there is an intention to return (*Ipswich Case, Pisey's Case* (1838), Falc. & Fitz. 271).

Merely to warehouse furniture in a place after giving up possession of a house is not sufficient residence (*Bath Case, Walmsley's Case* (1857), Wolf. & D. 147). Absence by agreement, or on duty, making it impossible to be present on the qualifying date, is, subject to sub-s. (2), *supra*, a disqualification (see *Ford* v. *Pye* (1873), L. R. 9 C. P. 269; *Durant* v. *Carter* (1873), L. R. 9 C. P. 261; and *Ford* v. *Drew* (1879), 5 C. P. D. 59).

Representation of the People Act, 1918.—7 Halsbury's Statutes 548.

Dwelling house.—For meaning, see s. 76 (1), *post*.

Not be deemed to have been interrupted.—It must not be thought that actual residence need be uninterrupted at common law. Thus, in *Bond* v. *St. George, Hanover Square Overseers* (1870), L. R. 6 C. P. 312, BRETT, L.J., referred with approval to the statement of an author adopted by ERLE, C.J., in *Kidderminster Case, Powell* v. *Guest* (1864), 18 C. B. N. S. 72, at p. 80, that "in order to constitute residence a party must possess at least a sleeping apartment, but that an uninterrupted abiding at such dwelling is not requisite, and that absence, no matter how long, if there be the liberty of returning at any time, and no abandonment of the intention to return whenever it may suit the party's pleasure or convenience so to do, will not prevent a constructive legal residence." See also *Ipswich Case, Pisey's Case, supra*;

R. v. *Exeter* (*Mayor*), *Wescomb's Case*, *supra*; and *Taylor* v. *St. Mary Abbott Overseers* (1870), L. R. 6 C. P. 309.

Will not be prevented by the performance of the duty aforesaid.—For special provisions as to members of His Majesty's reserve or auxiliary forces, see s. 71 (3), *post*.

Sub-s. (3).—Note that this subsection deals only with the question of residence and not with that of incapacity to vote.

3. Adaptation of 7 & 8 Geo. 6, c. 41.—(1) The provisions contained in sections four to seven of, and the Third Schedule to, the House of Commons (Redistribution of Seats) Act, 1944, as amended by section thirty-three of the Representation of the People Act, 1945, and by the House of Commons (Redistribution of Seats) Act, 1947, shall, as from the passing of this Act, be further amended as hereafter mentioned in this section, and shall accordingly have effect as set out in the Second Schedule to this Act. [363]

(2) In section four the words " After the submission of their report under the last foregoing section " at the beginning of subsection (1), and the words " and the number of members which they recommend should be returned by each of them " in subsections (1) and (3) shall be omitted, and in subsection (2) for the words " an Act giving effect (whether with or without modifications) to the recommendations contained in the reports submitted by the Commissions under the last foregoing section " there shall be substituted the words " the Representation of the People Act, 1948 ". [364]

(3) In subsection (1) of section five, for the words " a parliamentary county or division of a parliamentary county or a parliamentary borough or division of a parliamentary borough " there shall be substituted the words " a county constituency or a borough constituency ". [365]

(4) Section six (which excepts university constituencies from the scope of the Act) shall be omitted, and for section seven there shall be substituted the following section :—

" 7. In this Act the expression ' constituency ' means an area having separate representation in the House of Commons." [366]

(5) In the Third Schedule—

(*a*) in rule 1, in the table showing the number of constituencies, for the words " 591 " there shall be substituted the words " 613 " ;

(*b*) there shall be omitted—

(i) paragraph (1) of rule 2, paragraph (2) of rule 5A, and the whole of rule 3 (which relate to two-member constituencies) and in paragraph (2) of the said rule 2 the word " other " ;

(ii) in rule 5, sub-paragraph (*b*) (i) of paragraph (1) (which relates to the constitution of parliamentary counties and boroughs in Scotland) and in the definition in paragraph (2) of the expression " county " the words " in sub-paragraph (*a*) " and the words from " and in sub-paragraph (*b*) " onwards ;

(iii) rule 7 (which provides for the continuance as a separate constituency of the City of London) ;

(iv) in rule 8, the words " or, in applying these rules for the purpose of section three of this Act," and the following words in sub-paragraph (*a*) (i) of paragraph (1), the words " or any part thereof " and the words " or that part thereof " and the following words in sub-paragraph (*b*) (i) of that paragraph and the whole of paragraph (2) ; and

(*c*) in lieu of the said rule 7 there shall be inserted immediately before rule 5 the following rule :—

" 4A. There shall continue to be a constituency which shall include the whole of the City of London and the name of which shall refer to the City of London ". [367]

Commencement of section.—See note at the head of this Part of the Act, *ante*.
General note.—This section brings the House of Commons (Redistribution of Seats) Act, 1944 (37 Halsbury's Statutes 389) into line with the new electoral provisions.
House of Commons (Redistribution of Seats) Act, 1944, *ss.* 4–7 *and Sched. III.*—37 Halsbury's Statutes 392 *et seq.*, 396.
Representation of the People Act, 1945, *s.* 33.—38 Halsbury's Statutes 92.
House of Commons (Redistribution of Seats) Act, 1947.—40 Halsbury's Statutes 677.
Passing of the Act.—July 30, 1948.

Registration of parliamentary electors

4. Registration officers and areas.—(1) For the registration of electors there shall be electoral registration officers (in this Act referred to as " registration officers "). [368]

(2) In England and Wales, there shall be a registration officer for each constituency, and that officer shall be—

(*a*) in the case of a county constituency which is coterminous with or wholly contained in one county, or of a borough constituency which is coterminous with or wholly contained in a borough or urban district, the clerk of the authority for that county or that borough or district;

(*b*) in any other case, the clerk of the authority for such county or such borough or urban district as the Secretary of State may by order direct;

and any two or more constituencies having the same registration officer shall together form a registration area, which shall be known by the name of the area of the authority whose clerk is registration officer. [369]

(3) In Scotland, the assessor of any county or large burgh shall be the registration officer for any constituency or part of a constituency which is situated within that county or large burgh, and where there is more than one assessor of a county or large burgh such one of them as may be appointed by the county or town council for the purposes of this Act shall be the registration officer and all other assessors thereof shall for the said purposes be subject to and shall act on his instructions. [370]

(4) In Northern Ireland, the county borough of Belfast and each county shall be a registration area, and the town clerk of Belfast or the secretary to the county council, as the case may be, shall be the registration officer for any constituency or part of a constituency in that area; and for the purposes of this subsection the county borough of Londonderry shall be deemed to be included in the county of Londonderry. [371]

This section replaces with modifications s. 12 of the Representation of the People Act, 1918 (7 Halsbury's Statutes 555). It should be read in conjunction with s. 66, *post*, as to the discharge of registration duties, and with S.I. 1949 No. 327, reg. 21, as to the delegation of certain registration duties.
Commencement of section.—See note at the head of this Part of the Act, *ante*.
County constituency; borough constituency.—Cf. s. 1 (1), *ante*.
Coterminous.—This means having the same area.
County.—For definition, see s. 77 (1), *post*.
Borough.—This includes a metropolitan borough and the City of London (s. 77 (1), (4), *post*).
Clerk of the authority.—This means, in relation to a borough (including a metropolitan borough), the town clerk, and, in relation to the City of London, the secondary (*s.* 77, *post*).

5. Registers of electors.—(1) It shall be the duty of every registration officer to prepare and publish in each year, for each constituency or part of a constituency in the area for which he acts, the following registers of parliamentary electors:—

(*a*) a spring register which, except in Northern Ireland, shall be published not later than the fifteenth day of March and used for elections at which the date fixed for the poll is between that day and the second day of the following October; and

(*b*) an autumn register which, except in Northern Ireland, shall be published not later than the first day of October and used for elections at which the date fixed for the poll is between that day and the sixteenth day of the following March. [372]

(2) In Northern Ireland—

(*a*) the spring register shall be published not later than the first day of April and used for elections at which the date fixed for the poll is between that day and the second day of the following October; and

(*b*) the autumn register shall be published not later than the first day of October and shall be used for elections at which the date fixed for the poll is between that day and the second day of the following April:

Provided that the interval in Northern Ireland between the qualifying date and the date of publication of the register may be altered by regulations by changing either date, and any such regulations may make such consequential provisions (including the modification of any enactment contained in this or any other Act) as may appear to the Secretary of State to be necessary. [373]

(3) If any part of a register is not published within the time required by this section, then until the day following that on which it is published the corresponding part of the previous register (whether prepared under this Act or not) shall continue in use, and where any part of the register used at an election is a part continued in force by this subsection, this Act shall have effect in relation to the election and the area to which that part relates as if the qualifying date by reference to which that part was prepared were the qualifying date for the election. [374]

(4) Subject to any enactment imposing any disqualification for registration as a parliamentary elector, all persons who may be entitled to vote as electors at elections for which any register is to be used shall be entitled to be registered therein:

Provided that a person who on the qualifying date has a service qualification shall not be entitled to be registered except in pursuance of a service declaration made in accordance with the next following section and in force on that date. [375]

(5) With a view to the preparation of the register, the registration officer shall—

(*a*) have a house to house or other sufficient inquiry made as to the persons entitled to be registered (excluding persons entitled to be registered in pursuance of a service declaration);

(*b*) have prepared and published electors lists showing the persons appearing to him to be entitled to be registered together with their qualifying addresses;

(*c*) except in Northern Ireland, determine all claims for registration duly made by any person, and all objections to any person's registration duly made by another person appearing from the electors lists to be himself entitled to be registered. [376]

(6) In Northern Ireland all such claims and objections as aforesaid shall be determined by a revising officer, who shall be, for any area, the person having the like duty for the purpose of elections of members to serve in the House of Commons of Northern Ireland, and in relation to the determination of claims and objections in Northern Ireland references in this Act to the registration officer shall be construed as references to the revising officer. [377]

This section, together with s. 23, *post*, replaces with modifications ss. 11 and 13 of the Representation of the People Act, 1918 (7 Halsbury's Statutes 555, 556), and parts of Sched. I thereto (7 Halsbury's Statutes 572). By s. 9 of the Representation of the People (Economy Provisions) Act, 1926 (7 Halsbury's Statutes 649), only one register for each year was to be prepared, and by s. 2 of the Local Elections and Register of Electors (Temporary Provisions) Act, 1939 (32 Halsbury's Statutes 1232), the operation of which was extended to March 31, 1945, the obligation to prepare registers of electors was suspended. Special provision for war-time parliamentary elections was made by the Parliamentary Electors (War-Time

Registration) Acts, 1943 and 1944 (see note to s. 1, *supra*), and further temporary provisions as to registration were enacted by Part III of the Representation of the People Act, 1945, as amended by the Elections and Jurors Act, 1945 (38 Halsbury's Statutes 78), and by the last-mentioned Act (38 Halsbury's Statutes 105) itself.

The present section is supplemented by rr. 1 *et seq.* of S.I. 1949 No. 327.

Commencement of section.—See the note at the head of this Part of the Act, *ante*.

Registration officer.—See s. 4, *ante*, and s. 66, *post*.

Shall be published not later than, etc.—As to the date of publication of the first register prepared under the Act, see s. 80 (9) (*a*), *post*, and S.I. 1949 No. 327, reg. 72.

Enactment imposing any disqualification, etc.—See the Corrupt and Illegal Practices Prevention Act, 1883 (7 Halsbury's Statutes 465), the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (7 Halsbury's Statutes 511), the Public Bodies Corrupt Practices Act, 1889 (5 Halsbury's Statutes (2nd Edn., 919), the Corrupt and Illegal Practices Prevention Act, 1895 (7 Halsbury's Statutes 543), the Municipal Elections (Corrupt and Illegal Practices) Act, 1911 (7 Halsbury's Statutes 546), and Part III of this Act and the notes thereto, *post*, especially ss. 4, 6 (3), 10, 11, 38 (5), (10) and 43 (4) of the Act of 1883 (7 Halsbury's Statutes 467 *et seq.*, 485, 487, 491), ss. 2, 3 (1), 7, 8, 23, 28 (4) of, and Sched. III, Part II to, the Act of 1884 (7 Halsbury's Statutes 511, 512, 514, 521, 524, 533), and s. 2 (*d*) of the Act of 1889 (5 Halsbury's Statutes (2nd Edn.) 920), in conjunction with ss. 52, 53 (2) and 55, *post*.

Who may be entitled to vote, etc.—Cf. ss. 1 and 2, *ante*, and notes thereto. But note that the Act says "may be" and not "are".

Qualifying date.—See s. 1 (3), *ante*; and see also s. 80 (9) (*a*), *post*, and S.I. 1949 No. 327, reg. 72.

Service qualification.—See s. 6 (1), *post*, and S.I. 1949 No. 327, reg. 54.

Appeals.—As to appeals from decisions of registration officers on claims for registration or objections to a person's registration, see s. 70, *post*.

6. Service qualification.—(1) The following persons shall have a service qualification for the purpose of this Act, namely,—

(*a*) any person who is a member of the forces;

(*b*) any person who is employed in the service of the Crown in a post outside the United Kingdom of any prescribed class or description;

(*c*) any woman who is the wife of a person having a service qualification and is residing outside the United Kingdom to be with her husband;

so, however, that where a person leaves the United Kingdom to take up employment or residence as aforesaid or returns to the United Kingdom at the end of such employment or residence, the employment or residence shall be deemed to begin from the time of leaving or to continue until the time of returning, as the case may be. [378]

(2) A service declaration shall be made only by a person who has a service qualification or, subject to any prescribed conditions, by a person about to leave the United Kingdom in such circumstances as to acquire a service qualification. [379]

(3) A service declaration may be made by such a person notwithstanding the fact that by reason of his age he is not yet entitled to be registered or to vote. [380]

(4) A service declaration shall state—

(*a*) the date of the declaration, and that on that date the declarant was a British subject; and

(*b*) whether the declarant had on the date of the declaration attained the age of twenty-one years, and, if he had not, the date of his birth; and

(*c*) that on the date of the declaration the declarant was, or but for the circumstances entitling him to make the declaration would have been, residing at an address specified in the declaration; and

(*d*) such particulars (if any) as may be prescribed of the declarant's identity and service qualification;

and shall be attested in the prescribed manner. [381]

(5) A person whose service declaration is in force on the qualifying date—

(*a*) shall be treated for the purposes of registration as resident at the address specified in the declaration; and

(*b*) shall, until the contrary is proved, be treated also for those purposes as being a British subject of the age appearing from the declaration and as not being subject to any legal incapacity except as appears therefrom. [382]

(6) Where a service declaration appearing to be properly made out and attested is transmitted to the registration officer in the proper manner, the declarant shall, until the contrary is proved, be treated for the purposes of registration as having had from the date of the declaration or such later date if any as appears therefrom, and as continuing to have, a service qualification. [383]

(7) If a person makes a service declaration declaring to more than one address, or makes more than one service declaration bearing the same date and declaring to different addresses, the declaration or declarations shall be void. [384]

(8) A service declaration may at any time be cancelled by the declarant and, subject to the last foregoing subsection, a service declaration bearing a later date shall, without any express cancellation, cancel a declaration bearing an earlier date. [385]

(9) A service declaration, if not cancelled, shall continue in force so long as the declarant has a service qualification, except in so far as regulations provide that it shall cease to be in force on a change in the circumstances giving the service qualification. [386]

(10) Any person who—

(*a*) makes a service declaration—

(i) when he is not authorised so to do by subsection (2) of this section; or

(ii) except as permitted by this Act, when he knows that he is subject to a legal incapacity to vote; or

(iii) when he knows that it contains a statement which is false; or

(*b*) attests a service declaration when he knows that he is not authorised to do so or that it contains a false statement as to any particulars required by regulations under this section;

shall be liable on summary conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months or to both, or on conviction on indictment to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both. [387]

This section supplements s. 5 (4), *ante*. It may be regarded as replacing s. 8 of the Parliament (Elections and Meeting) Act, 1943 (36 Halsbury's Statutes 97), which related to the service register provided for by s. 1 (3) of that Act (36 Halsbury's Statutes 93), and is supplemented by Part IV of S.I. 1949 No. 327.

Commencement of section.—See the note at the head of this Part of the Act, *ante*.

Member of the forces.—For meaning, see s. 71 (1), (2), *post*.

United Kingdom.—This means Great Britain and Northern Ireland (Royal and Parliamentary Titles Act, 1927, s. 2 (2); 4 Halsbury's Statutes (2nd Edn.) 192). The expression does not, therefore, include the Isle of Man or the Channel Islands.

Prescribed.—See s. 76 (1), (4), *post*, and S.I. 1949 No. 327, regs. 53–55 and 57.

To be with her husband.—Note the words "to be".

British subject; Attained the age of twenty-one years.—See the notes to s. 1, *ante*.

Qualifying date.—See s. 1 (3), *ante*; and see also s. 80 (9) (*a*), *post*, and S.I. 1949 No. 327, reg. 72.

Legal incapacity.—For definition, see s. 76 (1), *post*.

Registration officer.—See s. 4, *ante*, and s. 66, *post*.

Regulations.—See s. 76 (4), *post*, and S.I. 1949 No. 327, reg. 60 (cf. also reg. 61).

Place and manner of voting at parliamentary elections

7. Polling districts and polling places.—(1) Every constituency shall be divided into polling districts and, subject to the provisions of this section, there shall be a polling place designated for each polling district. [388]

(2) It shall be the duty, in England and Wales, of the local authority whose clerk is registration officer and, in Scotland, of the returning officer

to make the division into polling districts and to designate the polling places, and to keep the polling districts and polling places under review, in accordance with the following rules, that is to say :—

(*a*) the local authority or returning officer shall exercise the powers conferred by this section with a view to giving all electors in the constituency such reasonable facilities for voting as are practicable in the circumstances ;

(*b*) in the case of a county constituency, each parish or, in Scotland, each electoral division shall in the absence of special circumstances be a separate polling district or districts ;

(*c*) the polling place for any polling district shall be an area in that district, except where special circumstances make it desirable to designate an area wholly or partly outside the polling district, and shall be small enough to indicate to electors in different parts of the polling district how they will be able to reach the polling station ;

(*d*) a polling place need not be designated for any polling district, if the size and other circumstances of the district are such that the situation of the polling stations does not materially affect the convenience of the electors or any body of them ;

(*e*) before deciding on any scheme relating to the division into polling districts of a constituency wholly or partly in the county of London, the local authority shall send a draft of the scheme to the London County Council and take into consideration any representations made to them by that council. [389]

(3) In the case of a polling district for which no polling place is designated, the polling district shall be taken to be the polling place for the purpose of the enactments relating to parliamentary elections. [390]

(4) If any interested authority or not less than thirty electors in a constituency make a representation to the Secretary of State that the powers conferred by this section have not been exercised so as to meet the reasonable requirements of the electors in the constituency or any body of those electors, the Secretary of State shall consider the representation and may, if he thinks fit,—

(*a*) direct the local authority or, in Scotland, returning officer by whom the powers are exercisable to make any alterations which the Secretary of State thinks necessary in the circumstances ; and

(*b*) if the local authority or returning officer fails to make those alterations within a month after the direction is given, himself make the alterations ;

and any alterations made by the Secretary of State under this subsection shall have effect as if they had been made by the local authority or returning officer.

In this subsection the expression " interested authority " means a local authority within whose area the constituency is wholly or partly situated, and for the purposes of this definition the expression " local authority " means as respects England and Wales any county, borough, district or parish council (or, where there is no parish council, parish meeting), and as respects Scotland any county, town or district council. [391]

(5) On the exercise of any power given by this section the local authority or returning officer shall publish in the constituency a notice showing the boundaries of any polling districts or polling places constituted as a result of the exercise of the power and, unless the power was exercised by the Secretary of State, shall also send him a report giving the same information. [392]

(6) Subsections (2) to (5) of this section shall not apply to Northern Ireland, and in Northern Ireland the polling districts and polling places shall be those for the time being established under the law relating to the

election of members to serve in the House of Commons of Northern Ireland. [393]

(7) Regulations may provide for adapting the register in force for the time being to any alteration of polling districts, and may make special provision for cases where any alteration of polling districts is made between the publication of any electors lists and the coming into force of the register prepared from those lists, but except in cases for which provision is so made by regulations an alteration of polling districts shall not be effective until the coming into force of the first register prepared from electors lists published after the alteration is made. [394]

(8) An election shall not be questioned by reason of any non-compliance with the provisions of this section or any informality relative to polling districts or polling places. [395]

This section substantially re-enacts, with minor modifications, s. 31 of the Representation of the People Act, 1918 (7 Halsbury's Statutes 566).

Commencement of section.—See the note at the head of this Part of the Act, *ante*.

Local authority whose clerk is registration officer.—See s. 4, *ante*, and s. 77, *post*.

County constituency.—Cf. s. 1 (1), *ante*.

County.—For definition, see s. 77 (1), *post*.

Borough . . . or parish council.—"Borough council" includes the council of a metropolitan borough and the common council of the City of London (see s. 77 (1), (4), *post*). For definition of "parish", see s. 77 (1), *post*.

Regulations.—See s. 76 (4), *post*, and S.I. 1949 No. 327, reg. 23.

Between the publication of any electors lists.—See s. 5 (5) (*b*), *ante*.

8. Place and manner of voting as elector.—(1) All persons voting as electors at a parliamentary election shall do so in person at the polling station allotted to them under the Ballot Act, 1872, except in so far as this section makes exceptions for—

(*a*) those registered as service voters;

(*b*) those unable or likely to be unable to go in person to the polling station for one of the following reasons:—

(i) the general nature of the occupation, service or employment of the person in question;

(ii) that person's service as a member of any of His Majesty's reserve or auxiliary forces;

(iii) the particular circumstances of that person's employment on the date of the poll either as a constable or, for a purpose connected with the election, by the returning officer;

(iv) at a general election, the candidature in some other constituency of that person or that person's wife or husband;

(v) at a general election, the fact that that person is acting as returning officer for some other constituency;

(vi) at a general election, the particular circumstances of that person's employment on the date of the poll by the returning officer for some other constituency for a purpose connected with the election in that constituency;

(*c*) those unable or likely to be unable, by reason either of blindness or any other physical incapacity, to go in person to the polling station or, if able to go, to vote unaided;

(*d*) those unable or likely to be unable to go in person from their qualifying address to the polling station without making a journey by air or sea;

(*e*) those no longer residing at their qualifying address. [396]

(2) A person registered as a service voter may vote by proxy unless either—

(*a*) he is entitled in pursuance of an application made under subsection (4) of this section to vote by post; or

(*b*) he applies for a ballot paper to vote in person before a ballot paper has been issued for him to vote by proxy;

but (where there is in force an appointment of a proxy to vote for him) shall not be entitled to vote in person unless he does so apply. [397]

(3) A person not registered as a service voter if unable or likely to be unable to go in person to the polling station by reason either—

(*a*) of the general nature of his occupation, service or employment; or

(*b*) of his service as a member of any of His Majesty's reserve or auxiliary forces;

may vote by proxy if he applies to be treated as an absent voter and is likely to be at sea or out of the United Kingdom on the date of the poll. [398]

(4) Any of the persons mentioned in paragraphs (*a*) to (*e*) of subsection (1) of this section may vote by post if he applies to be treated as an absent voter and furnishes an address in the United Kingdom to which a ballot paper is to be sent for the purpose:

Provided that—

(*a*) a person shall not be entitled to vote by post if he is not registered as a service voter and there is in force an appointment of a proxy to vote for him; and

(*b*) a person shall not be entitled to vote by post on the ground that he no longer resides at his qualifying address if at the time of his application he resides at an address in the same area; and

(*c*) a person registered as a service voter shall not be entitled to vote by post on any ground other than his being so registered. [399]

(5) At an election for which a person's application to be treated as an absent voter is allowed, he shall not be entitled to vote in person. [400]

(6) A person not registered as a service voter, if he is entitled to vote in person, but unable or likely to be unable to go in person to the polling station allotted to him by reason of the particular circumstances of his employment on the date of the poll either as a constable or, for a purpose connected with the election, by the returning officer, may vote at any polling station of the constituency. [401]

(7) For the purposes of subsection (4) of this section, two addresses shall be deemed to be in the same area if they satisfy one of the following conditions, but not otherwise, that is to say—

(*a*) both are within the area of the same borough or urban district;

(*b*) both are within the area of the same parish in England or Wales, or of the same electoral division in Scotland, or of the same rural district in Northern Ireland. [402]

(8) Nothing in this section shall be taken as conferring a right to vote on a person not having the right apart from this section. [403]

Commencement of section.—See the note at the head of this Part of the Act, *ante*.

Parliamentary election.—See note to s. 1, *ante*.

Ballot Act, 1872.—7 Halsbury's Statutes 427. As to the allotment of ballot stations thereunder, see Sched. I, para. 15 thereto (7 Halsbury's Statutes 439).

Service voters.—For meaning, see s. 76 (1), *post*.

Returning officer; Acting as returning officer.—See ss. 16 and 17, *post*.

Qualifying address.—This clearly means the address at which the elector is registered as a resident (cf. s. 1 (2), *ante*; and see also s. 26 (3) (*b*), *post*).

Vote by proxy.—See ss. 10 and 11, *post*.

Appointment of proxy in force.—See s. 10, *post*.

Applies to be treated as an absent voter.—See s. 9, *post*.

United Kingdom.—See note to s. 6, *ante*.

May vote by post.—As to the issue and receipt of postal ballot papers, see Sched. III, Part II, para. 17, *post*.

May vote at any polling station, etc.—But see, as to the production and surrender of a certificate as to employment where he votes elsewhere than at his own polling station, Sched. III, Part III, para. 4, *post*.

Borough.—This includes a metropolitan borough and the City of London (s. 77 (1), (4), *post*).

Parish.—For definition, see s. 77 (1), *post*.

9. Determination of right to be treated as absent voter.—(1) An application to be treated as an absent voter at parliamentary elections shall be made to the registration officer and shall be allowed by him if he is satisfied that the applicant is, or will if registered be, entitled under the last foregoing section to vote as an absent voter. [404]

(2) The application shall be for a particular election only, unless it is based on—

(*a*) the general nature of the applicant's occupation, service or employment; or

(*b*) the applicant's physical incapacity; or

(*c*) the necessity of a journey by sea or air to go from the applicant's qualifying address to his polling station; or

(*d*) the ground that the applicant no longer resides at his qualifying address. [405]

(3) An application based on one of the grounds mentioned in the last foregoing subsection shall be for an indefinite period but, where such an application is allowed, the applicant shall cease to be entitled to be treated as an absent voter in pursuance thereof if—

(*a*) he applies to the registration officer to be no longer so treated; or

(*b*) he ceases to be registered at the same qualifying address or becomes so registered as a service voter; or

(*c*) the registration officer gives notice that he has reason to believe there has been a material change of circumstances, and the prescribed period elapses after the giving of the notice. [406]

(4) The registration officer shall keep a record of absent voters and of the addresses furnished by them as the addresses to which their ballot papers are to be sent. [407]

Commencement of section.—See the note at the head of this Part of the Act, *ante*.
General note.—This section supplements s. 8 (3) and (4), *ante*, and is itself supplemented by regs. 25, 26 (1), (5) and 66 of S.I. 1949 No. 327.
Application to be treated as absent voter at parliamentary elections.—See s. 8, *ante*.
Registration officer.—See s. 4, *ante*, and s. 66, *post*.
Qualifying address.—See note to s. 8, *ante*.
His polling station.—Cf. s. 8 (1), *ante*.
Service voter.—For definition, see s. 76 (1), *ante*.
Prescribed.—See s. 76 (1), (4), *post*, and S.I. 1949 No. 327, reg. 25 (5).
Record of absent voters, etc.—This should not be confused with the "absent voters list" defined in para. 15 (1) (*a*) of Part II of Sched. III, *post*.
Addresses furnished by them, etc.—See s. 8 (4), *ante*.
Appeals.—As to appeals from decisions of registration officers under this section, see s. 70, *post*.

10. Proxies.—(1) A person shall not be entitled to have more than one person at a time appointed as proxy to vote for him at parliamentary elections. [408]

(2) A person shall not be capable of being appointed to vote, or voting, as proxy at a parliamentary election unless he is a British subject of full age and not subject to any legal incapacity to vote thereat as an elector, and a person shall not be entitled to vote as proxy at the same election in any constituency on behalf of more than two electors of whom that person is not the husband, wife, parent, grandparent, brother, sister, child or grandchild. [409]

(3) Subject to the foregoing provisions of this section, any person shall be capable of being appointed proxy to vote at a parliamentary election and may vote in pursuance of the appointment. [410]

(4) The appointment shall be made by the registration officer by means of a proxy paper issued by him on the application of the elector, and it shall be the duty of the registration officer to issue a proxy paper in pursuance of any application duly made to him, if he is satisfied—

(*a*) that the applicant is or will be registered for elections to which the application relates and entitled in respect of that registration to have a proxy appointed; and

(*b*) that the proxy is capable of being and willing to be appointed. [411]

(5) The appointment may be cancelled by the elector by giving notice to the registration officer and shall cease to be in force on the issue of a proxy paper appointing a different person to vote for him, whether in respect of the same registration or elsewhere, but, subject to that, shall remain in force—

(*a*) in the case of an appointment for a person registered as a service voter, for all elections for which he is registered in pursuance of the same service declaration; and

(*b*) in the case of an appointment for a person not registered as a service voter, for all elections at which he is entitled to vote by proxy in pursuance of the same application to be treated as an absent voter. [412]

(6) Stamp duty shall not be chargeable on any instrument appointing a proxy under this section. [413]

(7) The registration officer shall keep a record of electors for whom proxies have been appointed and of the names and addresses of the persons appointed. [414]

Commencement of section.—See the note at the head of this Part of the Act, *ante.*
Parliamentary elections; British subject of full age, etc.—See the notes to s. 1, *ante.*
Registration officer.—See s. 4, *ante*, and s. 66, *post.*
Entitled . . . to have a proxy appointed.—See s. 8 (2), (3), *ante.*
Service voter.—For definition, see s. 76 (1), *ante.*
Same service declaration.—See s. 6, *ante.*
Same application to be treated as an absent voter.—See s. 9, *ante.*
Record of electors, etc.—This should not be confused with the "list of proxies" defined in para. 15 (1) (*b*) of Part II of Sched. III, *post.*
Regulations.—This section is supplemented by regs. 27 *et seq.* and 66 of S.I. 1949 No. 327.

11. Place and manner of voting as proxy.—(1) A person voting as proxy for an elector at a parliamentary election shall do so in person at the elector's polling station, except in so far as this section entitles the proxy of a person registered as a service voter (in this section referred to as "a service voter's proxy") to vote by post. [415]

(2) A service voter's proxy may exercise the right to vote as such at a parliamentary election by post if—

(*a*) he applies so to do and furnishes an address in the United Kingdom to which a ballot paper is to be sent for the purpose; and

(*b*) either—

(i) he is entitled to vote by post as an absent voter at the election; or

(ii) the said address is not in the same area as the service voter's qualifying address. [416]

(3) For the purposes of this section, two addresses shall be deemed to be in the same area if they satisfy one of the following conditions, but not otherwise, that is to say—

(*a*) both are within the area of the same borough or urban district;

(*b*) both are within the area of the same parish in England and Wales, or of the same electoral division in Scotland, or of the same rural district in Northern Ireland. [417]

(4) A service voter's proxy shall not be entitled to exercise the right to vote as such in person at any election for which his application to exercise that right by post is allowed. [418]

(5) Any such application shall be made to the registration officer and shall be allowed by him in any case where he is satisfied that the service

voter is or will be registered as such for elections to which the application relates, and that there is in force an appointment of the applicant as his proxy to vote in respect of that registration, and that the conditions entitling the applicant to vote by post are fulfilled. [419]

(6) Where any such application is based on the applicant's right to vote by post as an elector, then—

(*a*) if that right extends only to a particular election, the application shall also extend only to that election;

(*b*) in any other case, the application shall be for an indefinite period but, where it is allowed, the applicant shall cease to be entitled to vote by post in pursuance thereof if—

(i) he ceases to have the right to vote by post as an elector, or has that right only by virtue of a new application; or

(ii) he ceases to be proxy for the service voter, or is so only by virtue of a new appointment. [420]

(7) Where any such application is based on the situation of the address to which the ballot paper is to be sent, it shall be for an indefinite period but, if it is allowed, the applicant shall cease to be entitled to vote by post in pursuance thereof if—

(*a*) he applies for a ballot paper not to be sent to that address; or

(*b*) he ceases to be proxy for the service voter, or is so only by virtue of a new appointment. [421]

(8) The registration officer shall keep a record of the persons whose applications to vote by post as proxy are for the time being allowed and of the addresses furnished by them as the addresses to which their ballot papers are to be sent. [422]

Commencement of section.—See note at the head of this Part of the Act, *ante.*
Parliamentary election.—See note to s. 1, *ante.*
The elector's polling station.—See s. 8 (1), *ante.*
Service voter.—For definition, see s. 76 (1), *post.*
United Kingdom.—See the notes to s. 6, *ante.*
Entitled to vote by post, etc.—See s. 8 (4), (7), (8), *ante.*
Qualifying address.—See the notes to s. 8, *ante.*
Borough.—This includes a metropolitan borough and the City of London (s. 77 (1), (4), *post*).
Parish.—For definition, see s. 77 (1), *post.*
Registration officer.—See s. 4, *ante*, and s. 66, *post.*
Appointment of proxy in force.—See s. 10, *ante.*
If that right extends only to a particular election.—Cf. s. 9 (2), *ante.*
He ceases to have the right to vote by post as an elector.—Cf. s. 9 (3), *ante.*
He ceases to be proxy for the service voter.—See s. 10 (5), *ante.*
Record of the persons, etc.—This should not be confused with the list mentioned in para. 15 (1) (*c*) of Sched. III, Part II, *post.*
Regulations.—This section, in so far as it relates to voting by post, is supplemented by regs. 32, 33, 66 and 73 (2) (*b*) of S.I. 1949 No. 327.

Conduct of parliamentary elections

12. Timetable and procedure.—(1) The proceedings at a parliamentary election shall be conducted in accordance with the timetable laid down for general elections and bye-elections respectively by the first and second, and by the first and third, columns of Part I of the Third Schedule to this Act, and Parts II to V of that Schedule (which replace section one of, and rules 1 to 13 of the First Schedule to, the Ballot Act, 1872, as to nomination, and replace or amend the enactments as to matters after nomination) shall have effect with respect to those proceedings. [423]

(2) No parliamentary election shall be declared invalid by reason of any act or omission of the returning officer or any other person in breach of his official duty in connection with the election or otherwise of the rules contained in either of the said Schedules if it appears to the tribunal having cognizance of the question that the election was so conducted as to be substantially in accordance with the law as to elections and that the act or omission did not affect its result. [424]

Commencement of section.—See the note at the head of this Part of the Act, *ante.*
Parliamentary election.—See note to s. 1, *ante.*
Ballot Act, 1872.—For s. 1 thereof and Sched. I, rr. 1–13 thereto, see 7 Halsbury's Statutes 427, 436 *et seq.*
Sub-s. (2).—This subsection replaces s. 13 of the Ballot Act, 1872 (7 Halsbury's Statutes 433), though the provisions vary in detail.
As to the subsection, cf. generally, *Greenock Case, Christie* v. *Grieve* (1869), 1 O'M. & H. 247; *Hackney Case, Gill* v. *Reed and Holms* (1874), 2 O'M. & H. 77; *Birmingham Case, Woodward* v. *Sarsons* (1875), L. R. 10 C. P. 733; *Gothard* v. *Clarke* (1880), 5 C. P. D. 253; *Eastern Division of Clare Case, Cox* v. *Redmond* (1892), 4 O'M. & H. 162; and *Baldwin* v. *Ellis*, [1929] 1 K. B. 273.

13. Effect of register, etc.—(1) The register of parliamentary electors shall for the purposes of this Part of this Act be conclusive on the following questions :—

(*a*) whether or not a person registered therein was on the qualifying date resident at the address shown ;
(*b*) whether or not that address is in any constituency or any particular part of a constituency ;
(*c*) whether or not a person registered therein is registered as a service voter. [425]

(2) The relevant special lists prepared under this Act for a parliamentary election shall, for the purposes aforesaid, be conclusive on the following questions :—

(*a*) whether or not a person's right to vote is exercisable by post ;
(*b*) whether or not there is in force an appointment of a proxy to vote for any person, and (if so) who is appointed. [426]

(3) A person registered as a parliamentary elector, or entered in the list of proxies, shall not be excluded from voting on the ground that he is not a British subject or is not of full age or is otherwise subject to any legal incapacity to vote, or that on the qualifying date or the date of his appointment, as the case may be, he was not a British subject or was not of full age or was otherwise subject to any legal incapacity to vote ; but this provision shall not prevent the rejection of the vote on a scrutiny or affect his liability to any penalty for voting. [427]

(4) No misnomer or inaccurate description of any person or place named in the register of parliamentary electors or in any list, record, proxy paper, nomination paper, ballot paper, notice or other document required for the purposes of the Ballot Act, 1872, or this Part of this Act shall affect the full operation of the document with respect to that person or place, in any case where the description of the person or place is such as to be commonly understood. [428]

Commencement of section.—See the note at the head of this Part of the Act, *ante.*
General note.—This section may be regarded as a corollary to the proviso to s. 1 (2), *ante.*
Register of parliamentary electors.—See s. 5, *ante.*
Qualifying date.—See s. 1 (3), *ante*; and see also s. 5 (3), *ante*, s. 80 (9) (*a*), *post*, and S.I. 1949 No. 327, reg. 72.
Service voter.—For definition, see s. 76 (1), *post.*
Relevant special lists.—This seems to refer to all three lists to be prepared under para. 15 (1) of Part II of Sched. III, *post.*
Parliamentary election.—See note to s. 1, *ante.*
A person's right to vote, etc.—This, it is thought, includes a right to vote as proxy (cf. Sched. III, Part II, para. 15 (1) (*c*), *post*; and see *supra*). As to when an elector is entitled to vote by post, see ss. 8 and 9, *ante*; and as to when a proxy is entitled to vote by post, see s. 11, *ante.*
There is in force an appointment of a proxy, etc.—See s. 10, *ante.*
List of proxies.—For meaning, see Sched. III, Part II, para. 15 (1) (*b*), *post.*
Legal incapacity.—For definition, see s. 76 (1), *post.*
Scrutiny.—*I.e.*, on an election petition.
Ballot Act, 1872.—7 Halsbury's Statutes 427.
Sub-s. (4).—A total omission of a description is not within this subsection (*R.* v. *Tugwell* (1868), L. R. 3 Q. B. 704), nor is the accurate description of the wrong person or place (*R.* v. *Coward* (1851), 16 Q. B. 819; cf. *R.* v. *Deighton* (1844), 5 Q. B. 896, and *R.* v. *Hammond* (1852), 17 Q. B. 772).
For examples of misnomers and inaccurate descriptions which may be cured under this subsection, see *R.* v. *Gregory* (1853), 1 E. & B. 600; *R.* v. *Thwaites* (1853), 1 E. & B. 704;

Re Maidenhead Municipal Case (1855), 19 J. P. Jo. 755; *R.* v. *Spratley* (1856), 6 E. & B. 363; *R.* v. *Plenty* (1869), L. R. 4 Q. B. 346; *Soper* v. *Basingstoke Corporation* (1877), 2 C. P. D. 440; *Harding* v. *Cornwell* (1889), 60 L. T. 959; *Gledhill* v. *Crowther* (1889), 23 Q. B. D. 136, and *Miller* v. *Everton* (1895), 64 L. J. Q. B. 692. See also *Bowden* v. *Besley* (1888), 21 Q. B. D. 309, and, by way of contrast, *Gothard* v. *Clarke* (1880), 5 C. P. D. 253, and *Moorhouse* v. *Linney* (1885), 15 Q. B. D. 273.

14. Decision by lot in event of tie.—(1) Where, after the counting of the votes by the returning officer (including any re-count) is completed, an equality of votes is found to exist between any candidates at a parliamentary election in any constituency, and the addition of a vote would entitle any of those candidates to be declared elected, the returning officer shall not be entitled to a casting vote but shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote. [429]

(2) Where, on an election petition, it appears that there is an equality of votes between any candidates at a parliamentary election, and that the addition of a vote would entitle any of those candidates to be declared elected, then—

(*a*) any decision under the foregoing subsection shall, in so far as it determines the question between those candidates, be effective also for the purposes of the petition; and

(*b*) in so far as that question is not determined by such a decision, the court shall decide between them by lot and proceed as if the one on whom the lot then falls had received an additional vote. [430]

Commencement of section.—See the note at the head of this Part of the Act, *ante*.
Returning officer.—See ss. 16 and 17, *post*.
Parliamentary election.—See the notes to s. 1, *ante*.
Shall not be entitled to a casting vote.—Hitherto the returning officer had a casting vote (see the Representation of the People Act, 1918, Sched. V, r. 22; 7 Halsbury's Statutes 586).
Election petition.—As to meaning of this term, see the Parliamentary Elections Act, 1868, s. 5 (7 Halsbury's Statutes 410).

15. Return or forfeiture of candidate's deposit.—(1) The deposit made under the Third Schedule to this Act by or on behalf of a candidate in connection with his nomination shall either be returned to the person making it or his personal representatives or be forfeited to His Majesty. [431]

(2) Except in the cases hereafter mentioned in this section, the deposit shall be returned as soon as practicable after the result of the election is declared. [432]

(3) If the candidate is not shown as standing nominated in the statement of persons nominated, or if the poll is countermanded by reason of his death, the deposit shall be returned as soon as practicable after publication of the statement or after his death, as the case may be. [433]

(4) Subject to the last foregoing subsection, the deposit shall be forfeited if a poll is taken and, after the counting of the votes by the returning officer (including any re-count) is completed, the candidate is found not to have polled more than one-eighth of the total number of votes polled by all the candidates. [434]

(5) Notwithstanding anything in the three last foregoing subsections, if at a general election a candidate is shown as standing nominated in more than one constituency in the statements of persons nominated, not more than one of the deposits shall be returned and, if necessary, the Treasury shall direct which it is to be. [435]

This section replaces, with variations, ss. 26 (3) and 27 of the Representation of the People Act, 1918 (7 Halsbury's Statutes 564).
Commencement of section.—See the note at the head of this Part of the Act, *ante*.
Deposit made under Sched. III.—See Sched. III, Part II, para. 6, *post*.
After the result of the election is declared.—As to the declaration of the result of a contested election, see Ballot Act, 1872, s. 2 (8 Halsbury's Statutes 428), and as to the declaration of the result of an uncontested election, see Sched. III, Part II, para. 12, *post*.

Not shown as standing nominated, etc. ; *Shown as standing nominated, etc.*—See Sched. III, Part II, para. 11, *post*.
If the poll is countermanded, etc.—See Sched. III, Part V, para. 2 (1), *post*.
Returning officer.—See ss. 16 and 17, *post*.

16. Returning officers.—(1) In England and Wales, the returning officer for a parliamentary election shall be—

(*a*) in the case of a county constituency which is coterminous with or wholly contained in one county, or of a borough constituency which is coterminous with or wholly contained in a county of a city or town having a sheriff, the sheriff of the county or of the city or town ;

(*b*) in the case of any other borough constituency which is coterminous with or wholly contained in a borough or urban district, the mayor or chairman of the urban district council ;

(*c*) in any other case, such sheriff, mayor or chairman of an urban district council as may be designated by the Secretary of State. [436]

(2) In Scotland, the returning officer for a parliamentary election shall be—

(*a*) in the case of a constituency wholly situated in one sheriffdom, the sheriff of that sheriffdom ; and

(*b*) in the case of a constituency situated in more than one sheriffdom, the sheriff of such one of those sheriffdoms as the Secretary of State may by order direct. [437]

(3) In Northern Ireland, the returning officer for a parliamentary election shall be—

(*a*) in the case of a constituency wholly contained in the county borough of Belfast or any county, the under-sheriff of that county borough or county ; and

(*b*) in any other case, such under-sheriff as the Secretary of State may by order direct ;

and for the purposes of this subsection the county borough of Londonderry shall be deemed to be included in the county of Londonderry. [438]

(4) The execution of the writ for a parliamentary election shall belong to the returning officer as such and the writ shall be directed to him by the title of his office as returning officer, and that office shall be a distinct office from that by virtue of which he becomes returning officer. [439]

(5) Where a person enters on any office by virtue of which he becomes returning officer, it shall belong to him and not to the outgoing holder of that office to complete the execution of any writ for a parliamentary election previously issued and not yet returned. [440]

This section, so far as England and Wales are concerned, takes the place of s. 28 of the Representation of the People Act, 1918 (7 Halsbury's Statutes 564). It may be compared with s. 4, *ante*, as to registration officers, and is supplemented by s. 17, *post*, as to the discharge of the functions of returning officers.

Commencement of section.—See the note at the head of this Part of the Act, *ante*.
Parliamentary election.—See the notes to s. 1, *ante*.
County constituency ; Borough constituency.—Cf. s. 1 (1), *ante*.
Borough.—This includes a metropolitan borough (s. 77 (1), *post*).
Coterminous.—This means having the same area.
Execution of writ.—The writ is addressed to the returning officer as such (see Sched. IX, Part I, *post*). It seems clear that sub-s. (5), *supra*, applies also where the returning officer dies ; and it is obviously the intention of the Legislature that the provisions of s. 25 of the Sheriffs Act, 1887 (17 Halsbury's Statutes 1116) which, in conjunction with s. 36 (4) of that Act (17 Halsbury's Statutes 1122), make provision for the exercise of the duties of a sheriff by the under-sheriff in the case of the death of the sheriff, should no longer apply to the execution of the writ for a parliamentary election (cf. s. 74 (1), *post*, in conjunction with Sched. X, Part II, para. 4, *post* ; and see s. 74 (2), *post*).

17. Discharge of functions of returning officer.—(1) In England and Wales, the duties of the returning officer for parliamentary elections except –

(*a*) any duty imposed on a returning officer under Part II of the Parliament (Elections and Meeting) Act, 1943 (which deals with the delivery of parliamentary writs and matters connected therewith); and

(*b*) any other duties which the person (if any) who for the time being holds the office of returning officer reserves to himself and undertakes to perform in person;

shall be discharged by the registration officer (or the person authorised to act as registration officer if the registration officer himself is incapable of acting or there is a vacancy) as acting returning officer; and so shall any such duties as are mentioned in paragraph (*b*) of this subsection, if for the time being the returning officer is for any reason incapable of discharging his duties as such, or is under any enactment discharged from personally performing the office by virtue of which he is returning officer. [441]

(2) The returning officer shall give to the acting returning officer written notice of any duties which he reserves to himself under paragraph (*b*) of the foregoing subsection, and that paragraph shall, in the case of any election, apply to the duties (if any) of which notice is so given not later than the day following that on which the writ is received, and to no others. [442]

(3) An acting returning officer, in the discharge of the duties imposed on him by subsection (1) of this section shall have all the powers, obligations, rights and liabilities of the returning officer under any enactment relating to parliamentary elections, and those enactments (including this Act) shall have effect accordingly. [443]

(4) An acting returning officer shall have power to appoint deputies to discharge all or any of the said duties, but the appointment shall require the approval of the Secretary of State, where the powers of the deputy extend—

(*a*) to matters other than the receipt of nomination papers and matters connected therewith; or

(*b*) to the taking or deciding of objections to nomination papers. [444]

(5) A returning officer at a parliamentary election in England or Wales shall not be disqualified by reason of being returning officer for being a candidate at the election, unless he has reserved to himself any duties at the election which would otherwise be imposed by subsection (1) of this section on the acting returning officer. [445]

(6) In Scotland, the power of appointing deputies conferred by section eight of the Ballot Act, 1872, on certain sheriffs shall be exercisable by any sheriff who—

(*a*) is returning officer for more than one constituency; or

(*b*) by reason of sickness or unavoidable absence is incapacitated from performing any of the duties devolving upon him as returning officer;

and in the event of no such appointment being made by a sheriff so incapacitated, or in the event of any vacancy in the office of sheriff at the time when any of such duties require to be performed, the senior sheriff substitute of the sheriffdom the sheriff of which is returning officer for the constituency shall act as returning officer, and shall perform all the duties and have all the powers (including the power of appointing deputies) of such returning officer. [446]

(7) In Northern Ireland, the power of appointing deputies conferred by the said section eight shall be exercisable by any under-sheriff who—

(*a*) is returning officer for more than one constituency; or,

(*b*) by reason of sickness or unavoidable absence is incapacitated from performing any of the duties devolving upon him as returning officer;

and in the event of no such appointment being made by an under-sheriff so incapacitated, or in the event of any vacancy in the office of any under-sheriff at the time when any of such duties require to be performed, such person as the Secretary of State may appoint shall act as returning officer and shall perform all the duties and have all the powers (including the power of appointing deputies) of such returning officer. [447]

(8) No person shall be subject to any incapacity to vote at a parliamentary election by reason of his being or acting as returning officer thereat, and section twenty-one of the Sheriff Courts (Scotland) Act, 1907, in so far as it enacts that no sheriff or salaried sheriff substitute shall be entitled to vote at a parliamentary election held within his sheriffdom shall cease to have effect. [448]

(9) Section thirty-six of the Representation of the People (Scotland) Act, 1832, in so far as it prohibits a sheriff clerk or deputy sheriff clerk from voting at parliamentary elections shall cease to have effect. [449]

This section replaces in different form s. 30 of the Representation of the People Act, 1918 (7 Halsbury's Statutes 566), as amended by s. 33 (1) of, and Sched. VI to, the Parliament (Elections and Meeting) Act, 1943 (36 Halsbury's Statutes 110, 115), and as restricted in its application by s. 28 of the same Act (36 Halsbury's Statutes 109).

Commencement of section.—See the note at the head of this Part of the Act, *ante.*

Returning officer for parliamentary elections.—See s. 16, *ante.*

Parliament (Elections and Meeting) Act, 1943, Part II.—36 Halsbury's Statutes 107.

Registration officer.—See s. 4, *ante.*

Person authorised to act as registration officer.—See s. 66 (4), *post.*

Written notice.—The requirement of written notice is designed to avoid confusion as to which duties the returning officer reserves to himself.

Parliamentary election.—See note to s. 1, *ante.*

Where the powers of the deputy extend, etc.—Cf. Sched. III, Part II, paras. 2 *et seq.*, *post.*

18. Payments by and to returning officer.—(1) No consideration shall be given by or to a returning officer for the making out, receipt, delivery or return of the writ for a parliamentary election or, subject to the following provisions of this section, otherwise in connection with the execution thereof:

Provided that nothing in this subsection shall be taken as applying to any inclusive salary payable to a returning officer in respect of the office by virtue of which he becomes returning officer. [450]

(2) The Treasury shall by statutory instrument prescribe a scale of maximum charges in respect of services rendered and expenses incurred by a returning officer for the purposes of or in connection with parliamentary elections, and may revise the scale as and when they think fit. [451]

(3) A returning officer shall be entitled to his reasonable charges, not exceeding the sums specified in the said scale, in respect of services and expenses of the several kinds so specified which have been properly rendered or incurred by him for the purposes of or in connection with a parliamentary election. [452]

(4) The amount of any such charges shall be charged on and paid out of the Consolidated Fund of the United Kingdom or the growing produce thereof on an account being submitted to the Treasury:

Provided that the Treasury may if they think fit, before payment, apply for the account to be taxed under the following provisions of this section. [453]

(5) On the request of the returning officer for an advance on account of his charges, the Treasury may, if they think fit, and on such terms as they think fit, make such an advance. [454]

(6) The Treasury may make regulations as to the time when and manner and form in which accounts are to be rendered to them for the purpose of the payment of a returning officer's charges. [455]

(7) An application for a returning officer's account to be taxed shall be made—

(*a*) where the account relates to an election in a constituency in England, in Wales or in Northern Ireland, to the county court;

(*b*) where the account relates to an election in a constituency in Scotland, to the Auditor of the Court of Session;

and in the following provisions of this section the expression "the court" means the said court or Auditor. [456]

(8) On any such application the court shall have jurisdiction to tax the account in such manner and at such time and place as the court thinks fit, and finally to determine the amount payable to the returning officer. [457]

(9) On any such application the returning officer may apply to the court to examine any claim made by any person against him in respect of matters charged in the account; and the court, after notice given to the claimant and after giving him an opportunity to be heard and to tender any evidence, may allow or disallow or reduce the claim objected to with or without costs; and the determination of the court shall be final for all purposes and as against all persons. [458]

(10) Any reference in this section to the county court shall be taken, in relation to Northern Ireland, as a reference to the county court having jurisdiction at the place for the delivery of nomination papers at the election in question. [459]

This section replaces, with modifications, s. 2 of 7 & 8 Will. 3, c. 25 (12 Halsbury's Statutes 433), and s. 29 of the Representation of the People Act, 1918, as amended by the Representation of the People (Returning Officers' Expenses) Act, 1919 (7 Halsbury's Statutes 565). But there are no provisions corresponding to those of s. 6 of the Parliamentary Elections (Returning Officers) Act, 1875 (7 Halsbury's Statutes 457), which required returning officers as far as practicable to make use of ballot boxes, fittings and compartments, provided for municipal or school board elections, and required the court, upon taxation, to have regard to these provisions.

Commencement of section.—See the note at the head of this Part of the Act, *ante*.

No consideration.—This is not confined to a money consideration.

Returning officer.—See ss. 16 and 17 (3), *ante*.

Parliamentary election.—See note to s. 1, *ante*.

Inclusive salary payable.—This refers to a salary not as returning officer but as sheriff, mayor or chairman by virtue of which office the person concerned has become returning officer.

Statutory instrument.—See the Statutory Instruments Act, 1946 (39 Halsbury's Statutes 784), which came into full operation on January 1, 1948 (see S.I. 1948 No. 3).

Supplementary

19. Infringements of secrecy and tampering with postal votes.—(1) Section four of the Ballot Act, 1872 (which penalises infringements of the secrecy of voting) shall apply to a candidate or a candidate's election agent attending at a polling station in the exercise of the rights conferred on them respectively by that Act and this Act, and to all persons attending at the counting of the votes, as it applies to an officer or clerk so attending; and, when that section is read to a person to whom it applies by virtue of this subsection on his making a declaration of secrecy under the said Act, it shall be read with such modifications as are necessary to show how it applies to him. [460]

(2) Every person attending the proceedings in connection with the issue or the receipt of ballot papers for persons voting by post at parliamentary elections shall maintain and aid in maintaining the secrecy of the voting and shall not—

(*a*) except for some purpose authorised by law, communicate, before the poll is closed, to any person any information obtained at those proceedings as to the official mark; nor

(*b*) except for some purpose authorised by law, communicate to any person at any time any information obtained at those proceedings

as to the number on the back of the ballot paper sent to any person; nor

(*c*) except for some purpose authorised by law, attempt to ascertain at the proceedings in connection with the receipt of the ballot papers the number on the back of any ballot paper; nor

(*d*) attempt to ascertain at the proceedings in connection with the receipt of the ballot papers the candidate for whom any vote is given in any particular ballot paper or communicate any information with respect thereto obtained at those proceedings;

and any person who acts in contravention of this subsection shall be liable, on summary conviction, to imprisonment for any term not exceeding six months. [461]

(3) Where any person fraudulently defaces, or fraudulently destroys, or attempts so to deface or destroy, any declaration of identity or official envelope used in connection with voting by post at a parliamentary election, section three of the Ballot Act, 1872 (which penalises the like offences in relation to ballot papers) shall apply as if the declaration or envelope were a ballot paper. [462]

(4) The reference in the said section three to a clerk in attendance at a polling station shall include a reference to a clerk in attendance at the proceedings in connection with the issue or receipt of ballot papers for persons voting by post at a parliamentary election. [463]

Commencement of section.—See the note at the head of this Part of the Act, *ante.*

Ballot Act, 1872.—For s. 4 thereof, see 7 Halsbury's Statutes 430, and for s. 3 thereof, as amended by Forgery Act, 1913, s. 20 and Sched. I, see 7 Halsbury's Statutes 429.

Rights conferred on them.—As to a candidate's right of attendance at a polling station, see Ballot Act, 1872, Sched. I, rr. 21 and 51 (7 Halsbury's Statutes 440 and 446), as construed in *Clementson* v. *Mason* (1875), L. R. 10 C. P. 209. As to the rights of a candidate's election agent in this respect, see Sched. III, Part III, para. 3, *post.*

All persons attending at the counting.—Cf. the Ballot Act, 1872, Sched. I, rr. 33 and 51 (7 Halsbury's Statutes 443, 446), as interpreted in *Clementson* v. *Mason, supra*, and Sched. III, Part IV, para. 1 (1), *post.*

Declaration of secrecy.—See the Ballot Act, 1872, Sched. I, r. 54 (7 Halsbury's Statutes 447), as extended by Sched. III, Part III, para. 3, and Part IV, para. 1 (2), *post.*

Issue and receipt of ballot papers for postal voting.—Cf. Sched. III, Part II, para. 17, *post.*

Before the poll is closed.—For meaning of " close of the poll " in the case of an adjournment on account of riot or open violence, see Sched. III, Part V, para. 4 (2) (*b*), *post.*

Official mark.—Cf. the Ballot Act, 1872, s. 2 (7 Halsbury's Statutes 428), and the Representation of the People Regulations, 1949 (S.I. 1949 No. 327), reg. 41 (1); and see Sched. I, r. 20 to the Act of 1872 (7 Halsbury's Statutes 440).

Declaration of identity and official envelope for postal voting.—Cf. Sched. III, Part II, para. 17, *post.*

20. Breaches of official duty.—(1) If any person to whom this section applies, or who is for the time being under a duty to discharge as deputy or otherwise any of the functions of such a person, is, without reasonable cause, guilty of any act or omission in breach of his official duty, then, subject to subsection (4) of this section, he shall be liable, on summary conviction, to a fine not exceeding one hundred pounds. [464]

(2) No person to whom this section applies shall be liable for breach of his official duty to any penalty at common law or under any enactment except as provided by this section, nor shall any action for damages lie in respect of the breach by any such person of his official duty. [465]

(3) The persons to whom this section applies are the Clerk of the Crown in Chancery, any sheriff clerk, any registration officer, returning officer, presiding officer or clerk or assistant employed by such an officer in connection with his official duties and any postmaster; and the expression " official duty " shall for the purposes of this section be construed accordingly, but shall not include duties imposed otherwise than by the law relating to parliamentary elections or the registration of parliamentary electors. [466]

(4) Nothing in this section shall affect any person's criminal liability under the last foregoing section or the enactments therein mentioned, or under section fifty of the Representation of the People Act, 1867, or section thirteen of the Representation of the People (Ireland) Act, 1868 (which as extended by the Ballot Act, 1872, prohibit the returning officer and officers appointed by him from acting as agent for a candidate), or shall, in Scotland, impose liability to summary prosecution on a returning officer or any person under a duty to discharge the functions of a returning officer. [467]

Commencement of section.—See the note at the head of this Part of the Act, *ante*.
Registration officer.—See s. 4, *ante*, and s. 66 (2), *post*.
Returning officer.—See ss. 16 and 17, *ante*.
Presiding officer.—Cf. the Ballot Act, 1872, Sched. I, r. 21 (7 Halsbury's Statutes 440).
Parliamentary elections.—See note to s. 1, *ante*.
Representation of the People Act, 1867, s. 50.—7 Halsbury's Statutes 405.
Ballot Act, 1872.—7 Halsbury's Statutes 427.

PART II

GENERAL PROVISIONS AS TO LOCAL GOVERNMENT FRANCHISE AND ITS EXERCISE

Operation of this Part of the Act.—Except where otherwise expressly provided, this Part of the Act is to come into force so as to enable the first register of electors prepared hereunder to be the autumn register of 1949, and is to have effect with respect to that register and subsequent registers under the Act and the elections for which they are used (s. 80 (1), *post*).

There is, however, a qualification to this general provision: the provisions of this Part relating to voting by post or by proxy at local government elections or amending the local elections rules are to come into force on the appointed day (s. 80 (3), *post*), that is to say, such day as the Secretary of State may by statutory instrument appoint for the purpose (s. 80 (10) (*a*), *post*), and none of the provisions of this Part is to apply in relation to any election begun before the provision in question comes into force (s. 80 (8), *post*), the beginning of an election for this purpose being the day on which notice of the election is given (s. 80 (10) (*b*), *post*). As to the appointed day, see S.I. 1949 No. 327, reg. 75 (1).

Local government franchise

21. Electors.—(1) The persons entitled to vote as electors at a local government election in any electoral area shall be those who—

(*a*) on the qualifying date either—

(i) are resident in the area; or

(ii) under the following provisions of this section have a non-resident qualification therein; and

(*b*) are in either case on that date and on the date of the poll, British subjects of full age and not subject to any legal incapacity to vote:

Provided that a person shall not be entitled to vote as an elector in any electoral area, unless registered there in the register of local government electors to be used at the election nor, at an ordinary election for any local government area which is not a single electoral area, to vote as an elector in more than one electoral area. [468]

(2) In England and Wales, a person shall be deemed for the purposes of this section to have a non-resident qualification in an area if he is occupying as owner or tenant any rateable land or premises therein of the yearly value of not less than ten pounds. [469]

(3) In Scotland, a person shall be deemed to have a non-resident qualification in an area if he is the owner, or occupier as tenant, of any lands and heritages within the area which are of the yearly value of not less than ten pounds and in respect of which rates are payable. [470]

(4) The qualifying date for a local government election shall be determined by reference to the date fixed for the poll in the same way as if it were a parliamentary election. [471]

Commencement of section.—See the note at the head of this Part of the Act, *ante*.

Persons.—See the notes to s. 1, *ante*.

Local government election; Electoral area.—For meanings, see s. 77 (1), *post*.

Are resident in the area.—See s. 2, *ante*, in conjunction with s. 22 (1) (*a*), *ante*, and the notes to s. 2, *ante*. See also as to the notional residence of persons with a service declaration in force, s. 6 (5) (*a*), *ante*, in conjunction with s. 23 (7), *post*.

British subjects of full age.—See the notes to s. 1, *ante*. See, further, as to a presumption in the case of persons with a service declaration in force, s. 6 (5) (*b*), *ante*, in conjunction with s. 23 (7), *post*.

Not subject to any legal incapacity to vote.—For definition of "legal incapacity", see s. 76 (1), *post*. See, further, as to a presumption in the case of persons with a service declaration in force, s. 6 (5) (*b*), *ante*, in conjunction with s. 23 (7), *post*.

The disqualifications at common law are the same as in the case of parliamentary elections (see the notes to s. 1, *ante*), except that there is no disqualification on the ground of peerage (cf. ss. 23 (5) (*a*) and 27 (2), *post*). The disqualification under s. 2 of the Forfeiture Act, 1870 (5 Halsbury's Statutes (2nd Edn.) 841) (see the notes to s. 1, *ante*) also extends to local government elections. Moreover, as respects such elections, too, numerous disqualifications from voting are imposed by enactments relating to corrupt and illegal practices (see the notes to s. 23 ("Enactments imposing any disqualification, etc."), *post*).

Registered in the register of local government electors.—See s. 23, *post*.

Owner or tenant, etc.—This must be read in conjunction with s. 22, *post*.

Determination of qualifying date.—See s. 1 (3), *ante*. For special provisions where the register is not published in time, see s. 5 (3), *ante*, in conjunction with s. 23 (7), *ante*, and as to the qualifying date in connection with the first register prepared under the Act, see s. 80 (9) (*a*), *post*, and the Representation of the People Regulations, 1949 (S.I. 1949 No. 327), reg. 72.

22. Residence, occupation, etc.—(1) For the purposes of the last foregoing section—

(*a*) section two of this Act shall apply as it applies for the purposes of the parliamentary franchise; and

(*b*) the following provisions of this section shall have effect in relation to the non-resident qualification. [472]

(2) A person's occupation of a dwelling house shall not be deemed to be interrupted by reason only of permission being given by letting or otherwise for its occupation furnished by some other person, if the first mentioned person intends to resume actual occupation within nine weeks of giving it up and will not be prevented by the permission given as aforesaid. [473]

(3) In England and Wales,—

(*a*) the expression "tenant"—

(i) shall not include a tenant of a dwelling house let to him furnished for a term of less than nine weeks, or of any room or rooms let to him furnished and occupied by him as a lodger; but

(ii) shall include a tenant of a dwelling house holding over after notice to quit has been given and possession has been demanded by the landlord;

(*b*) the expression "rateable" means liable for the time being to be rated to the general rate or to any rate expressed by the Act creating it to be in the nature of a general rate, except that in relation to the City of London it means liable for the time being to be rated to the poor rate; and

(*c*) the yearly value of any land or premises shall be determined in accordance with section eighty of the Local Government Act, 1929 (which provides for determining it for the purposes of the Representation of the People Act, 1918). [474]

(4) In the case of a joint occupation of any land or premises in an electoral area in England or Wales, each of the joint occupiers shall be treated as occupying land or premises therein of the yearly value of not less than ten pounds, if the aggregate yearly value of the land or premises is not less than the amount produced by multiplying ten pounds by the number of joint occupiers. [475]

(5) Where, in Scotland, any lands and heritages are owned or occupied by two or more persons jointly and the aggregate yearly value of such lands

and heritages is not less than the amount produced by multiplying ten pounds by the number of owners or occupiers as the case may be, each of them shall be treated as owning or occupying, as the case may be, lands and heritages of the yearly value of ten pounds. [476]

(6) In the application of this and the last foregoing section to Scotland,—

(*a*) the expression " owner "—

(i) shall include heir of entail in possession, life-renter and beneficiary entitled under any trust to the rents and profits of lands and heritages ; and

(ii) shall not include the fiar of lands and heritages subject to a liferent, or tutor, curator, judicial factor, or commissioners ;

and the expression " own " shall be construed accordingly ;

(*b*) the expression " tenant " shall not include a tenant—

(i) of a dwelling house let to him furnished for a term of less than nine weeks ; or

(ii) of any room or rooms let to him furnished and occupied by him as a lodger ;

(*c*) the expression " lands and heritages " shall have the like meaning as in the Lands Valuation (Scotland) Act, 1854 ; and

(*d*) the expression " yearly value " in relation to any lands and heritages shall mean in the case where the lands and heritages are separately entered in the valuation roll the gross annual value appearing therein, and in any other case the gross annual value which would in the opinion of the registration officer be entered in the valuation roll, if the lands and heritages were separately entered therein. [477]

Commencement of section.—See the note at the head of this Part of the Act, *ante.*

Application of s. 2.—The effect of sub-s. (1) (*a*), *supra*, is that questions as to a person's residence on the qualifying date are to be decided for the purposes of the local government franchise in accordance with the same principles as for the purposes of the parliamentary franchise.

Dwelling house.—For meaning, see s. 76 (1), *post.*

Tenant.—There can be no doubt that sub-s. (3) (*a*) (ii), *supra*, must *a fortiori* apply if the tenant of a dwelling house holds over after notice to quit has been given, but possession has not been demanded by the landlord, and it also seems clear that the expression must be taken to include a tenant of a dwelling house holding over after the determination of his tenancy otherwise than by notice to quit.

Local Government Act, 1929, s. 80.—10 Halsbury's Statutes 934.

Representation of the People Act, 1918.—7 Halsbury's Statutes 548.

Electoral area.—For meaning, see s. 77 (1), *post.*

23. Registration.—(1) It shall be the duty of a registration officer to prepare for the local government areas or parts of local government areas included in the area for which he acts a register of local government electors whenever he prepares a register of parliamentary electors. [478]

(2) The two registers shall so far as practicable be combined, the names of persons registered only as local government electors being marked to indicate that fact. [479]

(3) The elections for which any register of local government electors is to be used shall be determined by reference to the date fixed for the poll in the same way as in the case of the register of parliamentary electors. [480]

(4) Subject to any enactment imposing any disqualification for registration as a local government elector, all persons who may be entitled to vote as electors at elections for which any register is to be used shall be entitled to be registered therein :

Provided that—

(*a*) a person shall not be entitled to be registered more than once in any local government area ; and

(*b*) a person who on the qualifying date has a service qualification shall not be entitled to be registered as resident in any local government area, except in pursuance of a service declaration such as is mentioned in the next following subsection and in force on that date. [481]

(5) The service declaration in pursuance of which a person having a service qualification may be registered as a local government elector shall—

(*a*) except in the case of a person who is as a peer subject to a legal incapacity to vote at parliamentary elections, be the service declaration (if any) made by him for the purpose of parliamentary elections; and

(*b*) in the case of such a person as aforesaid, be a declaration marked to show that it is available for local government elections only, but in all other respects the same as other service declarations. [482]

(6) A person entitled as a resident to be registered as a local government elector in any local government area shall not be entitled to be so registered as a non-resident. [483]

(7) Subsections (3) and (5) of section five and section six of this Act shall apply for the purposes of this Part thereof as they apply for the purposes of Part I thereof. [484]

Commencement of section.—See the note at the head of this Part of the Act, *ante.*
Registration officer.—See ss. 4, *ante*, and 66, *post.*
Local government area.—For definition, see s. 77 (1), *post.*
Prepares a register of parliamentary electors.—See s. 5, *ante.*
Enactment imposing any disqualification, etc.—See the Corrupt and Illegal Practices Prevention Act, 1883 (7 Halsbury's Statutes 465), the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (7 Halsbury's Statutes 511), the Public Bodies Corrupt Practices Act, 1889 (5 Halsbury's Statutes (2nd Edn.) 919), the Corrupt and Illegal Practices Prevention Act, 1895 (7 Halsbury's Statutes 543), the Municipal Elections (Corrupt and Illegal Practices) Act, 1911 (7 Halsbury's Statutes 546), and Part III of the present Act and the notes thereto, *post;* especially ss. 4, 6 (3), 10, 11, 38 (5), (10) and 43 (4) of the Act of 1883 (7 Halsbury's Statutes 467 *et seq.*, 485, 487, 491), ss. 2, 3 (1), 7, 8, 23, 28 (4) of, and Sched. III, Part II, to the Act of 1884 (7 Halsbury's Statutes 511, 512, 514, 521, 524, 533), and s. 2 (*d*) of the Act of 1889 (5 Halsbury's Statutes (2nd Edn.) 920), in conjunction with ss. 52 and 53 (2), *post.*
Who may be entitled to vote, etc.—Cf. ss. 21 and 22, *ante*, and notes thereto. But note that the Act says "may be" and not "are".
Qualifying date.—See s. 1 (3), in conjunction with s. 21 (4), *ante;* and see also s. 80 (9) (*a*), *post*, and S.I. 1949 No. 327, reg. 72.
Service qualification; Service declaration.—See s. 6, *ante*, as applied by sub-s. (7), *supra*, and S.I. 1949 No. 327, regs. 53 *et seq.*
Peer subject to legal incapacity to vote, etc.—For definition of "legal incapacity", see s. 76 (1), *post.* As to incapacity on the ground of peerage at parliamentary elections, see notes to s. 1, *ante.*
Appeals.—As to appeals from decisions of registration officers, see s. 70, *post.*

Place and manner of voting at local government elections

24. Situation of polling stations at local government elections.—At any local government election the polling station allotted to electors from any parliamentary polling district wholly or partly within the electoral area shall, in the absence of special circumstances, be in the parliamentary polling place for that district, unless the polling place is outside the electoral area; and any power to constitute polling districts for the purpose of local government elections shall be exercised with that in view. [485]

Commencement of section.—See the note at the head of this Part of the Act, *ante.*
Local government election; Electoral area.—For meanings, see s. 77 (1), *post.*
Parliamentary polling district; Parliamentary polling place.—See s. 7, *ante.*
Any power to constitute polling districts, etc.—See the Local Government Act, 1933, ss. 13 and 27 (26 Halsbury's Statutes 312, 319), and the London Government Act, 1939, ss. 13 and 27 (32 Halsbury's Statutes 271, 275).

25. Place and manner of voting as elector.—(1) All persons voting as electors at a local government election shall do so in person at the polling station allotted to them under the local elections rules, except in so far as this section makes exceptions for—

(*a*) those registered as service voters ;

(*b*) those unable or likely to be unable to go in person to the polling station for one of the following reasons :—

(i) the general nature of the occupation, service or employment of the person in question ;

(ii) that person's service as a member of His Majesty's reserve or auxiliary forces ;

(iii) the particular circumstances of that person's employment on the date of the poll either as a constable or, for a purpose connected with the election, by the returning officer ;

(iv) at an ordinary election, the fact that that person is acting as returning officer at an ordinary election of councillors for some other electoral area ;

(v) at an ordinary election, the particular circumstances of that person's employment on the date of the poll by the returning officer at an ordinary election of councillors for some other electoral area for a purpose connected with the election in that area ;

(*c*) those unable or likely to be unable, by reason either of blindness or any other physical incapacity, to go in person to the polling station or, if able to go, to vote unaided ;

(*d*) those unable or likely to be unable to go in person from their qualifying address to the polling station without making a journey by air or sea. [486]

(2) A person registered as a service voter may at any local government election vote by proxy unless he applies for a ballot paper to vote in person before a ballot paper has been issued for him to vote by proxy, but (where there is in force an appointment of a proxy to vote for him) shall not be entitled to vote in person unless he does so apply. [487]

(3) Where—

(*a*) a person is registered at the same qualifying address both as a parliamentary and as a local government elector, and is not so registered as a service voter ; and

(*b*) there is in force an appointment of a proxy to vote for him at parliamentary elections in respect of that registration, being an appointment based on the general nature of his occupation, service or employment ;

then, in respect of that registration, at local government elections at which postal voting is allowed, he shall be treated as an absent voter and may vote by proxy and not otherwise. [488]

(4) Subject to the last foregoing subsection, any of the persons mentioned in paragraphs (*b*) to (*d*) of subsection (1) of this section who is not registered as a service voter, may vote by post at any local government election at which postal voting is allowed, if he applies to be treated as an absent voter and furnishes an address in the United Kingdom to which a ballot paper is to be sent for the purpose. [489]

(5) At an election for which a person's application to be treated as an absent voter is allowed, he shall not be entitled to vote in person. [490]

(6) A person not registered as a service voter, if he is entitled to vote in person, but unable or likely to be unable to go in person to the polling station allotted to him by reason of the particular circumstances of his employment

on the date of the poll either as a constable or, for a purpose connected with the election, by the returning officer, may vote at any polling station of the electoral area. [491]

(7) Postal voting shall be allowed at all local government elections except, in England and Wales, elections of rural district or parish councillors. [492]

(8) Nothing in this section shall be taken as conferring a right to vote on a person not having the right apart from this section. [493]

(9) In this and the next following section, references to employment by a returning officer shall be taken as including, in relation to elections in a borough in England or Wales other than a metropolitan borough, references to employment by the mayor or any person acting in place of the mayor by virtue of paragraph 10 of Part I of the local elections rules. [494]

Commencement of section.—See the note at the head of this Part of the Act, *ante*.

General note.—This section is the counterpart of s. 8, *ante*. It is supplemented by the transitory provisions of reg. 73 (1) (*a*) of S.I. 1949 No. 327.

Local government election; Electoral area.—*For* meanings, *see* s. 77 (1), *post*.

Local elections rules.—This means (as respects England and Wales, except London) Sched. II to the Local Government Act, 1933 (26 Halsbury's Statutes 474), and (as respects London), Sched. II to the London Government Act, 1939 (32 Halsbury's Statutes 354) (s. 75 (1)), *post*. For Sched. II, Part I, para. 10 to the Act of 1933, see 26 Halsbury's Statutes 478.

As to the allotment of polling stations, see Sched. II, Part III, para. 7 (*a*) to the Act of 1933 (26 Halsbury's Statutes 480); Sched. II, Part II, para. 7 (*a*) to the Act of 1939 (32 Halsbury's Statutes 358); and s. 24, *ante*. See also the Urban District Council Election Rules, 1949 (S.I. 1949 No. 197), Sched. II, r. 22 (1), (3); the Rural District Council Election Rules, 1949 (S.I. 1949 No. 285), Sched. II, r. 21 (1), (3); the Parish Council Election Rules, 1949 (S.I. 1949 No. 284), Sched. II, r. 21 (1), (3).

Service voters.—For definition, see s. 76 (1), *post*.

Returning officer; Acting as returning officer.—See the Local Government Act, 1933, ss. 14, 28 (26 Halsbury's Statutes 312, 319); the London Government Act, 1939, ss. 14, 28 (32 Halsbury's Statutes 271, 275); the Urban District Council Election Rules, 1949 (*supra*), r. 1; the Rural District Council Election Rules, 1949 (*supra*), r. 1; and the Parish Council Election Rules, 1949 (*supra*), r. 1.

Qualifying address.—This seems to cover an address at which the elector is registered by virtue of a non-resident qualification as well as an address at which he is registered as a resident (cf. s. 26 (3) (*b*) and note to s. 26, *post*).

Vote by proxy.—See s. 27, *post*.

Appointment of proxy in force.—See s. 27, *post*; and as to parliamentary elections, s. 10, *ante*.

Applies to be treated as an absent voter.—See s. 26, *post*.

United Kingdom.—See note to s. 6, *ante*.

May vote at any polling station, etc.—But see, as to the production and surrender of a certificate as to employment where he votes elsewhere than at his own polling station, Sched. IV, Part II, para. 7 (4), *post*.

Metropolitan borough.—As to the City of London, see s. 77 (4), *post*.

26. Voting by post by absent voters.—(1) An application to be treated as an absent voter at local government elections shall be made to the registration officer and shall be allowed by him if he is satisfied that the applicant is, or will if registered be, entitled under the last foregoing section to vote as an absent voter. [495]

(2) The application shall be for a particular election only, if it is based on—

(*a*) the applicant's service as a member of any of His Majesty's reserve or auxiliary forces; or

(*b*) the fact that the applicant is acting as returning officer in some other electoral area; or

(*c*) the particular circumstances of the applicant's employment on the date of the poll either as a constable or by a returning officer. [496]

(3) An application not based on one of the grounds mentioned in the last foregoing subsection shall be for an indefinite period but, where such an application is allowed, the applicant shall cease to be entitled to be treated as an absent voter in pursuance thereof if—

(*a*) he applies to the registration officer to be no longer so treated; or

(*b*) he ceases to be registered at the same qualifying address, or becomes so registered as a resident instead of a non-resident or vice versa, or as a service voter; or

(*c*) the registration officer gives notice that he has reason to believe there has been a material change of circumstances, and the prescribed period elapses after the giving of the notice. [497]

(4) The registration officer shall keep a record of absent voters and of the addresses furnished by them as the addresses to which their ballot papers are to be sent. [498]

Commencement of section.—See the note at the head of this Part of the Act, *ante*.

General note.—This section corresponds to s. 9, *ante*, and supplements s. 25 (4), *ante*. It is itself supplemented by regs. 25, 26 (1), (5), 66 and 73 (1) (*b*), (3) of S.I. 1949 No. 327.

Local government elections.—For meaning, see s. 77 (1), *post*.

Registration officer.—See ss. 4, *ante*, and 66, *post*.

Sub-s. (2).—See s. 25 (1) (*b*) (ii)–(v), *ante*; and see also s. 25 (9), *ante*.

Qualifying address.—It is clear from the wording of sub-s. (3) (*b*), *supra*, that this means the address at which the elector is registered as a resident or a non-resident.

Becomes so registered, etc.—"Registered as a non-resident" means, of course, registered by virtue of a non-resident qualification (cf. s. 21, *ante*).

Prescribed.—See s. 76 (1), (4), *post*, and S.I. 1949 No. 327, reg. 25 (5).

Record of absent voters, etc.—This should not be confused with the "absent voters list" defined in para. 1 (1) (*a*) of Part I of Sched. IV, *post*.

Addresses furnished by them, etc.—See s. 25 (4), *ante*.

Appeals.—As to appeals from decisions of registration officers under this section, see s. 70, *post*.

27. Proxies.—(1) Except in the case of a service voter who is as a peer subject to a legal incapacity to vote at parliamentary elections, no person shall be specially appointed proxy to vote at local government elections, but any appointment of a person to vote as proxy at parliamentary elections shall have effect also for the purpose of local government elections. [499]

(2) Subject to the next following subsection, in the case of a service voter who is as a peer subject to a legal incapacity to vote at parliamentary elections, any person shall be capable of being appointed proxy to vote at local government elections for him and may vote in pursuance of the appointment:

Provided that not more than one person at a time shall be appointed on behalf of any service voter. [500]

(3) A person shall not be capable of being appointed under the last foregoing subsection to vote, or of voting, as proxy at a local government election unless he is a British subject of full age and not subject to any legal incapacity to vote thereat as an elector. [501]

(4) A person voting as proxy for a service voter at a local government election may do so by post if—

(*a*) he applies to vote as proxy by post and furnishes an address in the United Kingdom to which a ballot paper is to be sent for the purpose; and

(*b*) he is entitled to vote by post as an absent voter at the election;

but a person voting as proxy for an elector at a local government election, unless entitled to do so by post, shall do so in person at the elector's polling station. [502]

(5) The registration officer shall keep a record of electors for whom proxies have been appointed and of the names and addresses of the persons appointed. [503]

(6) In relation to service voters and their proxies, subsections (4) to (6) of section ten and subsections (4) to (6) and subsection (8) of section eleven of this Act shall apply for the purposes of this Part thereof as they apply for the purposes of Part I thereof. [504]

Commencement of section.—See the note at the head of this Part of the Act, *ante*.

Service voter.—For definition, see s. 76 (1), *post*.

Peer subject to a legal incapacity to vote, etc.—For definition of "legal incapacity", see s. 76 (1), *post*. As to incapacity on the ground of peerage at parliamentary elections, see the notes to s. 1, *ante*.

Local government election.—For meaning, see s. 77 (1), *post.*

Appointment as proxy to vote at parliamentary elections.—See s. 10, *ante.*

British subject of full age.—See the notes to s. 1, *ante.*

Not subject to any legal incapacity, etc.—For definition of " legal incapacity ", see s. 76 (1), *post.* As to incapacity to vote at local government elections as an elector, see note to s. 21, *ante.*

Entitled to vote by post, etc.—See ss. 25 and 26, *ante.*

Elector's polling station.—Cf. s. 25 (1), *ante.*

Registration officer.—See s. 4, *ante*, and s. 66, *post.*

Records to be kept by registration officer.—The record to be kept under sub-s. (5), *supra*, and the record to be kept under s. 11 (8), *ante*, as applied by sub-s. (6), *supra*, should not be confused with the " list of proxies " defined in para. 1 (1) (*b*) of Part I of Sched. IV, *post*, and the list mentioned in para. 1 (1) (*c*) of that Part respectively.

Appeals.—As to appeals from a decision of registration officers disallowing applications to vote by post as proxy, see s. 70, *post.*

Regulations.—This section is supplemented by regs 27 *et seq.*, 66 and 73 (2) (*a*) of S.I. 1949 No. 327.

Conduct of local government elections

28. Amendments of local elections rules.—(1) The local elections rules shall have effect subject to the provisions of the Fourth Schedule to this Act (being provisions adapting those rules in relation to voting by post or by proxy or amending them so as to bring them into conformity with the rules governing parliamentary elections as amended by this Act). [505]

(2) The candidate's consent to nomination required in England and Wales by paragraph 3 of Part I of the local elections rules shall contain a statement that he is qualified as required by law to be elected to and hold the office in question, and the statement shall give particulars of his qualification. [506]

(3) In the event of an equality of votes at a local government election, section fourteen of this Act shall apply, in place of paragraph 37 of Part III of the local elections rules, as it applies in the case of a parliamentary election. [507]

(4) No election under the local elections Act shall be declared invalid by reason of any act or omission of the returning officer or any other person in breach of his official duty in connection with the election or otherwise of the local elections rules if it appears to the tribunal having cognizance of the question that the election was so conducted as to be substantially in accordance with the law as to elections and that the act or omission did not affect its result. [508]

Commencement of section.—See the note at the head of this Part of the Act, *ante.*

Local elections rules.—This means, as respects England and Wales other than London, Sched. II to the Local Government Act, 1933 (26 Halsbury's Statutes 474), and, as respects London, Sched. II to the London Government Act, 1939 (32 Halsbury's Statutes 354) (s. 75 (1), *post*). The reference to para. 3 of Part I of the local elections rules is to be taken as a reference to para. 3 of Part I of Sched. II to the Act of 1933 (26 Halsbury's Statutes 475), and para. 3 of Part I of Sched. II to the Act of 1939 (32 Halsbury's Statutes 355), and the reference to para. 37 of Part III of the local elections rules as a reference to para. 37 of Part III of Sched. II to the Act of 1933 (26 Halsbury's Statutes 488) and para. 37 of Part II of Sched. II to the Act of 1939 (32 Halsbury's Statutes 364) (s. 75 (3) (*a*), Sched. XII, Part II).

Local government election.—For the meaning of this term, see s. 77 (1), *post.*

Parliamentary election.—See the notes to s. 1, *ante.*

Sub-s. (4).—This is the counterpart of s. 12 (2), *ante.* " Local elections Act " means, as respects England and Wales other than London, the Local Government Act, 1933 (26 Halsbury's Statutes 295), and, as respects London, the London Government Act, 1939 (32 Halsbury's Statutes 259 (s. 75 (1) (*a*), *post*).

29. Effect of register, etc.—(1) The register of local government electors shall for the purposes of this Part of this Act be conclusive on the following questions :—

(*a*) whether a person registered therein is so registered as a resident or as a non-resident, and whether or not on the qualifying date he was resident at the address shown or had a non-resident qualification in respect of that address, as the case may be ;

(*b*) whether or not that address is in any local government area or any particular part of a local government area ;

(*c*) whether or not a person registered therein as a resident is registered as a service voter ;

(*d*) in the case of a person registered at more than one address in the same local government area, at which of those addresses he is registered as a local government elector for that area. [509]

(2) The relevant special lists prepared under this Act for a local government election shall, for the purposes aforesaid, be conclusive on the following questions :—

(*a*) whether or not a person's right to vote is exercisable by post ;

(*b*) whether or not there is in force an appointment of a proxy to vote for any person, and (if so) who is appointed. [510]

(3) A person registered as a local government elector, or entered in the list of proxies, shall not be excluded from voting on the ground that he is not a British subject or is not of full age or is otherwise subject to any legal incapacity to vote, or that on the qualifying date or the date of his appointment, as the case may be, he was not a British subject or was not of full age or was otherwise subject to any legal incapacity to vote ; but this provision shall not prevent the rejection of the vote on a scrutiny or affect his liability to any penalty for voting. [511]

(4) Subsection (2) of section seventy of the local elections Act (which provides for disregarding misnomers and inaccurate descriptions in the register and other documents), shall apply to any special list, record, proxy paper, notice or other document required for the purposes of this Part of this Act. [512]

Commencement of section.—See the note at the head of this Part of the Act, *ante.*

General note.—This section is the counterpart of s. 13, *ante*, and may be regarded as a corollary to the proviso to s. 21 (1), *ante.*

Register of local government electors.—See s. 23, *ante.*

Registered as non-resident.—This means, of course, registered by virtue of a non-resident qualification.

Qualifying date.—See s. 21 (4), *ante ;* and see also s. 5 (3), *ante*, as applied by s. 23 (7), *ante*, s. 80 (9) (*a*), *post ;* and S.I. 1949 No. 327, reg. 72.

Non-resident qualification.—See ss. 21 and 22, *ante.*

Local government area ; Local government election.—For the meaning of these terms, see s. 77 (1), *post.*

Service voter.—For definition, see s. 76 (1), *post.*

Relevant special lists.—This seems to refer to all three lists required to be prepared under para. 1 (1) of Part I of Sched. IV, *post.* See also S.I. 1949 No. 197, Sched. II, r. 24 ; S.I. 1949 No. 285, Sched. II, r. 23 ; and S.I. 1949 No. 284, Sched. II, r. 23.

A person's right to vote, etc.—This, it is thought, includes a person's right to vote as proxy (cf. Sched. IV, Part I, para. 1 (*c*), *post ;* and see the last note, *supra*). As to when an elector is entitled to vote by post, see ss. 25 and 26, *ante ;* and as to when a proxy is entitled to vote by post, see ss. 27 (4), (6), *ante*, in conjunction with s. 11 (5), (6), *ante.*

There is in force an appointment of a proxy, etc.—See s. 27, *ante*, in conjunction with s. 10 (4), (5), *ante.*

List of proxies.—For the meaning of this expression, see Sched. IV, Part I, para. 1 (1) (*b*), *post.*

Legal incapacity.—For definition, see s. 76 (1), *post.*

Scrutiny.—*I.e.*, on an election petition.

S. 70 (2) *of the local elections Act.*—The reference to this subsection is to be taken as a reference, as respects England and Wales, except London, to s. 70 (2) of the Local Government Act, 1933 (26 Halsbury's Statutes 343), and, as respects London, to s. 45 (2) of the London Government Act, 1939 (32 Halsbury's Statutes 282) (see s. 75 (1) (*a*), (3) (*a*), Sched. XII, Part II, *post*).

As to sub-s. (4), *supra*, see also the notes to s. 13, *ante.*

Supplementary

30. Tampering with postal votes.—(1) Where any person fraudulently defaces or fraudulently destroys, or attempts so to deface or destroy, any declaration of identity or official envelope used in connection with voting by post at a local government election, section eighty-one of the local elections Act (which penalises the like offences in relation to ballot papers) shall apply as if the declaration or envelope were a ballot paper. [513]

(2) The reference in the said section of the local elections Act to an officer appointed to assist in taking the poll or counting the votes shall include a reference to an officer appointed to assist at the proceedings in connection with the issue or receipt of ballot papers for persons voting by post at a local government election. [514]

Commencement of section.—See the note at the head of this Part of the Act, *ante*.
General note.—This section is the counterpart of s. 19 (3) and (4), *ante*.
Declaration of identity and official envelope for postal voting.—Cf. Sched. IV, Part I, para. 2, *post*, and S.I. 1949 No. 197, Sched. II, r. 21.
Local government election.—For the meaning of this phrase, see s. 77 (1), *post*.
S. 81 of the local elections Act.—The reference to this section is to be taken as a reference, as respects England and Wales except London, to s. 81 of the Local Government Act, 1933 (26 Halsbury's Statutes 349), and, as respects London, to s. 55 of the London Government Act, 1939 (32 Halsbury's Statutes 287) (see s. 75 (1) (*a*), (3) (*a*), Sched. XII, Part II, *post*).

31. Breaches of official duty.—(1) If any person to whom this section applies, or who is for the time being under a duty to discharge as deputy or otherwise any of the functions of such a person, is, without reasonable cause, guilty of any act or omission in breach of his official duty, he shall be liable on summary conviction to a fine not exceeding one hundred pounds. [515]

(2) No person to whom this section applies shall be liable for breach of his official duty to any penalty at common law, nor shall any action for damages lie in respect of the breach by any such person of his official duty. [516]

(3) The persons to whom this section applies are—

(*a*) any registration officer or person whose duty it is to prepare a corrupt and illegal practices list under the local corrupt practices Act or clerk or assistant employed by him in connection with his official duties;

(*b*) any person whose duty it is to act as returning officer at or to take part in the conduct of an election under the local elections Act or to be responsible after a local government election for the used ballot papers and other documents (including returns and declarations as to expenses);

and the expression "official duty" shall for the purposes of this section be construed accordingly but shall not include duties imposed otherwise than by the law relating to elections under the local elections Act or the registration of local government electors. [517]

(4) Section seventy-nine of the local elections Act (which penalises some of the breaches of duty dealt with by this section) shall cease to have effect. [518]

Commencement of section.—See the note at the head of this Part of the Act, *ante*.
General note.—This section is the counterpart of s. 20, *ante*.
Registration officer.—See ss. 4, *ante*, and 60 (2), *post*.
Local corrupt practices Act.—This means, as respects England and Wales, the Municipal Elections (Corrupt and Illegal Practices Act, 1884 (7 Halsbury's Statutes 511) (s. 75 (2) (*b*), *post*). As to the corrupt and illegal practices list thereunder, see s. 24 thereof (7 Halsbury's Statutes 521).
Act as returning officer.—See the enactments and rules cited in the note to s. 25, *ante*, headed "Returning officer; Acting as returning officer".
Local elections Act.—This means, as respects England and Wales, except London, the Local Government Act, 1933 (26 Halsbury's Statutes 295), and, as respects London, the London Government Act, 1939 (32 Halsbury's Statutes 259) (s. 75 (1) (*a*), *post*). The reference to s. 79 of the local elections Act is to be taken as a reference to s. 79 of the Act of 1933 (26 Halsbury's Statutes 349), and s. 53 of the London Government Act, 1939 (32 Halsbury's Statutes 286) (see s. 75 (3) (*a*), Sched. XII, Part II, *post*).
Local government election.—For the meaning of this term, see s. 77 (1), *post*.

PART III

CORRUPT AND ILLEGAL PRACTICES AND OTHER PROVISIONS AS TO ELECTION CAMPAIGN

Operation of this Part of the Act.—Except where otherwise expressly provided, this Part of the Act is to come into force on the appointed day (s. 80 (4), *post*), that is to say, on such day as the Secretary of State may by statutory instrument appoint for the purpose (s. 80 (10) (*a*), *post*). But none of its provisions is to apply in relation to any parliamentary bye-election or local government election begun before the provision in question comes into force (s. 80 (8), *post*), the beginning of an election for this purpose being the day on which notice of the election is given (s. 80 (10) (*b*), *post*). As to the appointed day, see S.I. 1949 No. 327, reg. 75 (2).

Parliamentary elections

32. Limit of, and return and declarations as to, expenses.—(1) Parts III and IV of the First Schedule to the parliamentary corrupt practices Act (which limit the amount of election expenses) shall cease to have effect, and for any reference in that Act to the maximum amount specified in the said Part IV (which deals with the aggregate amount of the permitted expenses) there shall be substituted a reference to the following maximum amount, namely—

(*a*) in relation to an election in a county constituency, four hundred and fifty pounds together with an additional twopence for each entry in the register of parliamentary electors to be used at the election;

(*b*) in relation to an election in a borough constituency, four hundred and fifty pounds together with an additional penny halfpenny for each such entry as aforesaid:

Provided that, if the said register is not published before the day of publication of the notice of election, then for any reference in this subsection to an entry in the register there shall be substituted a reference to an entry in the electors lists therefor as first published which gives the name of a person appearing from those lists to be entitled to be registered. [519]

(2) The said maximum amount shall not be required to cover the candidate's personal expenses as defined in the said Act, but shall cover the whole of any fee paid to the candidate's election agent. [520]

(3) For the forms of declaration as to election expenses set out in Part I of the Second Schedule to the said Act there shall be substituted the form set out in Part II of the Ninth Schedule to this Act. [521]

(4) Notwithstanding anything in the said Act, no declaration or return as to election expenses shall be required under that Act in the case of a person—

(*a*) who—

(i) is a candidate at an election as defined by section sixty-three thereof; but

(ii) is so, only because he has been declared by others to be a candidate; and

(*b*) who has not consented to the declaration or taken any part as a candidate in the election. [522]

(5) No penalty shall be recoverable except by the Crown under subsection (5) of section thirty-three of the said Act (which penalises a Member of Parliament sitting or voting when the return and declarations as to his election expenses have not been sent in in time). [523]

(6) In Northern Ireland paragraphs (*a*) and (*b*) of subsection (1) and subsection (2) of this section shall not apply and—

(*a*) the maximum amount referred to in the said subsection (1) shall (subject to the proviso to that subsection) be the same as at the passing of this Act, namely, twopence for each entry in the register of parliamentary electors to be used at the election; and

(*b*) the said maximum amount shall not be required to cover either the candidate's personal expenses as defined in the said Act or (to an amount not exceeding in the case of an election in a county constituency seventy-five pounds and in the case of an election in a borough constituency fifty pounds) the fee, if any, paid to his election agent. [524]

(7) This section shall apply for the purposes of the first general election after the passing of this Act and any subsequent election. [525]

Commencement of section.—By sub-s. (7), *supra*, this section is to apply for the purposes of the first general election after the passing of the Act (July 30, 1948), and any subsequent election.

Parliamentary corrupt practices Act.—This means the Corrupt and Illegal Practices Prevention Act, 1883 (7 Halsbury's Statutes 465) (see s. 75 (2) (*a*), *post*). For Sched. I, Parts III and IV (as later substituted and amended), and Sched. II, Part I thereof, see 7 Halsbury's Statutes 504, 505; for s. 63 thereof, see 7 Halsbury's Statutes 500; and for s. 33 (5) thereof, see 7 Halsbury's Statutes 481. For definition of "personal expenses" of a candidate, see s. 64 thereof (7 Halsbury's Statutes 500).

County constituency; Borough constituency.—Cf. s. 1 (1), *ante*.

Register of parliamentary electors, etc.—See s. 5, *ante*.

Publication of notice of election.—See Sched. III, Part II, para. 1, *post*.

Electors lists, etc.—See s. 5 (5) (*b*), *ante*.

Passing of the Act.—July 30, 1948.

33. Use of motor vehicles for conveying electors to poll.—(1) Subject to the provisions of this section, a person shall not, with a view to supporting or opposing the candidature of any individual as against any other or others at a parliamentary election, either let, lend or employ, or hire, borrow or use, any motor vehicle for the purpose of the conveyance of electors or their proxies to or from the poll, and a person knowingly acting in contravention of this subsection shall be guilty of an illegal practice within the meaning of the parliamentary corrupt practices Act:

Provided that—

(*a*) the court before whom a person is convicted under this subsection may, if they think it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by section ten of the said Act; and

(*b*) a candidate shall not be liable, nor shall his election be avoided, for an illegal practice under this subsection committed without his consent or connivance by an agent other than his election agent. [526]

(2) Where it is shown—

(*a*) that a motor vehicle was employed for the purpose aforesaid; and

(*b*) that at the time when it was so employed there was to the knowledge of any person employing or using it for that purpose displayed on it or on a trailer drawn by it any placard, colours or other thing indicating a preference for or against any candidate at the election;

it shall be presumed until the contrary is shown that that person was so employing or using it with a view to supporting or opposing the candidature of some individual as against some other or others. [527]

(3) Nothing in this section shall—

(*a*) render unlawful anything made lawful by subsection (3) of section fourteen of the parliamentary corrupt practices Act (which relates to the use of vehicles by electors at their joint cost); or

(*b*) prevent any person employing a motor vehicle for the purpose of conveying to or from the poll himself or any member of the same household, or borrowing a motor vehicle from a member of the same household to be employed for that purpose; or

(*c*) prevent a candidate at an election or some person on his behalf employing a motor vehicle for the purpose of conveying any person to or from the poll, if the conditions hereafter mentioned in this section are complied with, or borrowing a motor vehicle to be employed for that purpose from any person; or

(*d*) prevent a person lending or using a motor vehicle in a case in which it is lawfully borrowed or employed by virtue of either of the last two foregoing paragraphs. [528]

(4) The conditions under which a motor vehicle may be employed under the said paragraph (*c*) by or on behalf of a candidate are the following :—

(*a*) the motor vehicle shall be registered in the prescribed manner with the returning officer, and there shall be prominently displayed thereon a placard indicating that it is so registered ;

(*b*) the number of motor vehicles so employed shall not exceed in a county constituency one for every fifteen hundred electors or in a borough constituency one for every twenty-five hundred electors. [529]

(5) Regulations made with respect to the registration of motor vehicles with the returning officer under this section may make provision as to the retention, destruction and inspection of the register and the right to take or receive copies thereof, and as to the fees (if any) payable for the exercise of any right under the regulations. [530]

(6) For the purposes of this section—

(*a*) the expression " motor vehicle " means any mechanically propelled vehicle constructed or adapted for use on roads ;

(*b*) the expression " member of the same household " includes a visitor spending the night before or after the day of the poll in the same dwelling house and a person employed by a member of the household at the dwelling house unless so employed exclusively for the purpose of that member's trade, profession or business ; and

(*c*) the number of electors shall be taken to be the same as the number of entries in the register or electors lists by reference to which the maximum amount of the candidate's election expenses is determined, any residual fraction of fifteen hundred or, in a borough constituency, twenty-five hundred being treated as a complete fifteen or twenty-five hundred, as the case may be. [531]

Commencement of section.—See the note at the head of this Part of the Act, *ante*.
Parliamentary election.—See the notes to s. 1, *ante*.
Parliamentary corrupt practices Act.—This means the Corrupt and Illegal Practices Prevention Act, 1883 (7 Halsbury's Statutes 465) (s. 75 (2) (*a*), *post*). For s. 14 (3) thereof, see 7 Halsbury's Statutes 471.
Prescribed.—See s. 76 (1), (4), *post*, and S.I. 1949 No. 327, reg. 63 (1)–(3).
Returning officer.—See ss. 16 and 17, *ante*.
County constituency ; Borough constituency.—Cf. s. 1 (1), *ante*.
Regulations.—See s. 76 (4), *post*, and S.I. 1949 No. 327, reg. 63 (4), (5).
Dwelling house.—For meaning, see s. 76 (1), *post*.
Register or electors lists, etc.—See s. 32 (1), *ante*.

34. Candidate's right to send election address post free.—(1) A candidate at a parliamentary election shall, subject to regulations of the Postmaster General, be entitled to send free of any charge for postage to each elector one postal communication containing matter relating to the election only and not exceeding two ounces in weight. [532]

(2) He shall also, subject as aforesaid, be entitled to send free of any charge for postage to each person entered in the list of proxies for the election one such communication as aforesaid for each appointment in respect of which that person is so entered. [533]

(3) A person shall not be deemed to be a candidate for the purposes of this section unless he is shown as standing nominated in the statement of persons nominated, but until the publication of that statement any person who declares himself to be a candidate shall be entitled to exercise the right of free postage conferred by this section if he gives such security as may be required by the Postmaster General for the payment of postage should he not be shown as standing nominated as aforesaid. [534]

(4) For the purposes of this section, the expression "elector" means a person who is registered as a parliamentary elector in the constituency in the register to be used at the election or who, pending the publication of that register, appears from the electors lists therefor as corrected by the registration officer to be entitled to be so registered. [535]

Commencement of section.—See the note at the head of this Part of the Act, *ante*.
Parliamentary election.—See note to s. 1, *ante*.
List of proxies.—For the meaning of this term, see Sched. III, Part II, para. 15 (1) (*b*), *post*.
Shown as standing nominated, etc.—See Sched. III, Part II, para. 11, *post*.
Registered as a parliamentary elector.—See s. 5, *ante*.
Electors lists.—See s. 5 (5) (*b*), *ante*.
Registration officer.—See ss. 4, *ante*, and 66, *post*.

35. Candidate's right to use certain schools and halls for election meetings.—(1) Subject to the provisions of this section, a candidate at a parliamentary election shall be entitled for the purpose of holding public meetings in furtherance of his candidature to the use at reasonable times between the receipt of the writ and the date of the poll of—

(*a*) a suitable room in the premises of any school to which this section applies;

(*b*) any meeting room to which this section applies. [536]

(2) This section applies—

(*a*) in England and Wales, to county schools and voluntary schools of which the premises are situated in the constituency or an adjoining constituency; and

(*b*) in Scotland, to any school of which the premises are so situated, not being an independent school within the meaning of the Education (Scotland) Act, 1946;

but a candidate shall not be entitled under this section to the use of a room in school premises outside the constituency if there is a suitable room in other premises in the constituency which are reasonably accessible from the same parts of the constituency as those outside and are premises of a school to which this section applies. [537]

(3) This section applies to meeting rooms situated in the constituency, the expense of maintaining which is payable wholly or mainly out of public funds or out of any rate, or by a body whose expenses are so payable. [538]

(4) Where a room is used for a meeting in pursuance of the rights conferred by this section, the person by whom or on whose behalf the meeting is convened—

(*a*) may be required to pay for the use of the room a charge not exceeding the amount of any actual and necessary expenses incurred in preparing, warming, lighting and cleaning the room and providing attendance for the meeting and restoring the room to its usual condition after the meeting; and

(*b*) shall defray any damage done to the room or the premises in which it is situated, or to the furniture, fittings or apparatus in the room or premises. [539]

(5) A candidate shall not be entitled to exercise the rights conferred by this section except on reasonable notice and this section shall not authorise any interference with the hours during which a room in school premises is used for educational purposes, or any interference with the use of a meeting room either for the purposes of the person maintaining it or under a prior agreement for its letting for any purpose. [540]

(6) The provisions of the Fifth Schedule to this Act shall have effect with respect to the rights conferred by this section and the arrangements to be made for their exercise. [541]

(7) For the purposes of this section (except those of paragraph (*b*) of subsection (4) thereof), the premises of a school shall not be taken to include any private dwelling house, and in this section—

(*a*) the expression "meeting room" means any room which it is the practice to let for public meetings; and

(*b*) the expression "room" includes a hall, gallery or gymnasium. [542]

(8) This section shall not apply to Northern Ireland. [543]

This section, which is supplemented by Sched. V, *post*, replaces s. 25 of the Representation of the People Act, 1918 (7 Halsbury's Statutes 563). Like that section it applies only to parliamentary elections. But as to the use of schoolrooms by candidates at local government elections, see the Local Government Act, 1933, s. 69 (7 Halsbury's Statutes 343), and the London Government Act, 1939, s. 44 (32 Halsbury's Statutes 282).

Commencement of section.—See the note at the head of this Part of the Act, *ante*.

Parliamentary election.—See note to s. 1, *ante*.

County schools and voluntary schools.—See the Education Act, 1944, s. 9 (2) (37 Halsbury's Statutes 135); and see also s. 85 (3) thereof (37 Halsbury's Statutes 197).

Dwelling house.—For interpretation, see s. 76 (1), *post*.

36. Use of committee rooms in schools.—(1) Paragraph (*d*) of section twenty of the parliamentary corrupt practices Act (which prohibits the use for a committee room of the premises of a public elementary school in receipt of an annual parliamentary grant), shall—

(*a*) in England and Wales, apply to the premises of all schools maintained or assisted by a local education authority and all other schools in respect of which grants are made out of moneys provided by Parliament to the person or body of persons responsible for the management of the school; and

(*b*) in Scotland, apply to the premises of all schools other than independent schools within the meaning of the Education (Scotland) Act, 1946; and

(*c*) in Northern Ireland, apply to the premises of all schools other than independent schools within the meaning of the Education Act (Northern Ireland), 1947. [544]

(2) For the purposes of the said section twenty and of this section, the premises of a school shall be taken to include any dwelling house which forms part thereof and is occupied by a person employed for the purposes of the school. [545]

Commencement of section.—See the note at the head of this Part of the Act, *ante*.

S. 20 of the parliamentary corrupt practices Act.—This means s. 20 of the Corrupt and Illegal Practices Prevention Act, 1883 (7 Halsbury's Statutes 473) (s. 75 (2) (*a*), *post*).

Schools maintained or assisted by a local education authority.—The expression "assisted" must, it is submitted, be construed in the light of s. 114 (2) (*b*) of the Education Act, 1944 (37 Halsbury's Statutes 219).

Dwelling house.—This includes any part of a house where that part is occupied separately as a dwelling house (s. 76 (1), *post*).

37. Election propaganda.—(1) No person shall, with intent to influence persons to give or refrain from giving their votes at a parliamentary election, use, or aid, abet, counsel, or procure the use of, any wireless transmitting station outside the United Kingdom for the transmission of any matter having reference to the election otherwise than in pursuance of arrangements made with the British Broadcasting Corporation for it to be received and retransmitted by that Corporation. [546]

(2) No person shall for the purpose of promoting or procuring the election of any candidate at a parliamentary election issue any poll card or document so closely resembling an official poll card as to be calculated to deceive. [547]

(3) Any offence under this section shall be an illegal practice within the meaning of the parliamentary corrupt practices Act:

Provided that the court before whom a person is convicted of an offence under this section may, if they think it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by section ten of that Act. [548]

(4) Where any act or omission of an association or body of persons, corporate or unincorporated, is an illegal practice under this section, any person who at the time of the act or omission was a director, general manager, secretary or other similar officer of the association or body, or was purporting to act in any such capacity, shall be deemed to be guilty of the illegal practice, unless he proves that the act or omission took place without his consent or connivance and that he exercised all such diligence to prevent the commission of the illegal practice as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances. [549]

Commencement of section.—See the note at the head of this Part of the Act, *ante.*
Parliamentary election.—See the notes to s. 1, *ante.*
United Kingdom.—See the notes to s. 6, *ante.*
Official poll card.—See Sched. III, Part II, para. 16, *post*, and S.I. 1949 No. 327, reg. 64.
Parliamentary corrupt practices Act.—This means the Corrupt and Illegal Practices Prevention Act, 1883 (7 Halsbury's Statutes 463) (s. 75 (2) (*a*), *post*). For s. 10 thereof, see 7 Halsbury's Statutes 469.

Local government elections

38. Appointment of election agent.—(1) In relation to local government elections, sections twenty-four and twenty-six to thirty-five of the parliamentary corrupt practices Act (which deal with the appointment and functions of an election agent, and the payment of and making of returns as to expenses, at parliamentary elections), shall apply as if those sections had been enacted in the local corrupt practices Act as they apply to a parliamentary election in the part of Great Britain in question, but with the modifications mentioned in the next following subsection. [550]

(2) The said modifications are as follows :—

(*a*) there shall be omitted any reference to a sub-agent, any limit on the amount of the candidate's personal expenses which may be paid by him and subsection (1) of section thirty-five (which requires a summary of the return of election expenses to be published in two newspapers) ;

(*b*) for references to the constituency, to the returning officer and to sitting or voting in the House of Commons as a member for the constituency there shall respectively be substituted references to the local government area, to the town clerk or, in Scotland, the prescribed officer, and to sitting or voting in the council, and, in relation to Scotland, for any reference to the High Court there shall be substituted a reference to the sheriff ;

(*c*) the penalty recoverable by the Crown in civil proceedings for a contravention of subsection (5) of section thirty-three (which penalises a person sitting or voting when the return and declaration as to his election expenses have not been sent in in time) shall be fifty, and not a hundred, pounds and, instead of civil proceedings for a penalty, proceedings may be instituted in a court of summary jurisdiction and the person charged shall be liable, on conviction, to a fine of an amount not exceeding the amount of the penalty which would be recoverable in civil proceedings. [551]

(3) The following amendments (being amendments consequential on the foregoing provisions of this section) shall be made in the local corrupt practices Act and in the Municipal Elections (Corrupt and Illegal Practices) Act, 1911,

as they apply in relation to elections at which a candidate is required to appoint an election agent :—

(*a*) the words of the corresponding provisions of the parliamentary corrupt practices Act and of the Corrupt and Illegal Practices Prevention Act, 1895, shall be respectively substituted for those of subsection (3) of section six, section fourteen, subsection (2) of section seventeen, paragraphs (*a*) and (*b*) of section nineteen and subsection (1) of section twenty-six of the local corrupt practices Act and for those of subsection (4) of section one of the said Act of 1911, except that in relation to Scotland for any reference to the High Court there shall be substituted a reference to the sheriff;

(*b*) in section twenty-five of the local corrupt practices Act—

(i) in subsection (1) after the words " candidate to whose election the petition relates " there shall be inserted the words " and his election agent ", and for the words following the word " relates " there shall be substituted the words of subsection (4) of section forty of the parliamentary corrupt practices Act with the appropriate modification of the reference to the returning officer; and

(ii) in subsection (2) after the words " with the privity of the candidate " there shall be inserted the words " or his election agent ";

(*c*) where two or more candidates at an election appoint the same election agent, subsection (4) of section five of the local corrupt practices Act (which deals with the cases in which candidates are to be treated as joint candidates for the purpose of determining the permitted amount of election expenses) shall apply as it applies where two or more candidates employ the same polling agent, except that proviso (*a*) (which deals with the case where the employment is accidental or casual) shall not apply;

(*d*) the said section five shall not apply to sums paid or expenses incurred otherwise than by the candidate or his election agent. [552]

(4) This section shall apply in relation to the first ordinary election of councillors held after the passing of this Act and to any subsequent election. [553]

(5) In the application of this section to Scotland, for the reference in subsection (2) to proceedings in a court of summary jurisdiction there shall be substituted a reference to summary proceedings in the sheriff court. [554]

Commencement of section.—By sub-s. (4), *supra*, this section is to apply in relation to the first ordinary election of councillors held after the passing of the Act (July 30, 1948), and to any subsequent election. But see also s. 80 (4), *post*, in conjunction with s. 56 (3), *post*.

General note.—This section applies, with modifications, in relation to local government elections, most of the provisions of the Corrupt and Illegal Practices Prevention Act, 1883 (7 Halsbury's Statutes 465), as to election expenses, requiring thereby for the first time the appointment of election agents for local government elections, and makes consequential amendments to the Municipal Elections (Corrupt and Illegal Practices) Acts, 1884 and 1911, *i.e.*, the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (7 Halsbury's Statutes 511), and the Municipal Elections (Corrupt and Illegal Practices) Act, 1911 (7 Halsbury's Statutes 546).

The section must be read in conjunction with s. 39, *post*, from the proviso to sub-s. (1) of which it is clear, on the one hand, that the provisions of the Act of 1883 mentioned in sub-s. (1), *supra*, are substituted for s. 21 of the Act of 1884 (7 Halsbury's Statutes 519), and, on the other hand, that the present section does not apply in relation to parish elections (cf. also Sched. XII, Part I, *post*). The section must further be read in conjunction with s. 44, *post*, under which a candidate is in certain cases to be treated as his own election agent.

Local government elections; Local government area.—For the meanings of these expressions, see s. 77 (1), *post*, in conjunction with s. 56 (1), *post* (but see also s. 56 (4), *post*).

Parliamentary corrupt practices Act.—This means the Corrupt and Illegal Practices Act, 1883 (s. 75 (2) (*a*), *post*). For ss. 24, 26–35 and 40 (4) thereof, as amended by Representation of the People Act, 1918, s. 47 (1) and Sched. VIII, see 7 Halsbury's Statutes 476 *et seq.*, 488; but see s. 32, *ante*.

Local corrupt practices Act.—This means, as respects England and Wales, the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (see *supra*) (s. 75 (2) (*b*), *post*). For ss. 6 (3), 14, 17 (2), 19 (*a*), (*b*) and 26 (1) thereof, see 7 Halsbury's Statutes 514, 516, 517, 518, 523; for s. 25 (1), (2) thereof, see 7 Halsbury's Statutes 522; and for s. 5 thereof, see 7 Halsbury's Statutes 513).

As they apply to a parliamentary election, etc.—Note the provisions of s. 32 (5), *ante*. See also, as to the meaning of "parliamentary election", the notes to s. 1, *ante*.

Municipal Elections (Corrupt and Illegal Practices) Act, 1911.—See *supra*.

Corrupt and Illegal Practices Prevention Act, 1895.—7 Halsbury's Statutes 543.

Passing of the Act.—July 30, 1948.

39. Extensions of local corrupt practices Act in England and Wales.—(1) In the provisions of the local elections Act which apply the local corrupt practices Act to elections of metropolitan borough, district and parish councillors in England and Wales, there shall cease to have effect the words excepting from that application the provisions of the last mentioned Act referred to in section thirty-seven thereof (being the provisions of that Act which relate to election expenses):

Provided that in relation to elections of parish councillors section twenty-one of the local corrupt practices Act, and not the provisions substituted therefore by the last foregoing section, shall apply but with the modifications mentioned in the next following subsection of this section. [555]

(2) In relation to elections of parish councillors, the said section twenty-one shall be modified as follows:—

(*a*) no penalty shall be recoverable in civil proceedings under subsection (4) (which penalises a person sitting or voting when the return and declaration as to his election expenses have not been sent in in time), except by the Crown; and

(*b*) instead of civil proceedings for a penalty, proceedings may be instituted in a court of summary jurisdiction and the person charged shall be liable, on conviction, to a fine of an amount not exceeding the amount of the penalty which would be recoverable in civil proceedings; and

(*c*) any declaration as to election expenses shall be in such form as may be prescribed by parish election rules made under section fifty-four of the Local Government Act, 1933, instead of in the form set out in the Fourth Schedule to the local corrupt practices Act. [556]

(3) In relation to elections of a chairman of a district council or parish council or meeting in England or Wales, Part IV of the Municipal Corporations Act, 1882, and the local corrupt practices Act shall, subject to such adaptations, alterations and exceptions as may be made by district or parish election rules under the Local Government Act, 1933, apply in like manner as in the case of elections under that Act of the mayor of a borough. [557]

(4) This section shall apply in relation to the first ordinary election of councillors held after the passing of this Act and to any subsequent election of councillors, and in relation to any election so held of the chairman of a council. [558]

Commencement of section.—By sub-s. (4), *supra*, this section is to apply in relation to the first ordinary election of councillors held after the passing of the Act (July 30, 1948) and to any subsequent election of councillors, and in relation to any election so held of the chairman of a council.

General note.—Reference may conveniently be made to the notes to s. 38, *ante*.

Local elections Act.—This means, as respects England and Wales, except London, the Local Government Act, 1933 (26 Halsbury's Statutes 295), and, as respects London, the London Government Act, 1939 (32 Halsbury's Statutes 259) (see s. 75 (1) (*a*), *post*). For the provisions thereof applying the local corrupt practices Act, see ss. 40 (2) and 54 (2) of the Act of 1933 (26 Halsbury's Statutes 325, 352), and s. 46 (1) of the Act of 1939 (32 Halsbury's Statutes 283).

Local corrupt practices Act.—This means, as respects England and Wales, the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (7 Halsbury's Statutes 511) (see s. 75 (2) (*b*), *post*). For s. 37 thereof, see 7 Halsbury's Statutes 530; for s. 21 thereof, see 7 Halsbury's Statutes 519; and for Sched. IV thereto, see 7 Halsbury's Statutes 535. See also s. 79 (3), *post*.

Local Government Act, 1933.—26 Halsbury's Statutes 295. For s. 54 thereof, see 26 Halsbury's Statutes 332.

Municipal Corporations Act, 1882, *Part IV.*—10 Halsbury's Statutes 508.

District and parish election rules.—As to sub-s. (2) (*c*), *supra*, see r. 5 (2) of, and Sched. III to, S.I. 1949 No. 284 ; and as to sub-s. (3), *supra*, see r. 2 of, and Sched. I to, S.I. 1949 No. 197 and r. 3 of, and Sched. I to, S.I. 1949 No. 285 and S.I. 1949 No. 284.

Passing of the Act.—July 30, 1948.

City of London.—See s. 26 (4) (b) (i), *post*.

40. Other amendments for securing conformity with rules as to parliamentary elections.—(1) Section sixteen of the local corrupt practices Act (which prohibits the use of certain premises for committee rooms or election meetings), shall be amended as follows :—

(*a*) any reference to holding a meeting shall cease to have effect ;

(*b*) the prohibition on the use of any premises, or part of any premises, where intoxicating liquor is supplied to members of a club, society or association shall not apply where the club, society or association is a permanent political club ; and

(*c*) the premises to which the section applies shall include any premises which are within the prohibition imposed by section twenty of the parliamentary corrupt practices Act on the use of school premises at parliamentary elections. [559]

(2) For the purpose of determining the amount of the election expenses permitted by section five of the local corrupt practices Act, the number of the electors shall be taken to be the number of entries in the register of local government electors to be used at the election or, if that register is not published before the day of publication of the notice of election, the number of entries in the electors lists therefor as first published which give the name of a person appearing from those lists to be entitled to be registered. [560]

(3) In subsection (1) of section one of the Public Meeting Act, 1908 (which penalises attempts to break up a public meeting and makes them an illegal practice if made in the course of a parliamentary election), after the words " the Corrupt and Illegal Practices Prevention Act, 1883 " there shall be inserted the words " and, if the offence is committed on, or within three weeks before, the day of election at a local government election at a meeting held in the electoral area with reference to that election, he shall be guilty of an illegal practice within the meaning of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, or, if the offence is committed in Scotland, within the meaning of the Elections (Scotland) (Corrupt and Illegal Practices) Act, 1890." [561]

(4) Section eighty-five of the Municipal Corporations Act, 1882, and section six of the Elections (Scotland) (Corrupt and Illegal Practices) Act, 1890 (which provide for striking off on a scrutiny the vote of any person in respect of whom a corrupt practice was committed at the election), shall cease to have effect, and section one hundred of the said Act of 1882 and subsection (2) of section forty-seven of the said Act of 1890 (which apply the rules governing parliamentary election petitions) shall be construed as if the said section eighty-five or the said section six, as the case may be, had never been passed. [562]

Commencement of section.—See the note at the head of this Part of the Act, *ante*.

Local corrupt practices Act.—This means, as respects England and Wales, the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (7 Halsbury's Statutes 511) (see s. 75 (2) (*b*), *post*). For s. 16 thereof, see 7 Halsbury's Statutes 517 ; and for s. 5 thereof, see 7 Halsbury's Statutes 513.

S. 20 of the parliamentary corrupt practices Act.—This means s. 20 of the Corrupt and Illegal Practices Prevention Act, 1883 (7 Halsbury's Statutes 473) (see s. 75 (2) (*a*), *post*).

Parliamentary elections.—See the notes to s. 1, *ante*.

Register of local government electors.—See s. 23, *ante*.

Publication of notice of election.—See the Local Government Act, 1933, Sched. II, Part I, para. 1 (26 Halsbury's Statutes 474), the London Government Act, 1939, Sched. II, Part I, para. 1 (32 Halsbury's Statutes 854), and r. 4, in conjunction with rr. 1 and 2, of Sched. II to, S.I. 1949 No. 197, S.I. 1949 No. 285 and S.I. 1949 No. 284.

Electors lists, etc.—See s. 5 (5) (*b*), *ante*, in conjunction with s. 23 (7), *ante*.

Public Meeting Act, 1908, s. 1 (1).—7 Halsbury's Statutes (2nd Edn.) 962.
Local government election.—For the meaning of this expression, see s. 77 (1), *post*, in conjunction with s. 56 (1), *post*.
Electoral area.—For the meaning of this phrase, see s. 77 (1), *post*, in conjunction with s. 56, *post*.
Municipal Elections (Corrupt and Illegal Practices) Act, 1884.—7 Halsbury's Statutes 511.
Municipal Corporations Act, 1882, ss. 85 and 100.—10 Halsbury's Statutes 590, 606.
City of London.—For modifications of this section in relation to municipal elections in the City of London, see s. 56 (2), *post*.

Provisions applying to parliamentary and local government elections

41. Effect on rateability of premises of holding election meeting.—The use of any premises for the holding of public meetings in furtherance of any person's candidature at a parliamentary or local government election shall not render any person liable to be rated or to pay any rate for the premises. [563]

Commencement of section.—See the note at the head of this Part of the Act, *ante*.
Parliamentary election.—For interpretation, see note to s. 1, *ante*.
Local government election.—For the meaning of this phrase, see s. 77 (1), *post*, in conjunction with s. 56 (1), *post*.

42. Prohibition of expenses not authorised by election agent.—(1) No expenses shall, with a view to promoting or procuring the election of a candidate at a parliamentary or local government election, be incurred by any person other than the candidate, his election agent and persons authorised in writing by the election agent on account—

(*a*) of holding public meetings or organising any public display ; or
(*b*) of issuing advertisements, circulars or publications ; or
(*c*) of otherwise presenting to the electors the candidate or his views or the extent or nature of his backing or disparaging another candidate :

Provided that paragraph (*c*) of this subsection shall not—

(i) restrict the publication of any matter relating to the election in a newspaper or other periodical ; or
(ii) apply to any expenses not exceeding in the aggregate the sum of ten shillings which may be incurred by an individual and are not incurred in pursuance of a plan suggested by or concerted with others, or to expenses incurred by any person in travelling or in living away from home or similar personal expenses. [564]

(2) Where a person incurs any expenses required by this section to be authorised by the election agent, that person shall within fourteen days after the date of publication of the result of the election send to the appropriate officer a return of the amount of those expenses, stating the election at which and the candidate in whose support they were incurred, and the return shall be accompanied by a declaration made by the said person (or in the case of an association or body of persons, by a director, general manager, secretary or other similar officer thereof) verifying the return and giving particulars of the matters for which the expenses were incurred :

Provided that this subsection shall not apply to any person engaged or employed for payment or promise of payment by the candidate or his election agent. [565]

(3) The return and declaration under the foregoing provisions of this section shall be in the prescribed form, and the authority received from the election agent shall be annexed to and deemed to form part of the return, and subsection (2) of section thirty-five of the corrupt practices Act (which deals with the retention, inspection and destruction or return of the returns and declarations as to election expenses under that Act), shall apply also to any returns and declarations under the foregoing provisions of this section, except that they shall be returned after two years not to the candidate if

he or his election agent so require, but to the person sending them if he so require. [566]

(4) The election agent's return respecting election expenses shall deal under a separate heading or sub-heading with any expenses included therein as respects which a return is required to be made by subsection (2) of this section. [567]

(5) Subsection (1) of this section shall not affect the right of any creditor, who, when the expense was incurred, was ignorant of its being in contravention of this section. [568]

(6) A copy of every return and declaration made under subsection (2) of this section in relation to a parliamentary election in England, Wales or Northern Ireland shall be sent to the Clerk of the Crown in Chancery within fourteen days after the date of publication of the result of the election by the person making the return or declaration, and rules 39 and 42 of the First Schedule to the Ballot Act, 1872 (which deals with the retention, inspection and destruction of certain documents under that Act), shall apply to any documents sent to the Clerk of the Crown under this subsection. [569]

(7) In this section the expression "the appropriate officer" means the officer to whom the election agent's return respecting election expenses is required to be sent. [570]

(8) This section shall not apply to elections of parish councillors in England or Wales. [571]

(9) If any person incurs, or aids, abets, counsels or procures any other person to incur, any expenses in contravention of this section, or knowingly makes the declaration required by subsection (2) thereof falsely, he shall be guilty of a corrupt practice within the meaning of the corrupt practices Act, and if a person fails to send any declaration or return or a copy thereof as required by this section he shall be guilty of an illegal practice within the meaning of the said Act:

Provided that—

(*a*) the court before whom a person is convicted under this subsection may, if they think it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by section six or ten of the corrupt practices Act; and

(*b*) a candidate shall not be liable, nor shall his election be avoided, for a corrupt or illegal practice under this subsection committed by an agent without his consent or connivance. [572]

(10) Where any act or omission of an association or body of persons, corporate or unincorporated, is an offence declared to be a corrupt or illegal practice by this section, any person who at the time of the act or omission was a director, general manager, secretary or other similar officer of the association or body, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence, unless he proves that the act or omission took place without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances. [573]

(11) Section forty of the corrupt practices Act (which provides a longer time for presenting an election petition, where an illegal practice is alleged) shall apply to any corrupt practice under this section as if it were an illegal practice. [574]

Commencement of section.—See the note at the head of this Part of the Act, *ante*.

Parliamentary election.—See note to s. 1, *ante*.

Local government election.—For the meaning of this term, see s. 77 (1), *post*, in conjunction with s. 56 (1), *post* (but see also s. 56 (4), *post*).

Publication of result of election.—Cf. the Ballot Act, 1872, Sched. I, paras. 45 and 46 (7 Halsbury's Statutes 446); the Local Government Act, 1933, Sched. II, Part II, para. 9 (2), (4) and Part III, para. 38 (1) (26 Halsbury's Statutes 477, 478, 483); the London Govern-

ment Act, 1939, Sched. II, Part I, para. 10 and Part II, para. 38 (1) (32 Halsbury's Statutes 356, 364); S.I. 1949 No. 197, Sched. II, r. 46 and S.I. 1949 No. 285, Sched. II, r. 46.

Prescribed.—See s. 76 (1), (4), *post*, and S.I. 1949 No. 327, regs. 65 (3).

Corrupt practices Act.—This means, as respects England and Wales, the Corrupt and Illegal Practices Prevention Act, 1883 (7 Halsbury's Statutes 465), and the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (7 Halsbury's Statutes 511) (see s. 75 (2), *post*). The reference to s. 35 (2) of the corrupt practices Act is to be taken as a reference to s. 35 (2) of the Act of 1883 (7 Halsbury's Statutes 483) and, in relation to local government elections other than parish elections, to that subsection as applied by s. 38, *ante*; the reference to ss. 6 and 10 of the corrupt practices Act as a reference to ss. 6 and 10 of the Act of 1883 (7 Halsbury's Statutes 467, 469) and to s. 6 of that Act as applied by s. 2 of the Act of 1884 (7 Halsbury's Statutes 511) and s. 7 of the Act of 1884 (7 Halsbury's Statutes 514); and the reference to s. 40 of the corrupt practices Act as a reference to s. 40 of the Act of 1883 (7 Halsbury's Statutes 488) and to s. 25 of the Act of 1884 (7 Halsbury's Statutes 522) (see s. 75 (3) (*a*), Sched. XII, Part I, *post*).

Ballot Act, 1872, *Sched. I, rr.* 39 *and* 42.—7 Halsbury's Statutes 444, 445.

43. Miscellaneous amendments as to election expenses and propaganda.—(1) The following provisions of the corrupt practices Act shall cease to have effect, namely—

(*a*) section seven in so far as it prohibits payments or contracts for payment in respect of committee rooms in excess of a specified number;

(*b*) section sixteen except in so far as it relates to bands of music, torches, flags and banners; and

(*c*) subject to the next following subsection, section seventeen (which relates to paid employment. [575]

(2) The said section seventeen shall continue to prohibit the engagement or employment for payment or promise of payment of any person as a canvasser, and accordingly in subsection (1) thereof for the words from "for any purpose or in any capacity" onwards there shall be substituted the words "as a canvasser". [576]

(3) Where the expenses required by the corrupt practices Act to be shown in the election agent's return include expenditure on account of the remuneration or expenses of speakers at public meetings, the amount of that expenditure (with the name of the speaker and the date and place of the meeting in each case) shall be shown under a separate heading or subheading. [577]

(4) Section seven of the Corrupt Practices Prevention Act, 1854 (which prohibits candidates at a parliamentary election from giving or providing cockades, ribbons and other marks of distinction), shall cease to have effect. [578]

(5) Section eighteen of the corrupt practices Act (which requires election placards to bear the name and address of printer and publisher), shall apply to every printed document distributed for the purpose of promoting or procuring the election of a candidate as it applies to bills, placards and posters, but with the substitution of references to distributing for references to posting. [579]

(6) For the purposes of the said section eighteen, any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be printing and the expression "printer" shall be construed accordingly. [580]

Commencement of section.—See the note at the head of this Part of the Act, *ante*.

Corrupt practices Act.—This means, as respects England and Wales, the Corrupt and Illegal Practices Prevention Act, 1883 (7 Halsbury's Statutes 465), and the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (7 Halsbury's Statutes 511) (s. 75 (2), *post*). The reference to s. 7 of the corrupt practices Act is to be taken as a reference to s. 7 of the Act of 1883 (7 Halsbury's Statutes 468) and s. 4 of the Act of 1884 (7 Halsbury's Statutes 512); the reference to s. 16 of the corrupt practices Act is to be taken as a reference to s. 16 of the Act of 1883 (7 Halsbury's Statutes 472) and s. 12 of the Act of 1884 (7 Halsbury's Statutes 515); the references to s. 17 of the corrupt practices Act are to be taken as references to s. 17 of the Act of 1883 (7 Halsbury's Statutes 472) and s. 13 of the Act of 1884 (7 Halsbury's Statutes 516); the reference to s. 17 (1) of the corrupt practices Act is to be construed accordingly; and the references to s. 18 of that Act are to be taken as references to s. 18 of the Act of 1883 (7 Halsbury's Statutes 472) and s. 14 of the Act of 1884 (7 Halsbury's Statutes 516) (see s. 75 (3) (*a*), Sched. XII, Part I, *post*).

Corrupt Practices Prevention Act, 1854, *s.* 7.—7 Halsbury's Statutes 401.

44. Failure to appoint election agent.—(1) Notwithstanding anything in section twenty-four of the corrupt practices Act,—

(*a*) the election agent of a candidate who remains validly nominated at the latest time for delivery of notices of withdrawals shall be named, and his name and address given to the appropriate officer, as required by that section, not later than that time; and

(*b*) if no person's name and address is so given within that time as those of the candidate's election agent, the candidate shall be deemed at that time to have named himself as election agent and to have revoked any appointment of another person as his election agent. [581]

(2) If the person whose name and address have been so given as those of the candidate's election agent (not being the candidate himself) dies, and a new appointment is not made on the day of the death or on the following day, the candidate shall be deemed to have appointed himself as from the time of the death. [582]

(3) If the appointment of a candidate's election agent is revoked without a new appointment being made, the candidate himself shall be deemed to have been appointed (or re-appointed) election agent. [583]

(4) Where a candidate is by virtue of this section to be treated as his own election agent, he shall be deemed to have his office at his address as given in the statement as to persons nominated or, if that address is not in the constituency or local government area or in a county of a city or town adjoining thereto, at the qualifying address of the person (or first person) named in that statement as his proposer. [584]

(5) The appropriate officer, on being satisfied that a candidate is by virtue of this section to be treated as his own election agent, shall forthwith proceed to publish the like notice as if the name and address of the candidate and the address of his office had been duly given to him under sections twenty-four and twenty-six of the corrupt practices Act. [585]

(6) In paragraph 48 of Part III of the local elections rules (which prohibits a returning officer or officer appointed under those rules or his partner or clerk from acting as polling or counting agent) for the words "polling or counting agent" wherever they occur there shall be substituted the words "candidate's agent in the management or conduct of the election"; but nothing in the foregoing provisions of this subsection or in section fifty of the Representation of the People Act, 1867, or section thirteen of the Representation of the People (Ireland) Act, 1868 (which make similar provision in relation to parliamentary elections), shall be taken as preventing a candidate from acting as his own election agent. [586]

(7) This section shall have effect in its application to a local government election in Scotland as if—

(*a*) for subsection (*4*) there were substituted the following subsection—

"(*4*) Where a candidate is by virtue of this section to be treated as his own election agent, he shall be deemed to have his office at his address as given in his nomination paper or papers or if that address is not in the local government area or in a county of a city or town adjoining thereto, at the address of the person named as the proposer of the candidate in the nomination paper first delivered in which the address of the proposer is in the local government area"; and

(*b*) the reference in subsection (6) to the provision of the local elections rules therein mentioned included a reference to subsection (2) of section sixty-seven of the Local Government (Scotland) Act, 1947. [587]

Commencement of section.—See the note at the head of this Part of the Act, *ante*.

Corrupt practices Act.—This means, as respects England and Wales, the Corrupt and Illegal Practices, Act, 1883 (7 Halsbury's Statutes 465), and the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (7 Halsbury's Statutes 511) (see s. 75 (2), *post*). But the references to s. 24 of the corrupt practices Act are to be taken as references to s. 24 of the Act of 1883 (7 Halsbury's Statutes 476) and, in relation to local government elections other than parish elections, to that section as applied by s. 38, *ante*; and the reference to s. 26 of the corrupt practices Act is to be taken as a reference to s. 26 of the Act of 1883 (7 Halsbury's Statutes 477) and, in relation to local government elections other than parish elections, to that section as so applied (see s. 75 (3) (*a*), Sched. XII, Part I, *post*).

Appropriate officer.—See Corrupt and Illegal Practices Prevention Act, 1883, s. 24 (3) (7 Halsbury's Statutes 476), and s. 38, *ante*.

Statement as to persons nominated.—See Sched. III, Part II, para. 11, *post*; the Local Government Act, 1933, Sched. II, Part I, para. 6 (26 Halsbury's Statutes 476); the London Government Act, 1939, Sched. II, Part I, para. 6 (32 Halsbury's Statutes 356); S.I. 1949 No. 197, Sched. II, r. 11, and S.I. 1949 No. 285, Sched. II, r. 11.

Local government area.—For the meaning of this expression see s. 78 (3), *post*, in conjunction with s. 56 (1), *post*.

County.—For definition, see s. 77 (1), *post*.

Qualifying address.—As to parliamentary elections, see the notes to s. 8, *ante*, and as to local government elections, the notes to s. 25, *ante*.

Para. 48 of Part III of the local elections rules.—This means, as respects England and Wales, except London, para. 48 of Part III of Sched. II to the Local Government Act, 1933 (26 Halsbury's Statutes 490), and, as respects London, para. 48 of Part II of Sched. II to the London Government Act, 1939 (32 Halsbury's Statutes 366) (see s. 75 (1), (3), Sched. XII, Part II, *post*).

Representation of the People Act, 1867, s. 50.—7 Halsbury's Statutes 405.

City of London.—This section does not apply to municipal elections in the City of London other than ward elections (s. 56 (4) (*b*), *post*).

45. Avoidance of election for employing corrupt agent.—(1) If at a parliamentary or local government election a candidate or his election agent personally engages as a canvasser or agent for the management of the election any person whom he knows or has reasonable grounds for supposing to be subject to an incapacity to vote at the election by reason—

(*a*) of his having been convicted or reported of any corrupt or illegal practice within the meaning of the corrupt practices Act or of the law relating to elections for the Parliament of Northern Ireland; or

(*b*) of his having been convicted more than once of an offence under the Public Bodies Corrupt Practices Act, 1889;

the candidate shall be incapable of being elected to fill the vacancy or any of the vacancies for which the election is held. [588]

(2) For the purposes of section eighty-seven of the Municipal Corporations Act, 1882, and section thirty of the Elections (Scotland) (Corrupt and Illegal Practices) Act, 1890 (which provide that an election may, on the grounds there mentioned, be questioned by petition, and not otherwise) a person declared by this section incapable of being elected shall be deemed to have been disqualified at the time of the election; but a vote given for such a person shall not, by reason of his incapacity under this section, be deemed to be thrown away so as to entitle another candidate to be declared elected, unless given at a poll consequent on the decision of an election court that he was so incapable. [589]

(3) Section forty-four of the Parliamentary Elections Act, 1868 (which makes as respects parliamentary elections provision similar to subsection (1) of this section), shall cease to have effect. [590]

Commencement of section.—See the note at the head of this Part of the Act, *ante*.

Parliamentary election.—See the notes to s. 1, *ante*.

Local government election.—For the meaning of this expression, see s. 77 (1), *post*, in conjunction with s. 56 (1), *post*.

Corrupt practices Act.—This means, as respects England and Wales, the Corrupt and Illegal Practices Prevention Act, 1883 (7 Halsbury's Statutes 465), and the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (7 Halsbury's Statutes 511) (see s. 75 (2), *post*).

Public Bodies Corrupt Practices Act, 1889.—5 Halsbury's Statutes (2nd Edn.) 919.

Municipal Corporations Act, 1882, s. 87.—7 Halsbury's Statutes 599.

Parliamentary Elections Act, 1868, s. 44.—7 Halsbury's Statutes 421.

46. Avoidance of election for general corruption, etc.—(1) Where on an election petition it is shown that offences under the corrupt practices Act committed in reference to the election for the purpose of promoting or procuring the election of any person thereat have so extensively prevailed that they may be reasonably supposed to have affected the result, his election, if he has been elected, shall be void and he shall be incapable of being elected to fill the vacancy or any of the vacancies for which the election was held. [591]

(2) In section eighty-seven of the Municipal Corporations Act, 1882, and section thirty of the Elections (Scotland) (Corrupt and Illegal Practices) Act, 1890 (which provide that an election may, on the grounds there mentioned, be questioned by petition, and not otherwise), for the references to an election being avoided by general bribery, treating, undue influence or personation there shall be substituted a reference to its being avoided under this section. [592]

(3) For the purpose of the enactments relating to the time within which an election petition may be presented or amended, an allegation that an election is avoided under this section shall be deemed to be an allegation of corrupt practices, notwithstanding that the offences alleged are or include offences other than corrupt practices. [593]

(4) The reference in subsection (1) of this section to offences under the corrupt practices Act shall include offences under any other enactment which are punishable as corrupt or illegal practices under that Act. [594]

(5) An election to which the corrupt practices Act applies shall not be liable to be avoided otherwise than under this section by reason of general corruption, bribery, treating or intimidation. [595]

Commencement of section.—See the note at the head of this Part of the Act, *ante*.

Corrupt practices Act.—This means, as respects England and Wales, the Corrupt and Illegal Practices Prevention Act, 1883 (7 Halsbury's Statutes 465), and the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (7 Halsbury's Statutes 511) (see s. 75 (2), *post*). See also s. 76 (3), *post*.

Municipal Corporations Act, 1882, s. 87.—7 Halsbury's Statutes 599.

47. Penalty for illegal canvassing by police officers.—(1) No member of a police force shall by word, message, writing or in any other manner, endeavour to persuade any person to give, or dissuade any person from giving his vote, whether as an elector or as proxy, at any parliamentary election for a constituency wholly or partly within the police area, or at any local government election for any electoral area wholly or partly within the police area, and a person acting in contravention of this subsection shall be liable on summary conviction to a fine not exceeding one hundred pounds :

Provided that nothing in this subsection shall subject a member of a police force to any penalty for anything done in the discharge of his duty as a member of the force. [596]

(2) In the foregoing subsection references to a member of a police force and to a police area are to be taken—

(*a*) in relation to England, Wales and Scotland, as references to a member of a police force and to a police area within the meaning of the Police Pensions Act, 1921 ; and

(*b*) in relation to Northern Ireland, as references to a member of the Royal Ulster Constabulary and to Northern Ireland. [597]

(3) The enactments mentioned in the following subsection (the main effect of which is to impose penalties, varying in amount and recoverable in civil proceedings, on persons connected with the police who canvass at elections) shall cease to have effect, except so far as they render any person, incapable of being elected to or sitting in the House of Commons. [598]

(4) The said enactments are section eighteen of the Metropolitan Police Act, 1829, section eighteen of the Constabulary (Ireland) Act, 1836, section

nine of the County Police Act, 1839, section eight of the local Act of the second and third years of Queen Victoria, chapter ninety-four, section nine of the Metropolitan Police Act, 1856, section nine of the County and Borough Police Act, 1856, section seventeen of the Police (Scotland) Act, 1857, and section five of the Metropolitan Police Act, 1860. [599]

Commencement of section.—See the note at the head of this Part of the Act, *ante*.
Parliamentary election.—See the notes to s. 1, *ante*.
Local government election.—For meaning of this expression, see s. 77 (1), *post*, in conjunction with s. 56 (1), *post*.
Electoral area.—For meaning, see s. 77 (1), *post*, in conjunction with s. 56, *post*.
Police Pensions Act, 1921.—7 Halsbury's Statutes 873. For the meaning of "police force" and "police area" therein, see s. 30 thereof and Sched. III thereto (12 Halsbury's Statutes 888, 894). These definitions are excepted from the repeal of the Act of 1921 by s. 3 of, and Sched. I, Part I, para. 11 to, the Police Pensions Act, 1948 (title POLICE, *post*).
Metropolitan Police Act, 1829, s. 18.—12 Halsbury's Statutes 750.
County Police Act, 1839, s. 9.—12 Halsbury's Statutes 778.
Metropolitan Police Act, 1856, s. 9.—12 Halsbury's Statutes 811.
County and Borough Police Act, 1856, s. 9.—12 Halsbury's Statutes 814.
Metropolitan Police Act, 1860, s. 5.—12 Halsbury's Statutes 824.

48. Personation.—(1) A person shall be deemed to be guilty of personation at a parliamentary or local government election if he—

(*a*) votes in person or by post as some other person, whether as an elector or as proxy, and whether that other person is living or dead or is a fictitious person; or

(*b*) votes in person or by post as proxy—

(i) for a person whom he knows or has reasonable grounds for supposing to be dead or to be a fictitious person; or

(ii) when he knows or has reasonable grounds for supposing that his appointment as proxy is no longer in force. [600]

(2) For the purposes of this section, a person who has applied for a ballot paper for the purpose of voting in person or who has marked, whether validly or not, and returned a ballot paper issued for the purpose of voting by post, shall be deemed to have voted. [601]

(3) Sections twenty-four and twenty-six of the Ballot Act, 1872, sections ninety and ninety-one of the Representation of the People (Ireland) Act, 1850, and section eighty-two of the local elections Act (which provide for the punishment of personation) shall cease to have effect, and any reference in any Act to personation, so far as it relates to personation at parliamentary or local government elections, shall be taken as a reference to personation as defined by this section. [602]

Commencement of section.—See the note at the head of this Part of the Act, *ante*.
Parliamentary election.—See the notes to s. 1, *ante*.
Local government election.—For meaning, see s. 77 (1), in conjunction with s. 56 (1), *post*.
Votes; Voting.—In relation to municipal elections in the City of London, this does not include voting otherwise than on a poll (s. 56 (2) (*b*), *post*).
Ballot Act, 1872.—7 Halsbury's Statutes 427. For s. 24 thereof, see 7 Halsbury's Statutes 434. S. 26 thereof relates to Scotland.
S. 82 of the local elections Act.—This means, as respects England and Wales, s. 82 of the Local Government Act, 1933 (26 Halsbury's Statutes 350), and s. 56 of the London Government Act, 1939 (32 Halsbury's Statutes 287) (see s. 75 (1) (*a*), (3) (*a*), Sched. XII, Part II, *post*).

49. Other voting offences.—(1) A person shall be guilty of an offence if—

(*a*) he votes in person or by post, whether as an elector or as proxy, or applies to be treated as an absent voter or to vote by post as proxy, at a parliamentary or local government election, knowing that he is subject to a legal incapacity to vote; or

(*b*) he applies for the appointment of a proxy to vote for him at parliamentary or local government elections, knowing that he or the person to be appointed is subject to a legal incapacity to vote; or

(*c*) he votes, whether in person or by post, or applies to vote by post, as proxy for some other person at a parliamentary or local government election, knowing that that person is subject to a legal incapacity to vote :

Provided that a person shall not be guilty of an offence under paragraph (*b*) of this subsection by reason only of his applying as a service voter, while not of full age, for the appointment of a proxy. [603]

(2) A person shall be guilty of an offence if—

(*a*) he votes as elector otherwise than by proxy, either—

(i) more than once in the same constituency at any parliamentary election, or more than once in the same electoral area at any local government election ; or

(ii) in more than one constituency at a general election, or in more than one electoral area at an ordinary election of councillors for a local government area which is not a single electoral area ; or

(iii) in any constituency at a general election, or in any electoral area at such an ordinary election as aforesaid, when there is in force an appointment of a person to vote as his proxy at the election in some other constituency or electoral area ; or

(*b*) he votes as elector in person at a parliamentary or local government election at which he is entitled to vote as an absent voter ; or

(*c*) he votes as elector in person at a parliamentary or local government election for which he is registered as a service voter, knowing that a person appointed to vote as his proxy at the election either has already voted in person thereat or is entitled to vote by post thereat ; or

(*d*) not being a service voter, he applies for a person to be appointed as his proxy to vote for him at parliamentary elections without applying for the cancellation of a previous appointment of a third person then in force or without withdrawing a pending application for such an appointment. [604]

(3) A person shall be guilty of an offence if—

(*a*) he votes as proxy for the same elector either—

(i) more than once in the same constituency at any parliamentary election, or more than once in the same electoral area at any local government election ; or

(ii) in more than one constituency at a general election, or in more than one electoral area at an ordinary election of councillors for a local government area which is not a single electoral area ; or

(*b*) he votes in person as proxy for an elector at a parliamentary or local government election at which he is entitled to vote by post as proxy for that elector ; or

(*c*) he votes in person as proxy for an elector registered as a service voter at a parliamentary or local government election knowing that the elector has already voted in person thereat or is entitled to vote by post thereat. [605]

(4) A person shall also be guilty of an offence if he votes at a parliamentary election in any constituency as proxy for more than two persons of whom he is not the husband, wife, parent, grandparent, brother, sister, child or grandchild. [606]

(5) A person shall also be guilty of an offence if he knowingly induces or procures some other person to do an act which is, or but for that other person's want of knowledge would be, an offence in that other person under the foregoing subsections of this section. [607]

(6) For the purposes of this section, a person who has applied for a ballot paper for the purpose of voting in person, or who has marked, whether validly or not, and returned a ballot paper issued for the purpose of voting by post, shall be deemed to have voted :

Provided that for the purpose of determining whether an application for a ballot paper constitutes an offence under subsection (4) of this section, a previous application made in circumstances which entitle the applicant only to mark a tendered ballot paper shall, if he does not exercise that right, be disregarded. [608]

(7) An offence under this section shall be an illegal practice within the meaning of the corrupt practices Act :

Provided that—

(*a*) the court before whom a person is convicted of any such offence may, if they think it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by section ten of the said Act ; and

(*b*) a candidate shall not be liable, nor shall his election be avoided, for an illegal practice under this section of any agent of his other than an offence under subsection (5). [609]

Commencement of section.—See the note at the head of this Part of the Act, *ante.*

Parliamentary election.—See the notes to s. 1, *ante.*

Local government election ; Electoral area ; Local government area.—For meaning of these expressions, see s. 77 (1), *post*, in conjunction with s. 56, *post.*

Legal incapacity ; Service voter.—For definitions, see s. 76 (1), *post.*

City of London.—In relation to municipal elections in the City of London, the expression "vote" does not include voting otherwise than on a poll, and sub-s. (2) (*a*) (ii), *supra*, does not apply (s. 56 (2) (*b*), *post*).

50. Prosecutions for corrupt and illegal practices.—(1) In section forty-five of the corrupt practices Act (which imposes on the appropriate authority a duty to inquire and prosecute, where informed that corrupt or illegal practices have prevailed in reference to an election) for the words "corrupt or illegal practices have prevailed" there shall be substituted the words "any corrupt or illegal practice has occurred". [610]

(2) Subject to the provisions of this Act, a corrupt practice within the meaning of the corrupt practices Act shall be punishable thereunder on summary conviction. [611]

(3) A person summarily convicted of a corrupt practice by virtue of this section shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds, or to both, but not to the incapacities imposed by section six of the corrupt practices Act on a person convicted on indictment. [612]

(4) A person charged with personation at a parliamentary or local government election shall not be summarily convicted by virtue of this section or committed for trial, except on the evidence of not less than two credible witnesses. [613]

(5) For the purposes of subsection (6) of section forty-three of the corrupt practices Act (which deals with the steps to be taken by an election court where they think an offence should be prosecuted before some other court) a corrupt practice shall be deemed not to be an indictable offence, if the election court think it should be prosecuted summarily, and subsection (4) of this section shall not apply to a committal under the said subsection (6) ; and in paragraph (*a*) of section thirty of the local corrupt practices Act (which extends the local jurisdiction of courts of summary jurisdiction to deal

with offences other than corrupt practices) the words " other than a corrupt practice " shall cease to have effect. [614]

(6) In the application of this section to Scotland, in subsection (4) the words " summarily " and " or committed for trial " and subsection (5) shall be omitted. [615]

Commencement of section.—See the note at the head of this Part of the Act, *ante*.

Corrupt practices Act.—This means, as respects England and Wales, the Corrupt and Illegal Practices Prevention Act, 1883 (7 Halsbury's Statutes 465), and the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (7 Halsbury's Statutes 511) (see s. 75 (2), *post*). The reference to s. 45 of the corrupt practices Act is to be taken as a reference to s. 45 of the Act of 1883 (7 Halsbury's Statutes 494) and that section as applied by s. 30 of the Act of 1884 (7 Halsbury's Statutes 526), and the reference to s. 43 (6) of the corrupt practices Act as a reference to s. 43 (6) of the Act of 1883 (7 Halsbury's Statutes 492) and s. 28 (6) of the Act of 1884 (7 Halsbury's Statutes 525) (see s. 75 (3) (*a*), Sched. XII, Part I, *post*).

Parliamentary election.—See the notes to s. 1, *ante*.

Local government election.—For meaning, see s. 77 (1), *post*, in conjunction with s. 56 (1), *post*.

S. 30 (a) of the local corrupt practices Act.—This means s. 30 (*a*) of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (7 Halsbury's Statutes 527) (see s. 75 (2) (*b*), *post*).

51. Powers of courts with respect to granting of relief, restraining false statements and inspection of ballot papers.—(1) The county court shall have, concurrently with the High Court, all the powers of the High Court in relation—

(*a*) to any application under section twenty-three of the corrupt practices Act for relief in respect of a payment made in contravention of subsection (2) or subsection (4) of section twenty-nine of that Act (which relate to payments of election expenses made out of time or on a claim made out of time);

(*b*) to any application under subsection (9) of the said section twenty-nine for leave to pay a claim in respect of election expenses which is sent in out of time or is sent to the candidate instead of the election agent;

(*c*) to any application for relief under section thirty-four of the corrupt practices Act (which relates to relief for any failure to make the statutory return or declaration as to election expenses within due time and for any defect in the return or declaration);

(*d*) to any application under section three of the Corrupt and Illegal Practices Prevention Act, 1895 (which relates to injunctions restraining false statements as to the character or conduct of a candidate at a parliamentary election), or under the corresponding provision of the Municipal Elections (Corrupt and Illegal Practices) Act, 1911;

and references in the corrupt practices Act to the High Court shall be construed accordingly. [616]

(2) The county court shall also have, concurrently with the High Court, all the powers of the High Court in relation to any application under rule 40 of the First Schedule to the Ballot Act, 1872 (which relates to the inspection or production of rejected ballot papers); and the High Court or the county court, on being satisfied by evidence on oath that the opening of the sealed packet of counterfoils or the inspection of any counted ballot papers in the custody of the Clerk of the Crown in Chancery is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers, or for the purpose of a petition questioning an election or return, shall have the same power under rule 41 of the said First Schedule to make an order for that purpose as a tribunal having cognisance of petitions complaining of undue returns or undue elections, but subject to the same provision for preserving the secrecy of an elector's vote. [617]

(3) Any power given to a court by this section may be exercised by any judge of the court otherwise than in open court. [618]

(4) An appeal shall lie to the High Court from any order of a county court made by virtue of this section. [619]

(5) In the application of this section in relation to parliamentary elections in Scotland—

(*a*) for any reference to the High Court there shall be substituted a reference to the Court of Session;

(*b*) for any reference to the county court or to a judge thereof there shall be substituted a reference to the sheriff;

(*c*) for any reference to the Clerk of the Crown in Chancery, there shall be substituted a reference to a sheriff clerk;

and, except in relation to those elections, this section shall not apply to Scotland. [620]

(6) In the application of this section to Northern Ireland—

(*a*) any reference to the High Court shall be construed as a reference to the High Court of Justice in Northern Ireland; and

(*b*) subsection (3) shall not apply to a county court, but any power given to a county court by this section may be exercised in such manner as may be provided by county court rules. [621]

Commencement of section.—See the note at the head of this Part of the Act, *ante.*

Corrupt practices Act.—This means, as respects England and Wales, the Corrupt and Illegal Practices Prevention Act, 1883 (7 Halsbury's Statutes 465), and the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (7 Halsbury's Statutes 511). The reference to s. 23 of the corrupt practices Act is to be taken as a reference to s. 23 of the Act of 1883 (7 Halsbury's Statutes 474) and s. 20 of the Act of 1884 (7 Halsbury's Statutes 518); the reference to s. 29 (2) and (4) of the corrupt practices Act as a reference to s. 29 (2) and (4) of the Act of 1883 (7 Halsbury's Statutes 478) and, in relation to local government elections other than parish elections, those subsections as applied by s. 38, *ante*, and, in relation to parish elections, s. 21 (1) of the Act of 1884 (7 Halsbury's Statutes 519); the reference to s. 29 (9) of the corrupt practices Act as a reference to s. 29 (9) of the Act of 1883 (7 Halsbury's Statutes 479) and, in relation to local government elections other than parish elections, to that subsection as applied by s. 38, *ante;* and the reference to s. 34 of the corrupt practices Act as a reference to s. 34 of the Act of 1883 (7 Halsbury's Statutes 482) and, in relation to local government elections other than parish elections, that section as applied by s. 38, *ante*, and, in relation to parish elections, s. 21 (7) of the Act of 1884 (7 Halsbury's Statutes 520) (see s. 75 (2), (3) (*a*), Sched. XII, Part I, *post*).

Corrupt and Illegal Practices Prevention Act, 1895, *s.* 3.—7 Halsbury's Statutes 544.

Municipal Elections (Corrupt and Illegal Practices) Act, 1911.—7 Halsbury's Statutes 546. The provision thereof corresponding to s. 3 of the Corrupt and Illegal Practices Prevention Act, 1895, *supra*, is s. 1 (4).

Ballot Act, 1872, *Sched. I, rr.* 40 *and* 41.—7 Halsbury's Statutes 444, 445.

City of London.—For modifications of this section in relation to municipal elections in the City of London, see s. 56 (2) (*c*), (4) (*b*) (ii), *post.*

52. Period of incapacity for corrupt or illegal practice.—(1) In subsections (3) and (4) of section six of the corrupt practices Act (which render persons convicted of a corrupt practice subject for a period of seven years to certain incapacities in relation to elections and holding office), for the words "seven years" in each place there shall, in relation to persons convicted after the coming into force of this section, be substituted the words "five years". [622]

(2) Section four of the corrupt practices Act (which, in the case of a candidate reported on an election petition to have been personally concerned in any corrupt practice, imposes the same incapacities as the said section six and a further incapacity for election in the locality in question) shall impose the said further incapacity for a period of ten years only after the date of the report, instead of for life. [623]

(3) Where any person is subject to any incapacity by virtue of the report of an election court or of election commissioners, and he or some other person in respect of whose acts the incapacity was imposed is on a prosecution acquitted of any of the matters in respect of which the incapacity

was imposed, the court may order that the incapacity shall thenceforth cease so far as it is imposed in respect of those matters. [624]

(4) Where any person who is subject to any incapacity as aforesaid is on a prosecution convicted of any such matters as aforesaid, no further incapacity shall be taken to be imposed by reason of the conviction, and the court shall have the like power (if any) to mitigate or remit for the future the incapacity so far as it is imposed by reference to section six or section ten of the corrupt practices Act in respect of the matters of which he is convicted, as if the incapacity had been imposed by reason of the conviction. [625]

(5) The period of incapacity under subsection (5) of section thirty-eight of the corrupt practices Act (which relates to reports of election courts and of election commissioners with respect to persons other than candidates) shall run from the date of the report, instead of the date of the election; but where a person convicted of a corrupt or illegal practice is subsequently reported to have been guilty thereof by an election court or election commissioners (whether under that section or otherwise), no further incapacity shall be imposed on him by reference to section six or ten of the said Act by reason of the report. [626]

(6) A person shall not be prosecuted summarily for a corrupt practice in any case where there may be occasion to exercise the powers conferred by subsections (3) and (4) of this section, and a court exercising any of those powers shall make an order declaring how far, if at all, the incapacities imposed by virtue of the relevant report remain unaffected by the exercise of the said power, and that order shall be conclusive for all purposes. [627]

(7) In paragraphs (*c*) and (*d*) of section two of the Public Bodies Corrupt Practices Act, 1889 (which impose certain incapacities on conviction under that Act), for the words " seven years " in each place there shall be substituted the words " five years ". [628]

Commencement of section.—See the note at the head of this Part of the Act, *ante*.

Corrupt practices Act.—This means, as respects England and Wales, the Corrupt and Illegal Practices Prevention Act, 1883 (7 Halsbury's Statutes 465), and the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (7 Halsbury's Statutes 511) (s. 75 (2), *post*). The references to s. 6 of the corrupt practices Act are to be taken as references to s. 6 of the Act of 1883 (7 Halsbury's Statutes 467) and to that section as applied by s. 2 of the Act of 1884 (7 Halsbury's Statutes 511); the reference to s. 6 (3) and (4) of the corrupt practices Act is to be construed accordingly; the reference to s. 4 of the corrupt practices Act is to be taken as a reference to s. 4 of the Act of 1883 (7 Halsbury's Statutes 467) and s. 3 (1) of the Act of 1884 (7 Halsbury's Statutes 512); the references to s. 10 of the corrupt practices Act are to be taken as references to s. 10 of the Act of 1883 (7 Halsbury's Statutes 469) and s. 7 of the Act of 1884 (7 Halsbury's Statutes 514); and the reference to s. 38 (5) of the corrupt practices Act is to be taken as a reference to s. 38 (5) of the Act of 1883 (7 Halsbury's Statutes 485) and that subsection as applied by s. 23 of the Act of 1884 (7 Halsbury's Statutes 521) (see s. 75 (3) (*a*), Sched. XII, Part I, *post*).

Public Bodies Corrupt Practices Act, 1889, *s.* 2 (*c*) *and* (*d*).—5 Halsbury's Statutes (2nd Edn.) 920.

53. Area of incapacity and inquiry into corrupt and illegal practices.—(1) Any provision of the corrupt practices Act imposing on a person convicted or reported of a corrupt or illegal practice in reference to an election an incapacity to be elected or sit for the constituency or to be elected to or hold any corporate office in the local government area for which the election was held, shall apply to being elected or sitting for any constituency or to being elected to or holding any corporate office in any local government area, as the case may be, of which the area includes the whole or part of that of the constituency or local government area for which the election was held as constituted for the purposes of the election. [629]

(2) Any provision of the corrupt practices Act imposing on a person convicted or reported of a corrupt or illegal practice in reference to an election an incapacity to be registered as an elector or vote at an election for or within the constituency or local government area for which the election was held shall apply to being registered as an elector and voting at elections

for constituencies or local government areas wholly or partly within the area of the constituency or local government area, as the case may be, for which the election was held as constituted for the purposes of the election. [630]

(3) The power of election commissioners under section six of the Election Commissioners Act, 1852, where they find that corrupt or illegal practices have been committed at a parliamentary election, to inquire into the latest previous election for the same constituency shall, where a change of boundaries has intervened, extend to the latest election before the change for any constituency of which the area at that election included the whole or part of that of the first mentioned constituency as constituted for the purpose of the election at which the corrupt or illegal practices are found to have been committed:

Provided that, where there has been more than one change of boundary the commissioners shall not inquire into an election for a constituency of which the area at that election did not include some part of the area of the constituency in relation to which they were appointed as constituted for the purposes of the election in relation to which they were appointed. [631]

Commencement of section.—See the note at the head of this Part of the Act, *ante*.
Corrupt practices Act.—This means, as respects England and Wales, the Corrupt and Illegal Practices Prevention Act, 1883 (7 Halsbury's Statutes 465), and the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (7 Halsbury's Statutes 511) (see s. 75 (2), *post*).
Corporate office.—As to the City of London, see s. 56 (1), *post*.
Local government area.—For meaning, see s. 77 (1), *post*, in conjunction with s. 56 (1), *post*.
Election Commissioners Act, 1852, *s.* 6.—7 Halsbury's Statutes 393.
Parliamentary election.—See the notes to s. 1, *ante*.

54. Computation of time for purposes of election petitions, etc.—(1) Where the day or last day on which anything is required or permitted to be done by or in pursuance of the Parliamentary Elections Act, 1868, or Part IV of the Municipal Corporations Act, 1882, or the corrupt practices Act or this Part of this Act is any of the days mentioned in the next following subsection, the requirement or permission shall be deemed to relate to the first day thereafter which is not one of those days, and in computing any period of not more than seven days for the purposes of the said enactments any of the days so mentioned shall be disregarded. [632]

(2) The days referred to in the foregoing subsection are any Sunday, Christmas Day, Good Friday, any bank holiday under the Bank Holidays Act, 1871, and any day appointed for public thanksgiving or mourning. [633]

(3) Section forty-nine of the Parliamentary Elections Act, 1868 (which makes other provision as to the computation of time), shall cease to have effect, and section two hundred and thirty of the Municipal Corporations Act, 1882, shall not have effect for the purposes of Part IV of that Act. [634]

Commencement of section.—See the note at the head of this Part of the Act, *ante*.
Parliamentary Elections Act, 1868.—7 Halsbury's Statutes 408.
For s. 49 thereof, see 7 Halsbury's Statutes 422.
Municipal Corporations Act, 1882.—For Part IV and s. 230 thereof, see 10 Halsbury's Statutes 598, 651.
Corrupt practices Act.—This means, as respects England and Wales, the Corrupt and Illegal Practices Prevention Act, 1883 (7 Halsbury's Statutes 465), and the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (7 Halsbury's Statutes 511) (see s. 75 (2), *post*).
Bank Holidays Act, 1871.—19 Halsbury's Statutes 417. It is submitted that a bank holiday under that Act means here a day which is a bank holiday in the part of the United Kingdom in which the election in question is or has been held (cf. note to Sched. III, Part V, *post*).

55. Inter-relation of United Kingdom and Northern Ireland law as to corrupt and illegal practices.—(1) So much of the corrupt practices Act, or

of that Act as applied in relation to the Parliament of Northern Ireland and local elections in Northern Ireland, as provides—

(*a*) for things done in reference to elections for the Parliament of Northern Ireland and local elections in Northern Ireland affecting matters relating to the Parliament of the United Kingdom and local elections and holding office in Great Britain ;

(*b*) for things done in reference to elections for the Parliament of the United Kingdom and local elections in Great Britain affecting matters relating to the Parliament of Northern Ireland and local elections and holding office in Northern Ireland ;

shall cease to have effect. [635]

(2) So long as any person is subject by virtue of the corrupt practices Act as applied as aforesaid or of any Act of the Parliament of Northern Ireland amending or replacing that Act to any incapacity with respect to the Parliament of Northern Ireland, he shall be subject to the like incapacity with respect to the Parliament of the United Kingdom. [636]

(3) So long as any person is subject by virtue of the corrupt practices Act to any incapacity with respect to the Parliament of the United Kingdom, he shall be subject to the like incapacity with respect to the Parliament of Northern Ireland. [637]

(4) Where, by reason of anything done in reference to an election, a person is subject to an incapacity with respect to either Parliament, and the incapacity is limited to a particular constituency or constituencies, then the like incapacity imposed by this section with respect to the other Parliament shall be limited to any constituency which includes the area or part of the area for which the said election was held. [638]

Commencement of section.—See the note at the head of this Part of the Act, *ante*.

Corrupt practices Act.—This means, as respects England and Wales, the Corrupt and Illegal Practices Prevention Act, 1883 (7 Halsbury's Statutes 465), and the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (7 Halsbury's Statutes 511) (see s. 75 (2), *post*).

56. Application of Part III to City of London.—(1) For the purposes of this Part of this Act, the expression " local government area," shall include the City of London, the expression " local government election " shall include any municipal election in that City (that is to say, any election to which the local corrupt practices Act is applied by section thirty-five thereof) and the expression " corporate office," shall include any office mentioned in paragraph (1) of that section :

Provided that in relation to municipal elections in the City of London this Part of this Act shall have effect subject to the modifications hereafter mentioned in this section. [639]

(2) In relation to those elections—

(*a*) in subsection (3) of section forty the reference to the day of election shall be taken as a reference to the day fixed for the election and (where a poll is taken) any day thereafter up to and including the day of the poll, but in relation to a meeting held with reference to an election other than an annual election that subsection shall not apply to an offence committed on or before the day on which the precept is issued ;

(*b*) the expression " vote " in sections forty-eight and forty-nine shall not include voting otherwise than on a poll, and in the said section forty-nine sub-paragraph (ii) of paragraph (*a*) of subsection (2) shall not apply ;

(*c*) subsection (2) of section forty and subsection (2) of section fifty-one shall not apply. [640]

(3) In relation to ward elections—

(*a*) the expression " electoral area " means ward ;

(*b*) subsection (4) of section thirty-eight shall not apply. [641]

(4) In relation to elections other than ward elections—

(*a*) the expression " electoral area " means the City of London ;

(*b*) sections thirty-eight, forty-two and forty-four shall not apply, and accordingly—

(i) section twenty-one of the local corrupt practices Act shall be modified as mentioned in subsection (2) of section thirty-nine of this Act, except that the form of declaration as to election expenses shall be such as may be prescribed by Act of Common Council ; and

(ii) in subsection (1) of section fifty-one of this Act, paragraph (*b*) shall not apply and references to subsection (1) and to subsection (7) of the said section twenty-one shall respectively be substituted for the references to subsection (2) or subsection (4) of section twenty-nine and to section thirty-four of the corrupt practices Act. [642]

Commencement of section.—See the note at the head of this Part of the Act, *ante*.

Local corrupt practices Act.—This means here the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (7 Halsbury's Statutes 511) (see s. 75 (2) (*b*), *post*). For s. 35 thereof, see 7 Halsbury's Statutes 528 ; and for s. 21 thereof, see 7 Halsbury's Statutes 519.

PART IV

SPECIAL PROVISIONS AS TO LOCAL ELECTIONS IN ENGLAND AND WALES

Operation of this Part of the Act.—Except as otherwise expressly provided, this Part of the Act is to come into force for the purposes of the first ordinary election of councillors held after the passing of the Act on July 30, 1948 (s. 80 (5), *post*). But none of its provisions is to apply in relation to any local government election begun before the provision in question comes into force (s. 80 (8), *post*), the beginning of an election for this purpose being the day on which notice of the election is given (s. 80 (10) (*b*), *post*).

57. Ordinary day of election.—(1) The ordinary day of election of councillors in England or Wales shall be that provided by the following provisions of this section and not that provided by the local elections Act. [643]

(2) In the case of county councillors the day shall be a day in the week beginning with the Sunday before the ninth day of April or, if the said ninth day of April is a Sunday, with that day, and shall be such day in that week as the county council may, not later than the preceding twenty-fifth day of January, fix for that purpose :

Provided that, if the said week is Easter week, the week beginning with the Thursday in Easter week shall be substituted therefor, and if the said week is the week before Easter, the week ending with the Wednesday in the week before Easter shall be substituted therefor. [644]

(3) In the case of any other councillors, the day shall be a day in the week beginning with the Sunday before the ninth day of May or, if the said ninth day is a Sunday, with that day :

Provided that if the said week is the week before Whit Sunday, the week ending on the Thursday before Whit Sunday shall be substituted therefor. [645]

(4) The day of election for borough councillors shall be the same throughout England and Wales and shall be fixed for each year by the Secretary of State. [646]

(5) The day of election for district councillors and parish councillors shall be such day as the county council may, not later than the end of the

preceding February, fix for that purpose, after consultation, in the case of the election of district councillors, with the district council concerned. [647]

(6) If default is made by a county council in fixing a day of election as required by this section, the day shall be the Tuesday in the week provided by this section. [648]

(7) The Sixth Schedule to this Act shall have effect, as from the passing of this Act, with respect to the day of retirement and date of the annual meeting in the case of councils to which this section applies and for making other amendments consequential on the provisions of this section. [649]

Commencement of section.—See the note at the head of this Part of the Act, *ante*; but see also sub-s. (7), *supra*.

County.—For definition, see s. 77 (1), *post*.

Borough.—This includes a metropolitan borough (s. 77 (1), *post*).

Local elections Act.—This means, as respects England and Wales, the Local Government Act, 1933 (26 Halsbury's Statutes 295), and the London Government Act, 1939 (32 Halsbury's Statutes 259) (see s. 75 (1) (*a*), *post*).

Sub-s. (4).—The day fixed for 1949 is May 12.

Passing of the Act.—July 30, 1948.

City of London.—Notwithstanding the generality of the references to councillors in this section, there can be little, if any, doubt that this section does not apply to elections to the common council, as the local elections Act, *supra*, does not apply to such elections.

58. Time table for local government elections.—(1) At an election of county councillors in England or Wales—

(*a*) the latest time for the delivery of nomination papers shall be noon on the fourteenth day before the day of election (instead of five o'clock in the afternoon on the twelfth day before the day of election); and

(*b*) the latest time for the despatch of notices of decisions on nominations and for the publication of the statement of persons nominated shall be noon on the thirteenth day before the day of election (instead of five o'clock in the afternoon on the eleventh day before the day of election); and

(*c*) the latest time for delivery of notices of withdrawals from candidatures, and for giving or withdrawing notices as to extending the hours of polling, shall be noon on the twelfth day before the day of election (instead of five o'clock in the afternoon on the ninth day before the day of election);

and the time for doing anything at an election of borough councillors in England or Wales shall be the same as at an election of county councillors. [650]

(2) Paragraph 12 of Part I of the local elections rules (which provides for disregarding Sundays and other days in computing time for the purpose of those rules) shall in England and Wales apply in relation to the Saturday before, and the Tuesday after, Easter day or Whit Sunday as it applies in relation to Sundays and the other days therein mentioned. [651]

Commencement of section.—See the note at the head of this Part of the Act, *ante*.

Sub-s. (1).—Cf. the Local Government Act, 1933, Sched. II, Part I, paras. 4 (1), 5 (5), 6–8, and Part II (26 Halsbury's Statutes 476, 477, 479); the proviso to Sched. II, Part III, para. 3 to that Act (26 Halsbury's Statutes 480), as added by the Local Government (Hours of Poll) Act, 1938, s. 1 (31 Halsbury's Statutes 411); and the London Government Act, 1939, Sched. II, Part I, paras. 4 (1), 5 (5), 6–8, and Part II, para. 3 (2) (32 Halsbury's Statutes 355 *et seq.*). See also as to district and parish elections, rr. 1 and 3 of Sched. II to S.I. 1949 No. 197, S.I. 1949 No. 285 and S.I. 1949 No. 284, in conjunction with s. 61, *post*.

For the meaning of "county" and "borough", see also s. 77 (1), *post*.

Para. 12 of Part I of the local elections rules.—This means here para. 12 of Part I of Sched. II to the Local Government Act, 1933 (26 Halsbury's Statutes 478), and para. 12 of Part I of Sched. II to the London Government Act, 1939 (32 Halsbury's Statutes 357) (s. 75 (1), (3) (*a*), Sched. XII, Part II, *post*). See also r. 2 of Sched. II to S.I. 1949 No. 197, S.I. 1949 No. 285 and S.I. 1949 No. 284.

59. Electoral divisions and number of councillors of L.C.C.—(1) Each parliamentary constituency described in the First Schedule to this Act which

is within the administrative county of London shall be an electoral division for the purposes of the election of county councillors, and the number of county councillors to be elected for an electoral division shall be three. [652]

(2) The additional alderman required, in consequence of the increase by virtue of this Act in the number of the said county councillors, to maintain the proportion between the number of aldermen and the number of councillors shall be elected at the first ordinary election of county aldermen after the coming into force of the foregoing subsection. [653]

(3) The consequential matters for which provision may be made by an Order in Council under the House of Commons (Redistribution of Seats) Act, 1944, shall, where the Order makes any change affecting constituencies in the administrative county of London, include any modification of subsection (1) of this section. [654]

Commencement of section.—See the note at the head of this Part of the Act, *ante*.

Sub-s. (1).—This replaces s. 11 (2) and (3) of the London Government Act, 1939 (32 Halsbury's Statutes 270). As under Sched. I to the Act there will be forty-three constituencies in the administrative county of London, the total number of councillors to be elected hereunder will be 129 instead of 124 as hitherto.

Sub-s. (2).—Cf. the London Government Act, 1939, s. 7 (2) (32 Halsbury's Statutes 269).

House of Commons (Redistribution of Seats) Act, 1944.—37 Halsbury's Statutes 389. As to the consequential matters for which provision may be made by Order in Council thereunder, see s. 5 (2) thereof, as set out in Sched. II, *post*.

60. Method of election of parish councillors.—In England and Wales, the ordinary election of parish councillors shall in all cases be conducted by means of nomination and, if necessary, a poll, and any provision of the Local Government Act, 1933, for their election at a parish meeting or at a poll consequent thereon shall cease to have effect. [655]

Commencement of section.—See the note at the head of this Part of the Act, *ante*.

Local Government Act, 1933.—26 Halsbury's Statutes 295. For the provisions thereof referred to in this section, see s. 51 (26 Halsbury's Statutes 331).

61. Hours of poll at district and parish elections.—(1) In England and Wales, the poll at elections of district councillors or parish councillors shall be kept open after eight in the evening if, but only if, a number of candidates nominated at the election, not being less than the number of councillors to be elected, request that the poll may be kept open till nine o'clock in the evening, and shall in that case be kept open until but not after nine o'clock in the evening. [656]

(2) Any request for the purposes of this section shall be by notice in writing signed by the candidate and delivered at the place at which notices of withdrawals from candidatures are required to be delivered not later than the time appointed for the delivery of the said notices by the rules governing the election, and a notice given by any candidate for the purposes of this section shall be of no effect if the candidate is not validly nominated, or if he withdraws, or is deemed to have withdrawn, from his candidature or if he withdraws the notice by a further notice in writing signed by him and delivered at the place and within the time appointed for the delivery of the first mentioned notice. [657]

This section in effect amends ss. 40 (1) and 54 (1) of the Local Government Act, 1933 (26 Halsbury's Statutes 325, 332), and is now incorporated in r. 3 of Sched. II to the Urban District Council Election Rules, 1949 (S.I. 1949 No. 197), Rural District Council Election Rules, 1949 (S.I. 1949 No. 285), and Parish Council Election Rules, 1949 (S.I. 1949 No. 284). The section only applies to district and parish council elections because similar provision is already made as regards county council and borough council elections by the proviso to para. 3 of Part III of Sched. II to the Local Government Act, 1933 (26 Halsbury's Statutes 480), as added by the Local Government (Hours of Poll) Act, 1938 (31 Halsbury's Statutes 411), and by para. 3 of Part II of Sched. II to the London Government Act, 1939 (32 Halsbury's Statutes 357).

Commencement of section.—See the note at the head of this Part of the Act, *ante*.

Place and time for delivery of notice of withdrawal.—See r. 10 (1), in conjunction with rr. 1, 2 and 8, of Sched. II to the Urban District Council Election Rules, 1949 (*supra*), Rural District Council Election Rules, 1949 (*supra*), and Parish Council Election Rules, 1949 (*supra*).

PART V

SPECIAL PROVISIONS AS TO LOCAL GOVERNMENT ELECTIONS IN SCOTLAND

62–65. Application to Scotland. [658]

* * * * *

PART VI

GENERAL

Supplemental provisions as to registration, etc.

66. Discharge of registration duties.—(1) A registration officer shall comply with any general or special directions which may be given by the Secretary of State with respect to the arrangements to be made by the registration officer for carrying out his registration duties. [659]

(2) Except in Scotland, any of the duties and powers of a registration officer may be performed and exercised by any deputy for the time being approved by the Secretary of State, and the provisions of this Act shall apply to any such deputy so far as respects any duties or powers to be performed or exercised by him as they apply to the registration officer. [660]

(3) A registration officer in England or Wales whose appointment was made by an order of the Secretary of State shall comply with any conditions made by the order as to the appointment of deputies for any part of the constituency. [661]

(4) Any acts authorised or required to be done by or with respect to the registration officer may, in the event of his incapacity to act, or of a vacancy, be done—

(*a*) in England or Wales, by or with respect to the standing or temporary deputy acting as clerk of the authority under section one hundred and fifteen or one hundred and sixteen of the local elections Act or, in the case of the secondary of the City of London, by or with respect to any person temporarily appointed in that behalf by the Lord Mayor; and

(*b*) in Northern Ireland, by or with respect to the person appointed to take his place as registration officer for the purpose of elections of members to serve in the House of Commons of Northern Ireland. [662]

(5) A district council in England or Wales (as well as a county or borough council) may assign officers to assist the clerk of the council in carrying out any of his duties in relation to the registration of electors and the conduct of parliamentary elections upon such terms as may be agreed between the council and the clerk, and in Northern Ireland a county, county borough or county district council shall, in relation to the registration of electors, have the like power. [663]

(6) If the Secretary of State is of opinion, as respects any constituency in Northern Ireland which is not wholly within one registration area, that any power or duty of the registration officer ought to be exercised or performed by an officer acting for the whole of the constituency, he may by order direct that that power or duty shall be exercised or performed as respects the whole constituency by the registration officer for such one of the registration areas in which part of the constituency is included as may be specified in the order. [664]

Commencement of section.—See s. 80, *post.*
Registration officer.—See s. 4, *ante.*
Registration duties.—For definition, see s. 76 (1), *post.*

Clerk of the authority.—As respects a borough (see *infra*), this means the town clerk (s. 77 (2), *post*).

Local elections Act.—This means, as respects England and Wales, except London, the Local Government Act, 1933 (26 Halsbury's Statutes 295) and, as respects London, the London Government Act, 1939 (32 Halsbury's Statutes 259) (s. 75 (1) (*a*), *post*). The reference to s. 115 or 116 of the local elections Act is to be taken as a reference to s. 115 or 116 of the Act of 1933 (26 Halsbury's Statutes 367, 368) and s. 82 or 83 of the Act of 1939 (32 Halsbury's Statutes 298, 299) (see s. 75 (3) (*a*), Sched. XII, Part II, *post*).

County.—For definition, see s. 77 (1), *post*.

Borough council.—This includes the council of a metropolitan borough and the common council of the City of London (s. 77 (1), (4), *post*).

Parliamentary elections.—See the notes to s. 1, *ante*.

67. Power to make regulations as to registration, etc.—(1) Provision may be made by regulations with respect to the form of the register of electors and of the electors lists or any special lists or records required by this Act in connection with the register or with any election, and with respect to the procedure to be followed in their preparation, and with respect to the time, place and manner of their publication, and generally with respect to any matters incidental to the provisions of this Act so far as those provisions relate to the registration of electors or to voting by post or proxy. [665]

(2) The said incidental matters shall be taken to include the time and manner of preparation and publication and form of, and the making and determination of claims or objections with respect to, the corrupt and illegal practices lists required by section thirty-nine of the corrupt practices Act, and that section, except subsection (1) thereof, shall accordingly cease to have effect. [666]

(3) Without prejudice to the generality of the foregoing subsections, regulations made with respect to the matters therein mentioned may contain any such provisions as are mentioned in the Eighth Schedule to this Act. [667]

Commencement of section.—See s. 80, *post*.

Regulations.—See s. 76 (4), *post*, and S.I. 1949 No. 327.

S. 39 of the corrupt practices Act.—The references to this section are, as respects England and Wales, to be taken as references to s. 39 of the Corrupt and Illegal Practices Prevention Act, 1883 (7 Halsbury's Statutes 487), and s. 24 of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (7 Halsbury's Statutes 521), and the reference to sub-s. (1) of this section is to be construed accordingly (see s. 75 (2), (3) (*a*), Sched. XII, Part I, *post*).

68. Payment of expenses of registration.—(1) Any expenses properly incurred by a registration officer in the performance of his registration duties (in this Act referred to as "registration expenses") shall (except in Northern Ireland) be paid by the local authority whose clerk is registration officer and there shall be paid to the local authority—

(*a*) out of moneys provided by Parliament one half of the amount of the registration expenses paid by the authority; and

(*b*) where the registration officer acts for an area outside the area of the authority such contributions by any other local authority as the Secretary of State may direct. [668]

(2) The registration expenses of a registration officer in Northern Ireland shall be paid out of moneys provided by Parliament. [669]

(3) Any fees or other sums received by the registration officer in respect of his registration duties, other than sums paid to that officer in respect of his registration expenses, shall be accounted for by that officer and paid to the local authority whose clerk he is, and any sums receivable by a local authority under this subsection shall be accounted for by that authority to the Treasury and, as to one half thereof, be paid into the Exchequer of the United Kingdom:

Provided that, in the case of a registration officer in Northern Ireland, the whole amount shall be accounted for by that officer to the Treasury and paid into the Exchequer of the United Kingdom. [670]

(4) Any expenses properly incurred by the clerk of the authority of any county borough, metropolitan borough or county district in pursuance of the requisition of a registration officer requiring him to perform any of the functions of that registration officer or to furnish him with information shall be paid by the registration officer as part of his registration expenses. [671]

(5) On the request of a registration officer for an advance on account of registration expenses, the local authority whose clerk is registration officer or, in the case of a registration officer in Northern Ireland, the Treasury may, if they think fit, make such an advance to him of such an amount and subject to such conditions as they may approve. [672]

(6) Any registration expenses or contribution thereto paid by a county council in England or Wales shall, if the case requires, be paid as expenses for special county purposes. [673]

(7) Any registration expenses or contribution thereto paid by the common council of the City of London shall be paid out of the general rate and any sums paid to the common council under this section shall be placed to the credit of that rate. [674]

(8) In the application of this section to Scotland, for any reference to the local authority whose clerk is registration officer there shall be substituted a reference to the council of the county or burgh the assessor of which is registration officer. [675]

Commencement of section.—See s. 80, *post.*

General note.—This section is supplemented by ss. 69 and 70 (5), *post*, and, together with those provisions, may be compared with s. 15 of the Representation of the People Act, 1918 (7 Halsbury's Statutes 557).

Registration officer.—See ss. 4 and 66, *ante.*

Registration duties.—For definition, see s. 76 (1), *post.*

Local authority; Clerk of the authority; Metropolitan borough; County district.—See s. 77, *post.*

Expenses for special county purposes.—See the Local Government Act, 1933, ss. 180, 181, 183 (26 Halsbury's Statutes 404 *et seq.*).

69. Ascertainment of amount of registration expenses.—(1) The registration expenses payable to a registration officer—

(*a*) shall include all proper and reasonable charges for his own personal remuneration for performing his registration duties and for the remuneration and expenses of any staff provided by a local authority to enable him to perform them; but

(*b*) shall not include any sum on account of the use of premises, furniture or equipment provided by a local authority in excess of the amount by which that authority's expenditure has been actually and directly increased by the use of those premises or of that furniture or equipment in connection with registration. [676]

(2) The foregoing subsection shall apply in relation to the expenses payable by a registration officer to the clerk of the authority of a county borough, metropolitan borough or county district acting in pursuance of a requisition of that registration officer, as it applies in relation to the registration expenses payable to a registration officer. [677]

(3) The Treasury may frame a scale of registration expenses applicable to all or any class or classes of those expenses, and may alter the scale as and when they think fit, and any expenses incurred by a registration officer of a class to which the scale is applicable—

(*a*) shall be taken to be properly incurred if they do not exceed the maximum amount determined by or in accordance with the scale; and

(*b*) shall be taken not to have been properly incurred so far as they do not exceed that amount, unless the sanction (whether previous or

not) of the Treasury, and (except in Northern Ireland) that of the local authority, is specially given for the excess. [678]

(4) Nothing in paragraph (*a*) of the last foregoing subsection shall be construed as entitling a registration officer to receive payments in excess of the expenses actually incurred by him, except his proper and reasonable charges for his own personal remuneration. [679]

(5) If any question arises whether any expenses incurred by a registration officer of a class to which no scale framed under this section is applicable have been properly incurred or not, that question shall be referred to the Secretary of State, and his decision thereon shall be final. [680]

(6) The Treasury may make with the appropriate department of the government of Northern Ireland arrangements for determining what part of any expenses incurred in connection with the registration of electors or voting by post or proxy in Northern Ireland is to be attributed respectively to this Act and to the law of Northern Ireland, in cases where any document used or thing done has effect for the purposes of both, and the arrangements may make provision—

(*a*) for making any scale of registration expenses framed for the purposes of either applicable to expenses incurred wholly or partly for the purposes of the other, being expenses which cannot readily be kept separate from other expenses to which the scale applies ;

(*b*) for the apportionment in such manner as may be agreed of any such expenses ; and

(*c*) as to the manner in which any such expenses are to be paid in the first instance ;

and in the application of this section to Northern Ireland paragraph (*b*) of subsection (1) shall not apply. [681]

Commencement of section.—See s. 80, *post.*
General note.—This section supplements s. 68, *ante* (see the notes thereto).
Registration expenses.—For meaning, see s. 68 (1), *ante* ; but see also s. 70 (5), *post.*
Registration officer.—See ss. 4 and 66 (2), *ante.*
Registration duties.—For definition, see s. 76 (1), *post.*
Sub-s. (2).—For interpretation, see s. 77, *post.*

70. Registration appeals.—(1) An appeal shall lie to the county court—

(*a*) from any decision under this Act of the registration officer on any claim for registration or objection to a person's registration made to and considered by him ;

(*b*) from any decision under this Act of the registration officer disallowing a person's application to be treated as an absent voter or to vote by post as proxy, in any case where the application is not made for a particular election only ;

(*c*) from any decision under this Act of the registration officer to place or not to place against any name in the register a mark indicating that the person registered is or is not registered as a service voter or as a non-resident or is or is not entitled to vote for a particular local government area :

Provided that an appeal shall not lie where the person desiring to appeal has not availed himself of a prescribed right to be heard by or make representations to the registration officer on the matter which is the subject of the appeal, or has not given the prescribed notice of appeal within the prescribed time. [682]

(2) No appeal shall lie from the decision of the Court of Appeal on appeal from a decision of the county court under this section. [683]

(3) An appeal to the county court or Court of Appeal by virtue of this section which is pending when notice of an election is given shall not prejudice the operation as respects the election of the decision appealed against, and

anything done in pursuance of the decision shall be as good as if no such appeal had been brought and shall not be affected by the decision of the appeal. [684]

(4) Notice shall be sent to the registration officer in manner provided by rules of court of the decision of the county court or of the Court of Appeal on any appeal by virtue of this section, and the registration officer shall make such alterations in the electors lists or register as may be required to give effect to the decision. [685]

(5) The registration officer shall undertake such duties in connection with appeals brought by virtue of this section as may be prescribed and shall on any such appeal be deemed to be a party to the proceedings, and the registration expenses payable to a registration officer shall include any expenses properly incurred by him by virtue of this subsection. [686]

(6) Where a county court judge appoints a person to act as his deputy, and the Lord Chancellor on the representation of the judge is satisfied that the judge would otherwise have been unable, owing to the necessity of dealing with appeals under this section, to transact the business of his court with proper despatch, there shall be paid to the deputy out of moneys provided by Parliament such remuneration as the Lord Chancellor, with the approval of the Treasury, thinks fit to allow. [687]

(7) This section shall apply in relation to decisions on claims and objections with respect to any corrupt and illegal practices list as it applies in relation to the decisions mentioned in subsection (1) but as if a reference to that list were included in the reference to the electors lists and with any other prescribed modifications. [688]

(8) This section shall apply to Scotland subject to the following modifications :—

(*a*) subsections (2) and (6) shall be omitted ;

(*b*) for any reference to the county court there shall be substituted a reference to the sheriff ;

(*c*) an appeal shall lie on any point of law from any decision of the sheriff under this section to the court of three judges of the Court of Session appointed under section twenty-three of the Representation of the People (Scotland) Act, 1868, and that section shall have effect as if for references to the appeals therein mentioned and to that Act there were respectively substituted references to appeals under this paragraph and to this Act ; and

(*d*) for any reference to the Court of Appeal there shall be substituted a reference to the said court of three judges. [689]

(9) Subsections (2), (4) and (6) of this section shall not apply to Northern Ireland, but—

(*a*) any decision of a county court upon a point of law under subsection (1) of this section shall be appealable in the same way and subject to the same provisions as a corresponding decision under the law relating to the registration of electors for elections of members to sit in the House of Commons of Northern Ireland, and the reference in subsection (3) of this section to the Court of Appeal shall be construed accordingly ; and

(*b*) any provision of the said law relating to the appointment of assistants to judges of county courts by reason of pressure of business due to appeals thereunder and any power to make rules of court with respect to those appeals shall apply to appeals under this section. [690]

Commencement of section.—See s. 80, *post.*

General note.—As respects England and Wales, this section, which is supplemented by reg. 62 of S.I. 1949 No. 327, may be compared with ss. 14 and 15 (1) of the Representation of the People Act, 1918 (7 Halsbury's Statutes 557). As to procedure, cf. C. C. R. Order 6, r. 6.

Sub-s. (1) (*a*).—See ss. 5 (5) (*c*) and 23 (7), *ante.*

Sub-s. (1) (*b*).—See ss. 9, 11, 26 and 27 (4) (6), *ante.*
Sub-s. (1) (*c*).—Cf. s. 23 (2), *ante*, and Sched. VIII, para. 8, *post.*
Prescribed.—See s. 76 (1), (4), *post*, and S.I. 1949 No. 327, reg. 62 (2)-(4).
Registration officer.—See ss. 4 and 66, *ante.*
Electors lists.—See ss. 5 (5) (*b*) and 23 (7), *ante.*
Registration expenses, etc.—See s. 68, *ante*; and see also s. 69, *ante.*
Decisions on claims and objections with respect to any corrupt and illegal practices list.—Cf. s. 67 (2), *ante.*

71. Supplemental provisions as to members of the forces and service voters.—(1) For the purposes of this Act, the expression "member of the forces" means a person serving on full pay as a member of any of the naval, military or air forces of the Crown raised in the United Kingdom:

Provided that the expression shall not include a person serving only as a member of a reserve or auxiliary force except in so far as regulations provide that it shall include persons so serving during a period of emergency. [691]

(2) The reference in the foregoing subsection to the naval, military or air forces of the Crown shall include any women's force administered by the Admiralty, Army Council or Air Council. [692]

(3) Where a person is not a member of the forces as defined by the foregoing provisions of this section but is, in the performance of his duty as a member of any of His Majesty's reserve or auxiliary forces, absent on the qualifying date from an address at which he has been residing, any question arising under subsection (2) of section two of this Act whether his residence at that address has been interrupted on that date by his absence in the performance of that duty shall be determined as if the performance thereof did not prevent his resuming actual residence at any time after that date. [693]

(4) Arrangements shall be made by the appropriate government department for securing that (so far as circumstances permit) every person having a service qualification by virtue of paragraph (*a*) or (*b*) of subsection (1) of section six of this Act shall—

(*a*) have an effective opportunity of exercising from time to time as occasion may require the rights conferred on him by this Act in relation to the making and cancellation of service declarations and of appointments of a proxy, and in relation to voting by post; and

(*b*) receive such instructions as to the effect of this Act and any regulations made under it, and such other assistance, as may be reasonably sufficient in connection with the exercise by him and, in the case of a man, by his wife of any rights conferred on them as aforesaid:

Provided that the arrangements need not extend to members of the forces who are for the time being under the age of twenty-one and will in the ordinary course cease to be members of the forces before attaining that age. [694]

(5) In the last foregoing subsection the expression "the appropriate government department" means, in relation to members of the forces, the Admiralty, Army Council or Air Council, as the case requires, and in relation to any other person means the government department under which he is employed in the employment giving the service qualification. [695]

Commencement of section.—See s. 80, *post.*
United Kingdom.—See the notes to s. 6, *ante.*
Qualifying date.—See ss. 1 (3) and 21 (4), *ante*; and see also s. 80 (9) (*a*), *post*, and S.I. 1949 No. 327, reg. 72.

72. Superannuation rights of contributory employees in England and Wales.—(1) Any contributory employee or local Act contributor who received remuneration in respect of work done by him in the year nineteen hundred and thirty-nine in connection with the preparation of a register of

electors under the Representation of the People Act, 1918, for any area in England or Wales shall be entitled to contribute a sum in respect of that remuneration to the appropriate superannuation fund in respect of any year in which a register is prepared under this Act, if—

(*a*) he was required to do the work in the year nineteen hundred and thirty-nine by virtue (directly or indirectly) of the post as officer or servant of a local authority which he holds in the later year; and

(*b*) he does not receive remuneration in respect of work done by him in the later year in connection with the preparation of the register under this Act to an amount greater than that of the first-mentioned remuneration. [696]

(2) Where a person makes a contribution under this section in respect of any year, he shall not be required or entitled to make, in respect of that year, any contribution under the Local Government Superannuation Act, 1937, or the local Act scheme, as the case may be, in respect of any remuneration received by him in respect of work done by him in that year in connection with the preparation of a register under this Act. [697]

(3) Where a person makes a contribution under this section in respect of any year, then for the purpose of computing in accordance with the provisions of section eight of the said Act of 1937 his average remuneration (if he is a contributory employee), or of calculating his superannuation allowance under a local Act scheme (if he is a local Act contributor) he shall be deemed—

(*a*) to have received in respect of service rendered in that year the remuneration by reference to which the contribution was calculated; and

(*b*) not to have received in respect of that year any such remuneration as is mentioned in the last foregoing subsection. [698]

(4) In this section—

(*a*) the expressions "contributory employee," "local Act contributor," "local Act scheme" and "appropriate superannuation fund" have the same meanings respectively as in the said Act of 1937, except that in relation to a local Act contributor the last mentioned expression means the superannuation fund in the benefits of which he is entitled to participate;

(*b*) references to remuneration in respect of any work do not include an inclusive salary paid partly in respect of that work and partly in respect of the recipient's ordinary work as an officer or servant of a local authority. [699]

Commencement of section.—See s. 80, *post.*
Representation of the People Act, 1918.—7 Halsbury's Statutes 548.
In the later year.—*I.e.*, the year in which a register is prepared under the Act.
Local Government Superannuation Act, 1937.—30 Halsbury's Statutes 385. For s. 8 thereof, see 30 Halsbury's Statutes 394. For the meaning in that Act of "contributory employee", for that of "local Act contributor" and for that of "local Act scheme" and "appropriate superannuation fund", see respectively ss. 3, 40 (1) and 1 (3) thereof (30 Halsbury's Statutes 389, 415, 388).

Miscellaneous

73. Punishment of offences committed outside the United Kingdom.—(1) Proceedings under the Ballot Act, 1872, or under the Corrupt and Illegal Practices Prevention Act, 1883, or under this Act so far as it relates to parliamentary elections, in respect of an offence alleged to have been committed outside the United Kingdom by a British subject may be taken before the appropriate court in the United Kingdom having jurisdiction in the place where the person charged is for the time being. [700]

(2) Any period fixed by law as the period within which proceedings may be commenced shall, in the case of any such proceedings as aforesaid, be reckoned as from the date on which the person charged first landed in the United Kingdom next after the commission of the offence, and for the purposes of this provision a person entering Northern Ireland by land shall be deemed thereby to land in the United Kingdom. [701]

This section replaces with modifications s. 38 of the Representation of the People Act, 1918 (7 Halsbury's Statutes 569).

Commencement of section.—See s. 80, *post.*

Ballot Act, 1872.—7 Halsbury's Statutes 427.

Corrupt and Illegal Practices Prevention Act, 1883.—7 Halsbury's Statutes 465.

Parliamentary elections.—See the notes to s. 1, *ante.*

British subject.—See the British Nationality Act, 1948 (11 & 12 Geo. 6, c. 56); but note s. 3 (1) of that Act.

United Kingdom.—See the notes to s. 6, *ante.*

Sub-s. (2).—Cf. the Summary Jurisdiction Act, 1848, s. 11 (11 Halsbury's Statutes 278), and the Corrupt and Illegal Practices Prevention Act, 1883, s. 51 (7 Halsbury's Statutes 495).

74. Adaptation, interpretation and minor amendments of law.—(1) The Tenth Schedule to this Act shall have effect with respect to the interpretation and adaptation of Acts other than this Act and with respect to the other matters dealt with in that Schedule, so, however, that the inclusion in that Schedule of any express provision shall not be taken to prejudice the operation in relation to this Act of any provision of the Interpretation Act, 1889, as to repeals. [702]

(2) The provisions of the said Tenth Schedule may be supplemented in relation to any Act passed before this Act by an order made by the Secretary of State in any particular case where that appears to him necessary for harmonising that Act with this Act. [703]

(3) Any power conferred by this section or by the said Schedule to make an order shall be exercisable by statutory instrument, and any such instrument shall be subject to annulment by resolution of either House of Parliament. [704]

(4) For the form of writ for a parliamentary election set out in the Second Schedule to the Ballot Act, 1872, there shall be substituted the form set out in Part I of the Ninth Schedule to this Act. [705]

(5) The enactments mentioned in the Eleventh Schedule to this Act shall cease to have effect to the extent specified in the third column of that Schedule. [706]

Commencement of section.—See s. 80, *post.*

Interpretation Act, 1889.—18 Halsbury's Statutes 992. As to repeals, see ss. 11 and 38 thereof (18 Halsbury's Statutes 994, 1005).

Passed before this Act.—*I.e.* before July 30, 1948.

Statutory instrument.—See the Statutory Instruments Act, 1946 (39 Halsbury's Statutes 783), which came into full force on January 1, 1948 (see S.I. 1948 No. 3).

Ballot Act, 1872, *Sched. II.*—7 Halsbury's Statutes 448.

75. Construction of references to local elections Act, local elections rules, and corrupt practices Acts.—(1) In this Act, except in so far as the context otherwise requires—

(*a*) the expression "the local elections Act" means—

(i) in relation to England and Wales, except London, the Local Government Act, 1933;

(ii) in relation to London, the London Government Act, 1939; and

(iii) in relation to Scotland, the Local Government (Scotland) Act, 1947; and

(*b*) the expression "the local elections rules" means the Second Schedule to the local elections Act. [707]

(2) In this Act, except in so far as the context otherwise requires—

(*a*) the expression "the parliamentary corrupt practices Act" means the Corrupt and Illegal Practices Prevention Act, 1883;

(*b*) the expression " the local corrupt practices Act " means the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, or, in relation to Scotland, the Elections (Scotland) (Corrupt and Illegal Practices) Act, 1890 ; and

(*c*) the expression " the corrupt practices Act " means the parliamentary corrupt practices Act and the local corrupt practices Act. [708]

(3) The tables of comparison set out in the Twelfth Schedule to this Act show (so far as is necessary for the construction of this Act) the provisions of the Acts there mentioned which correspond to one another, and except in so far as the context otherwise requires—

(*a*) any reference in this Act to a specified provision of the local elections Act or rules, or of the corrupt practices Act, by that name shall be taken as a reference both to—

(i) the provision specified of the Act or rules referred to in the first column of the said Schedule ; and

(ii) any corresponding provision of the Acts referred to in the second and third columns thereof ; and

(*b*) any reference in this Act to a specified provision of the local corrupt practices Act by that name shall be taken as a reference to—

(i) the provision specified of the Act referred to in the second column of that Schedule ; and

(ii) any corresponding provision of the Act referred to in the third column thereof. [709]

Commencement of section.—See s. 80, *post.*
Local Government Act, 1933.—26 Halsbury's Statutes 295. For Sched. II thereof, see 26 Halsbury's Statutes 474.
London Government Act, 1939.—32 Halsbury's Statutes 259. For Sched. II thereof, see 32 Halsbury's Statutes 354.
Corrupt and Illegal Practices Prevention Act, 1883.—7 Halsbury's Statutes 465.
Municipal Elections (Corrupt and Illegal Practices) Act, 1884.—7 Halsbury's Statutes 511

76. General provisions as to interpretation.—(1) In this Act, unless the context otherwise requires,—

the expression " dwelling house " includes any part of a house where that part is occupied separately as a dwelling house ;

the expression " legal incapacity " includes (in addition to any incapacity by virtue of any subsisting provision of the common law) any disqualification imposed by the corrupt practices Act or any other Act ;

the expression " prescribed " means prescribed by regulations ;

the expression " registration duties " includes the duties of a registration officer as such with respect to voting by post or by proxy, with respect to any corrupt and illegal practices list and with respect to the lists of rooms to the use of which candidates are entitled under this Act ;

the expression " service voter " means a person whose service declaration is for the time being in force or who remains registered in pursuance of a service declaration no longer in force. [710]

(2) Any provision of the local elections Act applying the local elections rules to elections under that Act shall have, in relation to the provisions of this Act dealing with the subject matter of those rules, the like operation as it has in relation to those rules :

Provided that voting by post or by proxy shall not be allowed at any election of auditors in a borough to which the local elections rules are applied by section two hundred and thirty-eight of the Local Government Act, 1933. [711]

(3) References in this Act to any enactment shall, except in so far as the context otherwise requires, be taken as referring to that enactment as amended by any other enactment, including this Act. [712]

(4) Any power conferred by this Act to make regulations shall, except where this Act otherwise provides, be a power exercisable by the Secretary of State by statutory instrument, which shall not come into force unless or until it is approved by resolution of each House of Parliament. [713]

Commencement of section.—See s. 80, *post*.

Dwelling house.—It was held under the old law that cubicles in a dormitory at a police station were not separately occupied as dwellings (*Barnett* v. *Hickmott*, [1895] 1 Q. B. 691; *Clutterbuck* v. *Taylor*, [1896] 1 Q. B. 395, C. A.).

Legal incapacity.—As to incapacity at common law, see the notes to s. 1, *ante*; and for meaning of "corrupt practices Act", see s. 75 (2), *ante*.

Prescribed.—Note sub-s. (4), *supra*.

Registration duties.—As to registration officers, see s. 4, *ante*; as to their duties with respect to registers of electors, see ss. 5 and 23, *ante*; as to their duties with respect to voting by post or by proxy, see ss. 9–11, *ante*, in conjunction with s. 8, *ante*; ss. 20 and 27, *ante*, in conjunction with s. 25, *ante*; Sched. III, Part II, para. 15 (1), *post*; and Sched. IV, Part I, para. 1 (1), *post*; as to their duties with respect to corrupt and illegal practice lists, see the Corrupt and Illegal Practices Prevention Act, 1883, s. 39 (1) (7 Halsbury's Statutes 487), and the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, s. 24 (1) (7 Halsbury's Statutes 521), as amended by s. 80 (7) and Sched. XIII, *post*; and as to their duties with respect to lists of rooms which candidates are entitled to use, see Sched. V, paras. 4 and 5, *post*. See also as to the discharge of registration duties, s. 66, *ante*.

Service vote.—As to service declarations, see ss. 6 and 38 (7), *ante*.

Local elections Act; Local elections rules.—For the meaning of these terms, see s. 75 (1), *ante*.

Local Government Act, 1933, s. 238.—26 Halsbury's Statutes 494.

Statutory instruments.—See the Statutory Instruments Act, 1946 (30 Halsbury's Statutes 783), which came into full operation on January 1, 1948 (see S.I. 1948 No. 3).

77. Interpretation and application of local government provisions in England and Wales.—(1) In this Act unless the context otherwise requires the following expressions have, in relation to England and Wales, the meanings assigned to them by this subsection, that is to say—

the expression "borough" includes a metropolitan borough;

the expression "county" means (subject to subsection (5) of this section) an administrative county;

the expression "county district" means a borough other than a metropolitan or county borough, an urban district or a rural district;

the expression "electoral area" means any electoral division, borough, ward, district, parish or other area for which an election of councillors is held under the Local Government Act, 1933, or the London Government Act, 1939;

the expression "local government area" means a county, borough, urban or rural district or parish;

the expression "local government election" means an election of councillors for any electoral area;

the expression "parish" means a rural parish within the meaning of the Local Government Act, 1933. [714]

(2) In this Act the expression "clerk of the authority" in relation to a borough means the town clerk, and where the town clerk of a borough is registration officer, references to the authority whose clerk he is refer to the borough council; and references to the clerk of the authority of a county borough, metropolitan borough or county district acting on the requisition of a registration officer include an officer designated by the council thereof and so acting. [715]

(3) Any provision of the Local Government Act, 1933, the Local Government Act, 1888, or the London Government Act, 1939, applying the Municipal Elections (Corrupt and Illegal Practices) Acts, 1884 and 1911, or either of them in relation to local authorities in England or Wales shall have, in relation to the provisions of this Act dealing with the subject matter of the

enactments applied, the like operation as it has in relation to those enactments. [716]

(4) Subject to any express provision therein contained this Act, so far as it has effect for the purposes of parliamentary elections or of elections of London county councillors, shall apply in relation to the City of London as if it were a metropolitan borough and as if the common council were a metropolitan borough council, but with the substitution for references to the town clerk of references to the secondary; and for the purposes of this subsection the Inner Temple and Middle Temple shall be treated as forming part of the said City. [717]

(5) This Act shall apply in relation to the Isles of Scilly as if those isles were an administrative county and as if the council of those isles were a county council, except that—

(a) paragraph 1 of the Eighth Schedule and any reference to a person acting in pursuance of the requisition of a registration officer shall apply as if the isles were a county district and the council were a district council; and

(b) the provisions of Part II relating to the conduct of local government elections shall have effect in relation to those isles subject to such adaptations as the Minister of Health may by statutory instrument prescribe. [718]

Commencement of section.—See s. 80, *post*.

Local Government Act, 1933.—26 Halsbury's Statutes 295. There is no definition of "rural parish" in the Act of 1933. But see the Rating and Valuation Act, 1925, s. 38 (4) (14 Halsbury's Statutes 688), and s. 1 (2) (*f*) of the Act of 1933 (26 Halsbury's Statutes 306).

London Government Act, 1939.—32 Halsbury's Statutes 259.

Local Government Act, 1888.—10 Halsbury's Statutes 686.

Municipal Elections (Corrupt and Illegal Practices) Acts, 1884 *to* 1911.—These are the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (7 Halsbury's Statutes 511), and the Municipal Elections (Corrupt and Illegal Practices) Act, 1911 (7 Halsbury's Statutes 540) (see s. 2 of the latter Act; 7 Halsbury's Statutes 547).

Parliamentary elections.—See the notes to s. 1, *ante*.

Statutory instrument.—See the Statutory Instruments Act, 1946 (39 Halsbury's Statutes 783), which came into full operation on January 1, 1948 (see S.I. 1948 No. 3).

78. General application to Scotland. [719]

* * * * *

79. General application to Northern Ireland. [720]

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80. Commencement, repeals, etc.—(1) Except where otherwise expressly provided, the provisions of Parts I and II of this Act and, for the purposes of the said Parts I and II, Part VI thereof shall come into force so as to enable the first register of electors prepared under this Act to be the autumn register in the year nineteen hundred and forty-nine, and shall have effect with respect to that register and subsequent registers under this Act and the elections for which they are used. [721]

(2) Notwithstanding anything in the foregoing subsection, the provisions of the said Parts I and VI relating to the constituencies which are to return members to serve in Parliament (including provisions relating to returning officers for those constituencies) except as aforesaid, shall come into force for the purposes of the first general election after the passing of this Act, and shall not affect—

(a) the constitution of the House of Commons in the Parliament passing this Act; or

(b) the right of any person to vote at an election of a member to serve for a university constituency in that Parliament or the conduct of any such election (including the manner of voting thereat);

Provided that, without prejudice to section thirty-seven of the Interpretation Act, 1889 (which authorises the taking before an Act comes into operation of the necessary steps to bring it into operation), it shall be the duty of the authority having power to divide a constituency established by this Act into polling districts, and designate polling places for the polling districts, to take the matter into consideration as soon as may be after the passing of this Act and make such division and designate such polling places as will be required for the purposes of the said general election. [722]

(3) The provisions of the said Parts II and VI, so far as they relate to voting by post or by proxy at local government elections or amend the local elections rules, shall come into force on the appointed day. [723]

(4) Except where otherwise expressly provided, the provisions of Part III of this Act and, so far as relates to the said Part III, Part VI thereof shall come into force on the appointed day. [724]

(5) Except where otherwise expressly provided, the provisions of Part IV of this Act and, so far as relates to the said Part IV, Part VI thereof shall come into force for the purposes of the first ordinary election of councillors held after the passing of this Act. [725]

(6) The provisions of Part V of this Act and, so far as relates to the said Part V, Part VI thereof shall come into force on the first day of October, nineteen hundred and forty-eight. [726]

(7) The enactments mentioned in the Thirteenth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule:

Provided that without prejudice to any provision of the Interpretation Act, 1889, as to repeals,—

(*a*) the repeal by this Act of any enactment abolishing any ground of incapacity to be registered as an elector or to vote shall not be taken as restoring that ground of incapacity;

(*b*) the repeal by this Act of any provision relating to registration expenses, or the expenses of returning officers at parliamentary elections, shall not affect the operation of that provision with respect to expenses incurred in connection with any register prepared or election begun before the repeal has effect;

(*c*) the repeal by this Act of section eighteen of the Representation of the People Act, 1918, shall not affect any compensation payable thereunder;

(*d*) any document referring to any Act or enactment repealed by this Act shall be construed as referring to this Act or to the corresponding enactment, if any, in this Act. [727]

(8) No provision in this Act shall apply in relation to any parliamentary bye-election or local government election begun before it comes into force. [728]

(9) Regulations may be made for the purpose of facilitating the coming into operation, or into full operation, of the provisions of this Act and for adjusting those provisions during any period when it has a partial operation only, including in particular regulations providing—

(*a*) for altering, in connection with the first register prepared under this Act, the qualifying date or the date of publication;

(*b*) for continuing in force anything made or done for the purposes of any enactment repealed by this Act until superseded under this Act;

(*c*) for making any savings or additional savings from the effect of any repeal. [729]

(10) For the purposes of this section—

(*a*) the expression "the appointed day" means such day as the Secretary of State may by statutory instrument appoint, and different days may be appointed for different purposes;

(*b*) an election shall be deemed to be begun on the day on which notice of the election is given. [730]

Autumn register.—See s. 5 (1) (*b*), *ante*; and see also s. 23 (1), (2), *ante*.
Passing of the Act.—The Act was passed, *i.e.* received the Royal Assent, on July 30, 1948.
Interpretation Act, 1889.—18 Halsbury's Statutes 992. For s. 37 thereof, see 18 Halsbury's Statutes 1005. As to repeals, see ss. 11 and 38 thereof (18 Halsbury's Statutes 994, 1005).
Division of constituency into polling districts and designation of polling places.—See s. 7, *ante*.
Local government elections.—For the meaning of this expression, see s. 77 (1), *ante*.
Local elections rules.—For interpretation, see s. 75 (1), *ante*.
Parliamentary elections.—See the notes to s. 1, *ante*.
Representation of the People Act, 1918, *s.* 18.—7 Halsbury's Statutes 559.
Regulations.—See s. 76 (4), *ante*, and the Representation of the People Regulations, 1949 (S.I. 1949 No. 327), regs. 72 and 73.
Qualifying date.—See ss. 1 (3) and 21 (4), *ante*.
Date of publication.—See s. 5 (1), *ante*; and see also s. 23 (1), (2), *ante*.
Appointed day.—As to the days appointed, see the Representation of the People Regulations, 1949 (*supra*), reg. 75.
Statutory instrument.—See the Statutory Instruments Act, 1946 (39 Halsbury's Statutes 783), which came into full operation on January 1, 1948 (see S.I. 1948 No. 3).
Commencement of Schedules.—There can be no doubt that for the purposes of this section a Schedule must be treated as forming part of the Part of the Act containing the enactment by virtue of which it takes effect. As to Sched. II, *post*, see, however, s. 3 (1), *ante*.

81. Short title, and citation.—This Act may be cited as the Representation of the People Act, 1948, and this Act and the House of Commons (Redistribution of Seats) Act, 1947, shall be included among the Acts which may be cited as the Representation of the People Acts. [731]

Commencement of section.—See s. 80, *ante*.
House of Commons (Redistribution of Seats) Act, 1947.—40 Halsbury's Statutes 677.
Representation of the People Acts.—This short title was given to a group of Acts by s. 8 (1) of the Representation of the People (Equal Franchise) Act, 1928 (7 Halsbury's Statutes 652). Its scope was subsequently enlarged from time to time. But all the Acts hitherto comprised in the title, except the Representation of the People Act, 1918 (7 Halsbury's Statutes 548), the House of Commons (Redistribution of Seats) Act, 1944 (37 Halsbury's Statutes 389), and the Representation of the People Act, 1945 (38 Halsbury's Statutes 67), are wholly repealed by s. 80 (7), *ante*, and Sched. XIII, *post*.

SCHEDULES

Section 1

FIRST SCHEDULE

PARLIAMENTARY CONSTITUENCIES

[NOTE.—The constituencies are described by reference to circumstances as they existed immediately before the end of the year 1947, except as otherwise stated and except that any subsequent accretion from the sea, whether natural or artificial and whether occurring before or after the passing of this Act, shall be taken to be included in the constituency or constituencies which it adjoins, in proportion to the extent of the common boundary.] [732]

[Here follows a list of parliamentary constituencies, identifying them by name and local government areas.]

General note.—The note in square brackets immediately below the heading "Parliamentary Constituencies" is part of the Act.
Accretion from the sea.—As to the general law of accretion, see 33 Halsbury's Laws (2nd Edn.) 522 *et seq.*. Accretions from the sea, whether natural or artificial, are for purposes of local government annexed to the parishes to which they respectively adjoin in proportion

to the extent of the common boundary, and every such accretion is annexed to the county district and county (or county borough) in which the parish is situate (Local Government Act, 1933, s. 144; 26 Halsbury's Statutes 383).

Passing of this Act.—July 30, 1948.

Section 3

SECOND SCHEDULE

PROVISIONS OF THE HOUSE OF COMMONS (REDISTRIBUTION OF SEATS) ACT, 1944, AS AMENDED

General note.—This Schedule sets out certain provisions of the House of Commons (Redistribution of Seats) Act, 1944 (37 Halsbury's Statutes 389), as amended first by s. 33 of the Representation of the People Act, 1945 (38 Halsbury's Statutes 92), secondly by the House of Commons (Redistribution of Seats) Act, 1947 (40 Halsbury's Statutes 677), and thirdly, as from the passing of the Act, by s. 3, *ante* (see sub-s. (1) thereof).

* * * * *

4. Periodical reports of Commissions as to redistribution.—(1) Each Boundary Commission shall keep under review the representation in the House of Commons of the part of the United Kingdom with which they are concerned, and shall, in accordance with the next following subsection, submit to the Secretary of State reports with respect to the whole of that part of the United Kingdom, either—

(*a*) showing the constituencies into which they recommend that it should be divided in order to give effect to the rules set out in the Third Schedule to this Act; or

(*b*) stating that, in the opinion of the Commission, no alteration is required to be made in respect of that part of the United Kingdom in order to give effect to the said rules.

(2) Reports under the last foregoing subsection shall be submitted by a Commission—

(*a*) in the case of the first report, not less than three or more than seven years from the date of the passing of the Representation of the People Act, 1948; and

(*b*) in the case of the second or any subsequent report, not less than three or more than seven years from the date of the submission of their last report under subsection (1) of this section:

Provided that a report stating that no alteration is required to be made in respect of the part of the United Kingdom with which a Commission is concerned shall not be submitted less than six years from the date of the passing of the said Act, or the date of the submission of their last report under subsection (1) of this section, as the case may be.

(3) Any Boundary Commission may also from time to time submit to the Secretary of State reports with respect to the area comprised in any particular constituency or constituencies in the part of the United Kingdom with which they are concerned, showing the constituencies into which they recommend that that area should be divided in order to give effect to the rules set out in the said Third Schedule.

(4) Where a Commission intend to consider making a report under this section, they shall, by notice in writing, inform the Secretary of State accordingly, and a copy of the said notice shall be published—

(*a*) in a case where it was given by the Boundary Commission for England or the Boundary Commission for Wales, in the London Gazette; and

(*b*) in a case where it was given by the Boundary Commission for Scotland, in the Edinburgh Gazette; and

(*c*) in a case where it was given by the Boundary Commission for Northern Ireland, in the Belfast Gazette;

and the date on which any such notice is so published with respect to any report shall, for the purposes of the Third Schedule to this Act, be taken to be the enumeration date in relation to that report.

(5) As soon as may be after a Boundary Commission have submitted a report to the Secretary of State under this section, he shall lay the report before Parliament together, except in a case where the report states that no alteration is required

to be made in respect of the part of the United Kingdom with which the Commission are concerned, with the draft of an Order in Council for giving effect, whether with or without modifications, to the recommendations contained in the report.

Constituency.—See s. 7 in this Schedule, *infra.*
Passing of the Representation of the People Act, 1948.—July 30, 1948.

5. General provisions as to reports and Orders in Council.—(1) A report of a Boundary Commission under this Act showing the constituencies into which they recommend that any area should be divided shall state, as respects each constituency, the name by which they recommend that it should be known, and whether they recommend that it should be a county constituency or a borough constituency.

(2) The draft of any Order in Council laid before Parliament by the Secretary of State under this Act for giving effect, whether with or without modifications, to the recommendations contained in the report of a Boundary Commission may make provision for any matters which appear to him to be incidental thereto or consequential thereon.

(3) Where any such draft gives effect to any such recommendations with modifications, the Secretary of State shall lay before Parliament together with the draft a statement of the reasons for the modifications.

(4) If any such draft is approved by resolution of each House of Parliament, the Secretary of State shall submit it to His Majesty in Council.

(5) If a motion for the approval of any such draft is rejected by either House of Parliament or withdrawn by leave of the House, the Secretary of State may amend the draft and lay the amended draft before Parliament, and, if the draft as so amended is approved by resolution of each House of Parliament, the Secretary of State shall submit it to His Majesty in Council.

(6) Where the draft of an Order in Council is submitted to His Majesty in Council under this section, His Majesty in Council may make an Order in terms of the draft which shall come into force on such date as may be specified therein and shall have effect notwithstanding anything in any enactment:

Provided that the coming into force of any such Order shall not affect any parliamentary election until a proclamation is issued by His Majesty summoning a new Parliament, or affect the constitution of the House of Commons until the dissolution of the Parliament then in being.

(7) The validity of any Order in Council purporting to be made under this Act and reciting that a draft thereof has been approved by resolution of each House of Parliament shall not be called in question in any legal proceedings whatsoever.

Constituency.—See s. 7 in this Schedule, *infra.*
Sub-s. (2).—This subsection must be read in conjunction with s. 59 (3), *ante.*

7. Interpretation.—In this Act the expression "constituency" means an area having separate representation in the House of Commons.

* * * * *

(THIRD SCHEDULE)

Rules for Distribution of Seats

1. The number of constituencies in the several parts of the United Kingdom set out in the first column of the following table shall be as stated respectively in the second column of that table—

Part of the United Kingdom	*No. of Constituencies*
Great Britain	Not substantially greater or less than 613.
Scotland	Not less than 71.
Wales	Not less than 35.
Northern Ireland ..	12.

2.—(2) Every constituency shall return a single member.

* * * * *

4A. There shall continue to be a constituency which shall include the whole of the City of London and the name of which shall refer to the City of London.

5.—(1) So far as is practicable having regard to the foregoing rules—

(*a*) In England and Wales,—

(i) no county or any part thereof shall be included in a constituency which includes the whole or part of any other county or the whole or part of a county borough or metropolitan borough;

(ii) no county borough or any part thereof shall be included in a constituency which includes the whole or part of any other county borough or the whole or part of a metropolitan borough;

(iii) no metropolitan borough or any part thereof shall be included in a constituency which includes the whole or part of any other metropolitan borough;

(iv) no county district shall be included partly in one constituency and partly in another;

(*b*) in Scotland, no burgh other than a county of a city shall be included partly in one constituency and partly in another;

(*c*) in Northern Ireland, no county district shall be included partly in one constituency and partly in another.

(2) In paragraph (1) of this rule the following expressions have the following meanings, that is to say:—

"county" means an administrative county other than the county of London;

"county borough" has the same meaning as in the Local Government Act, 1933;

"county district" has, in sub-paragraph (*a*), the same meaning as in the Local Government Act, 1933, and, in sub-paragraph (*c*), the same meaning as in the Local Government (Ireland) Act, 1898.

5A.—(1) The electorate of any constituency shall be as near the electoral quota as is practicable having regard to the foregoing rules; and a Boundary Commission may depart from the strict application of the last foregoing rule if it appears to them that a departure is desirable to avoid an excessive disparity between the electorate of any constituency and the electoral quota, or between the electorate thereof and that of neighbouring constituencies in the part of the United Kingdom with which they are concerned.

6. A Boundary Commission may depart from the strict application of the last two foregoing rules if special geographical considerations, including in particular the size, shape and accessibility of a constituency, appear to them to render a departure desirable.

* * * * *

8.—(1) For the purpose of these rules—

(*a*) the expression "electoral quota" means—

(i) in the application of these rules to a constituency in Great Britain, a number obtained by dividing the electorate for Great Britain by the number of constituencies in Great Britain existing on the enumeration date;

(ii) in the application of these rules to a constituency in Northern Ireland, a number obtained by dividing the electorate for Northern Ireland by the number of constituencies in Northern Ireland existing on the enumeration date;

(*b*) the expression "electorate" means—

(i) in relation to a constituency, the number of persons whose names appear on the parliamentary register of electors in force on the enumeration date under the Representation of the People Acts for the constituency;

(ii) in relation to Great Britain or Northern Ireland, the aggregate electorate as hereinbefore defined of all the constituencies therein. [733]

Constituency.—See s. 7, *supra.*

Local Government Act, 1933.—26 Halsbury's Statutes 295. A county borough within the meaning of that Act is a borough which is named in Part II of Sched. I thereto (26 Halsbury's Statutes 295) (see s. 1 (2) (*b*) thereof; 26 Halsbury's Statutes 306). A county district within the meaning of that Act is a non-county borough, urban district or rural district (see s. 305 thereof; 26 Halsbury's Statutes 465).

Sections 12, 15

THIRD SCHEDULE

PROCEEDINGS AT PARLIAMENTARY ELECTIONS

General note.—All Parts of this Schedule take effect by virtue of s. 12 (1), *ante*, which is in Part I of the Act. They must, therefore, be taken as coming into force so as to have effect with respect to the autumn register of 1949 and subsequent registers under the Act and the elections for which they are used (see s. 80 (1) and the notes to s. 80, *ante*). But none of the provisions of this Schedule is to apply in relation to any parliamentary bye-election begun before the provision in question comes into force (s. 80 (8), *ante*), the beginning of an election for this purpose being the day on which notice of the election is given (s. 80 (10) (*b*), *ante*).

PART I

TIMETABLE

Proceeding	*Time in case of general election*	*Time in case of bye-election*
Issue of writ	As soon as practicable after the issue of the proclamation summoning the new Parliament.	As soon as practicable after the issue of the warrant for the writ.
Publication of notice of election.	Not later than four in the afternoon on the second day after that on which the writ is received.	The same as in the case of a general election.
Delivery of nomination papers.	Between the hours of ten in the morning and three in the afternoon (or on a Saturday between those of ten in the morning and noon) on any day after the date of publication of the notice of election, but not later than the eighth day after the date of the proclamation summoning the new Parliament.	The same as in the case of a general election, except that the last day shall be a day fixed by the returning officer and shall be— (*a*) in a county constituency, not earlier than the fourth day after the date of publication of the notice of election, nor later than the ninth day after that on which the writ is received ; and (*b*) in a borough constituency, not earlier than the third day after the date of publication of the notice of election nor later than the seventh day after that on which the writ is received.
The making of objections to nomination papers.	During the hours allowed for delivery of nomination papers on the last day for the delivery thereof and the hour following and, if the last day is a Saturday, between the hours of one and three in the afternoon on the day before : Provided that no objection may be made in the afternoon of the said last day (or if it is a Saturday	The same as in the case of a general election.

Proceeding	*Time in case of general election*	*Time in case of bye-election*
The making of objections to nomination papers—*cont.*	at any time on that day) except to a nomination paper delivered within twenty-four hours of the last time for the delivery thereof, and in the case of a nomination paper so delivered no objection may be so made to the sufficiency or nature of the particulars of the candidate unless made at or immediately after the time of the delivery of the nomination paper.	
Publication of statement of persons nominated.	At the close of the time for making objections to nomination papers or as soon thereafter as any objections are disposed of.	The same as in the case of a general election.
Polling	Between the hours of seven in the morning and nine in the evening on the ninth day after the last day for delivery of nomination papers.	Between the hours of seven in the morning and nine in the evening on the day fixed by the returning officer, which shall not be earlier than the seventh nor later than the ninth day after the last day for delivery of nomination papers. [734]

Operation of this Part.—See the note at the head of this Schedule, *ante*.
Issue of writ.—Cf. Part V, para. 1, of this Schedule, *post*.
Publication of notice of election.—See Part II, para. 1, of this Schedule, *post*.
Delivery of nomination papers.—Cf. Part II, paras. 2 *et seq.* of this Schedule, *post*.
As to "returning officer", see ss. 16 and 17, *ante*; and as to "county constituency" and "borough constituency", cf. s. 1 (1), *ante*.
Objections to nomination papers.—Cf. Part II, paras. 7 *et seq.* of this Schedule, *post*.
Publication of statement of persons nominated.—See Part II, para. 11 of this Schedule, *post*.
Polling.—Cf. Part II, para. 13 (*a*) of this Schedule, *post*. As to "returning officer", see ss. 16 and 17, *ante*.
Special cases and computation of time.—For the application of this Part in the case of the death of a candidate, see para. 2 of Part V of this Schedule, *post*; for its application in the case of an adjournment on account of riot or open violence, see paras. 3 and 4 of that Part; and as to the computation of time, see para. 5 of that Part.

PART II

PROCEDURE UP TO THE POLL

Notice of Election

1. The returning officer shall publish notice of the election stating—

(*a*) the place and times at which nomination papers are to be delivered; and

(*b*) the date of the poll in the event of a contest;

and the notice shall state that forms of nomination paper may be obtained at the place and times aforesaid.

Nomination of Candidates

2.—(1) Each candidate shall be nominated by a separate nomination paper delivered by the candidate himself, or his proposer or seconder, to the returning officer at the place fixed for the purpose.

(2) The nomination paper shall state the full names, place of residence and description of the candidate and the surname shall be placed first in the list of his names.

(3) The description shall not refer to the candidate's political activities, and need not refer to his rank, profession or calling so long as, with the other particulars of the candidate, it is sufficient to identify him.

(4) If the description is unduly long, the returning officer after consultation (if possible) with the candidate or his election agent, proposer or seconder, may shorten it or substitute another.

3.—(1) The nomination paper shall be subscribed by two electors as proposer and seconder, and by eight other electors as assenting to the nomination.

(2) Where a nomination paper bears the signatures of more than the required number of persons as proposing, seconding or assenting to the nomination of a candidate, the signature or signatures (up to the required number) appearing first on the paper in each category shall be taken into account to the exclusion of any others in that category.

(3) The nomination paper shall give the electoral number of each person subscribing it.

(4) The returning officer shall supply any elector with a form of nomination paper at the place and during the time for delivery of nomination papers and shall at the request of any elector prepare a nomination paper for signature; but it shall not be necessary for a nomination to be on a form supplied by the returning officer.

4. No person shall subscribe more than one nomination paper at the same election and, if he does, his signature shall be inoperative on any paper other than the one first delivered:

Provided that a person shall not be prevented from subscribing a nomination paper by reason only of his having subscribed that of a candidate who has died or withdrawn before delivery of the first mentioned paper.

Consent to Nomination

5. A person shall not be validly nominated unless his consent to nomination, given in writing on or within one month before the day fixed as the last day for the delivery of nomination papers, and attested by one witness, is delivered at the place and within the time for the delivery of nomination papers:

Provided that if the returning officer is satisfied that owing to the absence of a person from the United Kingdom it has not been reasonably practicable for his consent in writing to be given as aforesaid, a telegram consenting to his nomination and purporting to have been sent by him shall be deemed, for the purpose of this paragraph, to be consent in writing given by him on the day on which it purports to have been sent, and attestation of his consent shall not be required.

Deposit

6.—(1) A person shall not be validly nominated unless the sum of one hundred and fifty pounds is deposited by him or on his behalf with the returning officer at the place and during the time for delivery of nomination papers.

(2) The deposit may be made either by the deposit of any legal tender, or by means of a banker's draft, or with the consent of the returning officer in any other manner:

Provided that the returning officer may refuse to accept a deposit sought to be made by means of a banker's draft if he does not know that the drawer carries on business as a banker in the United Kingdom.

Place for Delivery of Nomination Papers

7.—(1) The returning officer shall fix the place at which nomination papers are to be delivered to him, and shall attend there during the time for the delivery thereof and for the making of objections thereto.

(2) The place shall be in the constituency or in the registration area (if any) which includes the constituency or, unless the constituency is a borough constituency, in a borough adjoining the constituency or registration area.

Right to Attend Nomination

8.—(1) Except for the purpose of delivering a nomination paper or of assisting the returning officer, no person shall be entitled to attend the proceedings during the time for delivery of nomination papers or making objections thereto unless he is a person standing nominated as a candidate or is the election agent, proposer or seconder of such a person :

Provided that where a candidate acts as his own election agent, he may name one other person who shall be entitled to attend in place of his election agent.

(2) Where a person stands nominated by more than one nomination paper, only the persons subscribing, as proposer and seconder, such one of them as he may select or, in default of any such selection, that one of them which is first delivered, shall be entitled to attend as his proposer and seconder.

(3) The right to attend conferred by this paragraph shall include the right to inspect, and to object to the validity of, any nomination paper.

Decisions as to the Validity of Nomination Papers

9.—(1) Where a nomination paper and the candidate's consent thereto is delivered and a deposit is made in accordance with this Act, the candidate shall be deemed to stand nominated unless and until the returning officer decides that the nomination paper is invalid, or proof is given to the satisfaction of the returning officer of the candidate's death, or the candidate withdraws.

(2) The returning officer shall be entitled to hold a nomination paper invalid only on one of the following grounds, that is to say,—

(*a*) that the particulars of the candidate or the persons subscribing the paper are not as required by law ; and

(*b*) that the paper is not subscribed as so required.

(3) The returning officer shall give his decision on any objection to a nomination paper as soon as practicable after it is made.

(4) Where he decides that a nomination paper is invalid, he shall endorse and sign on the paper the fact and the reasons for his decision.

(5) The decision of the returning officer that a nomination paper is valid shall be final and shall not be questioned in any proceeding whatsoever.

(6) Subject to the last foregoing sub-paragraph, nothing in this paragraph shall prevent the validity of a nomination being questioned on a petition questioning the election or return.

Withdrawal of Candidates

10.—(1) A candidate may withdraw his candidature by notice of withdrawal signed by him and attested by one witness and delivered to the returning officer at the place and during the time for delivery of nomination papers.

(2) In the case of a candidate who is outside the United Kingdom, a notice of withdrawal signed by his proposer and accompanied by a written declaration also so signed of the candidate's absence from the United Kingdom shall be of the same effect as a notice of withdrawal signed by the candidate :

Provided that where the candidate stands nominated by more than one nomination paper a notice of withdrawal under this sub-paragraph shall be effective if, but only if,—

(*a*) it and the accompanying declaration are signed by all the proposers except any who is, and is stated in the said declaration to be, outside the United Kingdom ; or

(*b*) it is accompanied, in addition to the said declaration, by a written statement signed by the candidate that the proposer giving the notice is authorised to do so on the candidate's behalf during his absence from the United Kingdom.

Publication of Nominations

11.—(1) The returning officer shall prepare and publish a statement showing the persons who have been and stand nominated and any other persons who have been nominated, with the reason why they no longer stand nominated.

(2) The statement shall show the names, addresses and descriptions of the persons nominated as given in their nomination papers, together with the names of the persons subscribing those papers.

(3) The statement shall show the persons standing nominated arranged alphabetically in the order of their surnames, and, if there are two or more of them with the same surname, of their other names.

(4) In the case of a person nominated by more than one nomination paper, the returning officer shall take the particulars required by the foregoing sub-paragraphs from such one of the papers as the candidate or the returning officer in default of the candidate may select, but if the election is contested a candidate standing nominated may require the returning officer to include in the statement the names of the persons subscribing a second and third nomination paper.

Declaration of Result of Uncontested Election

12. If the statement of persons nominated shows only one person standing nominated, the statement shall also declare that person elected, and the returning officer shall forthwith return his name to the Clerk of the Crown in Chancery.

Proceedings preliminary to Poll if Election Contested

13. If the statement of persons nominated shows more than one person standing nominated, then—

(*a*) a poll shall be taken in accordance with the Ballot Act, 1872 ;

(*b*) the statement shall include a notice of the poll, stating the day on which and hours during which the poll will be taken ;

(*c*) the persons shown in the statement as standing nominated, and no others, shall be entitled to have their names inserted in the ballot papers ;

(*d*) the order of the names in the statement and the particulars therein of the candidates shall be the order of the names and the particulars of the candidates inserted in the ballot papers ;

(*e*) the statement may be combined with the notice as to polling stations and mode of voting which is required by rule 19 of the First Schedule to the Ballot Act, 1872.

14.—(1) If a poll is to be taken in a county constituency, the returning officer shall, on publication of the statement of persons nominated and notice of the poll, deliver to the postmaster of the principal post office where the place for the delivery of nomination papers is situated a paper signed by himself, giving the names of the candidates standing nominated, as the names will appear in the ballot paper, and the day and hours of the poll.

(2) The postmaster shall forward the information contained in the paper by telegraph, free of charge, to all postal telegraph offices situated in the constituency, and the information shall be published forthwith at each office in the manner in which post office notices are usually published.

Absent voters list, list of proxies, etc.

15.—(1) If a poll is to be taken, the registration officer shall as soon as practicable prepare the following special lists for the purposes of the election, namely,—

(*a*) a list (in this Act referred to as " the absent voters list ") giving the name and number on the register of every person entitled to vote at the election as an absent voter ;

(*b*) a list (in this Act referred to as " the list of proxies ") giving—

(i) the names and numbers on the register of the electors for whom proxies have been appointed (omitting any of those electors who are registered as service voters and entitled to vote by post) ; and

(ii) the names and addresses of the persons appointed ;

(*c*) a list of any persons entitled to vote by post as proxy at the election.

(2) The duty of the returning officer under Rule 20 of the First Schedule to the Ballot Act, 1872, to provide each polling station with copies of the register of electors or such part thereof as contains the names of the electors allotted to vote at the station shall include a duty to provide the corresponding parts of any special lists prepared for the election.

Issue of Official Poll Cards

16.—(1) If a poll is to be taken, the returning officer shall as soon as practicable send to electors and their proxies an official poll card :

Provided that an official poll card need not be sent to any person as an elector if he is placed on the absent voters list for the election, or to any person as a proxy if his application to vote as such by post is allowed for the election.

(2) An elector's official poll card shall be sent or delivered to his qualifying address, a proxy's to his address as shown in the list of proxies.

(3) The official poll card shall be in the prescribed form and shall set out—

(*a*) the name of the constituency;

(*b*) the elector's name, qualifying address and number on the register;

(*c*) the date and hours of the poll and the situation of the elector's polling station.

Issue and receipt of postal ballot papers

17.—(1) If a poll is to be taken, the returning officer shall as soon as practicable send to those entitled to vote by post, at the addresses furnished by them for the purpose, a ballot paper and a declaration of identity in the prescribed form, together with an envelope for their return.

(2) Before the returning officer proceeds to count the votes he shall count such of the said ballot papers as have been duly returned and record the number counted, and the papers counted under this provision shall be included with the ballot papers of those voting in person when they are mixed before the count as required by Rule 34 of the First Schedule to the Ballot Act, 1872.

(3) A ballot paper sent to a person for the purpose of voting by post shall not be deemed to be duly returned, unless it is returned in the proper envelope so as to reach the returning officer before the close of the poll and is accompanied by the declaration of identity duly signed and authenticated.

Supplemental

18. In the foregoing provisions of this Part of this Schedule—

the expression "elector" means a person who is registered as a parliamentary elector in the constituency in the register to be used at the election or who, pending the publication of that register, appears from the electors lists therefor as corrected by the registration officer to be entitled to be so registered;

the expression "electoral number" means a person's number in the said register or, pending the publication of the register, his number (if any) in the electors lists therefor. [735]

Operation of this Part.—See the note at the head of this Schedule, *ante*.

Returning officer.—See ss. 16 and 17, *ante*.

Shall publish notice of the election.—For time-table, see Part I of this Schedule, *ante*.

Delivery of nomination papers.—For time-table, see Part I of this Schedule, *ante*.

United Kingdom.—See the notes to s. 6, *ante*.

Deposit.—As to return or forfeiture, see s. 15, *ante*.

Banker's draft.—It is clear from the proviso to para. 6 (2), *supra*, that a draft drawn by a banker who does not carry on business in the United Kingdom may be refused.

Borough constituency; County constituency.—Cf. s. 1 (1), *ante*.

Borough.—This includes a metropolitan borough and the City of London (s. 77 (1), (4), *ante*).

Registration area.—See s. 4, *ante*.

Making objections.—For the time-table applicable, see Part I of this Schedule, *ante*.

Publication of statement of persons nominated; Poll.—For time-table, see Part I of this Schedule, *ante*.

Ballot Act, 1872.—See 7 Halsbury's Statutes 42; but note that that Act has been amended by the Blind Voters Act, 1933 (26 Halsbury's Statutes 133), and is further extensively amended by the present Act.

For Sched. I, rr. 19, 20 and 34 to the Act of 1872, see 7 Halsbury's Statutes 440, 443.

Absent voters list, etc.—Para. 15 (1), *supra*, is supplemented by regs. 26, 31 and 33 of S.I. 1949 No. 327.

Registration officer.—See ss. 4 and 66, *ante*.

Entitled to vote as absent voter.—See ss. 8 and 9, *ante*.

Electors for whom proxies have been appointed.—See s. 10, *ante*.

Electors registered as service voters and entitled to vote by post.—See s. 8 (4), *ante*.

Persons entitled to vote by post as proxy.—See s. 11, *ante*.

Official poll card.—As to "prescribed", see s. 76 (1), (4), *ante*, and S.I. 1949 No. 327, reg. 64. As to "qualifying address", see the notes to s. 8, *ante*.

Postal ballot papers.—Para. 17, *supra*, is supplemented by Part III of S.I. 1949 No. 327. As to "prescribed", see s. 76 (1), (4), *ante*, and S.I. 1949 No. 327, reg. 36.

Close of the poll.—For the meaning of this term in the case of an adjournment on account of riot or open violence, see para. 4 (2) (*b*) of Part V of this Schedule, *post*.

Special cases.—For special provisions in the case of the death of a candidate, see para. 2 of Part V of this Schedule, *post*; and for special provisions in the case of the interruption or obstruction of proceedings by riot or open violence, see para. 3 of that Part.

PART III

THE POLL

Official mark

1.—(1) The official mark stamped on a ballot paper shall be either embossed or perforated.

(2) The form of directions for the guidance of voters which, under the Second Schedule to the Ballot Act, 1872, are to be placarded outside polling stations and in the compartments of polling stations shall include a direction in the following terms :—

" The voter should see that the ballot paper, before it is handed to him is stamped with the official mark ".

Form of ballot paper

2.—(1) So far as practicable, the following arrangements shall be observed in the printing of the ballot papers :—

(*a*) no words shall be printed on the face except the particulars of the candidates ;

(*b*) no rule shall be printed on the face except the horizontal rules separating the particulars of the candidates from one another and the vertical rules separating those particulars from the numbers on the left hand side and the spaces on the right where the vote is to be marked ;

(*c*) the whole space between the top and bottom of the paper shall be equally divided between the candidates by the rules separating their particulars.

(2) The surname of each candidate shall in all cases be printed by itself in large capitals, and his full particulars shall be set out below it and shall be printed in ordinary type except that small capitals shall be used—

(*a*) if his surname is the same as another candidate's, for his other names ; and

(*b*) if his other names are also the same as the other candidate's, either for his description or for his residence unless each of them is the same as that of another candidate with the same surname and other names.

Right to attend at polling station

3. The persons entitled to be present in the polling station under Rule 21 of the First Schedule to the Ballot Act, 1872, shall include the election agents of the candidates, but a candidate attending at a polling station and an election agent attending by virtue of this paragraph shall make the same declaration of secrecy in the presence of a justice of the peace or the returning officer as a candidate's polling agent.

Cases in which ballot paper may be refused

4.—(1) No person shall be admitted to vote in person elsewhere than at his own polling station under the provisions of this Act relating to constables and persons employed by the returning officer, except on production and surrender of a certificate as to his employment, which shall be in the prescribed form and signed by the prescribed officer of police or by the returning officer, as the case may be.

(2) Any certificate surrendered under this paragraph shall forthwith be cancelled and thereafter dealt with in the same way as the counterfoils to ballot papers are directed by law to be dealt with.

5.—(1) The presiding officer may, and if required by a candidate or his election or polling agent shall, put to any person applying for a ballot paper at the time of his application, but not afterwards, the following questions, or either of them, that is to say—

(*a*) in the case of a person applying as an elector—

(i) are you the person registered in the register of parliamentary electors for this election as follows [*read the whole entry from the register*] ?

(ii) have you already voted, here or elsewhere, at this bye-election [general election], otherwise than as proxy for some other person ?

(*b*) in the case of a person applying as proxy—

(i) are you the person whose name appears as A.B. in the list of proxies for this election as entitled to vote as proxy on behalf of C.D.?

(ii) have you already voted here or elsewhere at this bye-election [general election] as proxy on behalf of C.D. ?

(2) In the case of a person applying as proxy, the presiding officer may, and if required as aforesaid shall, put the following additional question :—

" Are you the husband [wife], parent, grandparent, brother [sister], child or grandchild of C.D. ? "

and if that question is not answered in the affirmative the following question :—

" Have you at this election already voted in this constituency on behalf of two persons of whom you are not the husband [wife], parent, grandparent, brother [sister], child or grandchild ? "

(3) A ballot paper shall not be delivered to any person required to answer the above questions or any of them unless he has answered the questions or question satisfactorily.

(4) Save as by this paragraph authorised, no inquiry shall be permitted as to the right of any person to vote, and no person applying for a ballot paper shall be required to take or make any oath or affirmation.

Challenge of elector or proxy at polling station

6.—(1) Sections eighty-six to ninety of the Parliamentary Voters Registration Act, 1843, and sections ninety-three to ninety-seven of the Representation of the People (Ireland) Act, 1850 (which make provision for the challenge of electors suspected of personation and matters connected therewith), shall cease to have effect.

(2) If at the time a person applies for a ballot paper for the purpose of voting in person (whether as elector or as proxy), or after he has applied for a ballot paper for that purpose and before he has left the polling station, a candidate or his election or polling agent declares to the presiding officer that he has reasonable cause to believe that the applicant has committed an offence of personation, and undertakes to substantiate the charge in a court of law, the presiding officer may order a police officer to arrest the applicant, and the order of the presiding officer shall be sufficient authority for the police officer so to do.

(3) A person against whom a declaration is made under this paragraph shall not, by reason thereof, be prevented from voting.

(4) A person arrested under the provisions of this paragraph shall be dealt with as a person taken into custody by a police officer for an offence without a warrant.

Abolition of declaration of inability to read

7. So much of Rule 26 of the First Schedule to the Ballot Act, 1872, as requires a person who is unable to read to make a declaration of his inability before a ballot paper can be marked in the manner directed by him shall cease to have effect, and in that rule for the words " who makes such a declaration as hereinafter mentioned that he is unable to read " there shall be substituted the words " who declares orally that he is unable to read ".

Sealed packets of register and counterfoils

8. Notwithstanding anything in the Ballot Act, 1872, the marked copies of the register of electors and the counterfoils of the used ballot papers shall be sealed up in separate packets after the close of the poll, and not in the same packet.

Adaptations, in relation to voting by proxy, of Ballot Act, 1872

9.—(1) Part I of the Ballot Act, 1872, and Part I of the First Schedule and the Second Schedule to that Act shall be modified in accordance with the following provisions of this paragraph.

(2) The word " voter ", except in the phrase " register of voters ", shall mean a person voting whether as an elector or as proxy for an elector, and the word " vote " (whether noun or verb) shall be construed accordingly :

Provided that, in rules 15, 16, 20, 41 and 43 of the First Schedule and in the phrase " entitled to vote " where used in rule 26A thereof to describe the qualification of the companion of a blind voter, the word " vote " shall refer only to voting as an elector, but shall include voting otherwise than in person, and accordingly in the form of declaration to be made by the companion of a blind voter after the words " entitled to vote " there shall be inserted the words " as an elector ".

(3) In the said rule 20 for the word " voters " where it last occurs there shall be substituted the word " electors " and in section nine and in rules 19, 21 and 25 of the First Schedule and in the first place where the word occurs in rule 24 thereof for the word " elector " there shall be substituted the word " voter ".

(4) In section four after the word " elector " there shall be inserted the words " or proxy for an elector ", and when that section is read as required by the said Second Schedule to a person making a declaration of secrecy it shall be read with the words hereby inserted.

(5) Any reference to a voter's number on the register shall, in relation to a person voting as proxy for an elector, be taken as a reference to the elector's number on the register.

(6) Rule 24 of the First Schedule shall, in the case of a person applying for a ballot paper as proxy, be taken to require a mark to be placed against his name in the list of proxies as well as against the number of the elector in the register, and the marked copies of the list of proxies shall after the close of the poll be sealed up in the same packet as the marked copies of the register.

(7) In rule 27 of the First Schedule for the words " If a person, representing himself to be a particular elector named on the register, applies for a ballot paper after another person has voted as such elector " there shall be substituted the following words :—

" If a person, representing himself to be—

(*a*) a particular elector named on the register and not named in the absent voters list ; or

(*b*) a particular person named in the list of proxies as proxy for an elector and not named in the list of persons entitled to vote by post as proxy ;

applies for a ballot paper after another person has voted in person either as the elector or as his proxy ". [736]

Operation of this Part.—See the note at the head of this Schedule, *ante*.

Official mark.—The fact that the official mark has been imperfectly applied does not invalidate the vote (*Re South Newington (Kingston-upon-Hull) Municipal Election Petition, Lewis* v. *Shepperdson*, [1948] 2 All E. R. 503, *post*).

Ballot Act, 1872.—7 Halsbury's Statutes 427.

For Sched. II thereto, see 7 Halsbury's Statutes 448 ; and for Sched. I, r. 21 (as amended by the Blind Voters Act, 1933, s. 1 (3) and Schedule, para. 1 (*a*)) thereto, see 7 Halsbury's Statutes 440 ; 26 Halsbury's Statutes 134.

For Sched. I, r. 26 thereto, see 7 Halsbury's Statutes 441 ; for Part I thereof, and Sched. I, Part I, thereto, see 7 Halsbury's Statutes 427, 436 ; for Sched. I, rr. 15, 16, 20, 41 and 43 thereto, see 7 Halsbury's Statutes 439, 440, 445 ; and for Sched. I, r. 26A (as added by the Blind Voters Act, 1933, s. 1 (1)) thereto, see 26 Halsbury's Statutes 133.

For Sched. I, rr. 19, 24, 25 and 27 thereto, see 7 Halsbury's Statutes 440, 441 ; and for s. 4 thereof, see 7 Halsbury's Statutes 430.

Same declaration of secrecy, etc.—See the Ballot Act, 1872, Sched. I, r. 54 (7 Halsbury's Statutes 447).

His own polling station.—Cf. s. 8 (1), *ante*.

Provisions relating to constables, etc.—See s. 8 (6), *ante*.

Prescribed.—See s. 76 (1), (4), *ante*, and S.I. 1949 No. 327, reg. 34.

Returning officer.—See ss. 16 and 17, *ante*.

Presiding officer.—Cf. the Ballot Act, 1872, Sched. I, r. 21 (see *supra*).

Polling agent.—Cf. the Parliamentary Voters Registration Act, 1843, s. 85 (7 Halsbury's Statutes 386).

Parliamentary Voters Registration Act, 1843, *ss.* 86–90.—7 Halsbury's Statutes 386 *et seq.*

List of proxies.—See Part II, para. 15 (1) (*b*) of this Schedule, *ante*.

Absent voters list.—See Part II, para. 15 (1) (*a*) of this Schedule, *ante*.

List of persons entitled to vote by post as proxy.—See Part II, para. 15 (1) (*c*) of this Schedule, *ante*.

Riot or violence.—For special provisions in the case of the interruption or obstruction of proceedings by riot or open violence, see Part V, para. 4 of this Schedule, *post*.

PART IV

THE COUNT

Right to attend

1.—(1) A candidate's wife or husband and a candidate's election agent may be present at the counting of the votes, notwithstanding anything in rule 33 of the First Schedule to the Ballot Act, 1872.

(2) The following persons attending the counting of the votes, that is to say—

(*a*) any candidate;

(*b*) any person attending by virtue of sub-paragraph (1) of this paragraph;

(*c*) any person permitted by the returning officer to attend though not entitled to do so;

shall make the same declaration of secrecy in the presence of a justice of the peace or of the returning officer as a candidate's counting agent:

Provided that a declaration required by this sub-paragraph need not be made before the opening of the poll, but shall be made before the person in question is permitted to attend the counting.

Appointment of and facilities for counting agents

2.—(1) The counting agents to attend on behalf of a candidate at the counting of the votes may be appointed, and notice of the appointment given to the returning officer, by the candidate's election agent, instead of by the candidate.

(2) Notwithstanding anything in the First Schedule to the Ballot Act, 1872, the returning officer may limit the number of counting agents who may attend on behalf of the candidates, so, however, that the number of those who may attend shall be the same in the case of each candidate and the number allowed to a candidate shall not (except in special circumstances) be less than the number obtained by dividing the number of clerks employed on the counting by the number of candidates.

(3) The counting agents attending on behalf of the candidates shall be given by the returning officer all such reasonable facilities for overseeing the proceedings, and all such information with respect thereto, as he can give them consistently with the orderly conduct of the proceedings and the discharge of his duties in connection therewith.

(4) In particular, where the votes are counted by sorting the ballot papers according to the candidate for whom the vote is given and then counting the number of ballot papers for each candidate, the counting agents shall be entitled to satisfy themselves that the ballot papers are sorted rightly.

Adjournments

3.—(1) So far as practicable, the counting of the votes shall (unless otherwise agreed) proceed continuously by night as by day, allowing only time for refreshment, and accordingly in rule 35 of the First Schedule to the Ballot Act, 1872 (which excludes the hours between seven o'clock at night and nine o'clock on the succeeding morning, except so far as the returning officer and the candidates' agents otherwise agree), for the words "except so far as he and the agents otherwise agree" there shall be substituted the words "in so far as he and the agents agree."

(2) For the purposes of the said rule 35 the agreement of a candidate or his election agent shall be as effective as the agreement of his counting agents.

Re-counts

4.—(1) A candidate or his election agent may, if present when the counting or any re-count of the votes is completed, require the returning officer to have the votes re-counted or again re-counted but the returning officer may refuse to do so if in his opinion the request is unreasonable.

(2) No step shall be taken on the completion of the counting or any re-count of the votes until the candidates and election agents present at the completion thereof have been given a reasonable opportunity to exercise the right conferred by this paragraph.

Rejection of ballot papers

5. A ballot paper on which the vote is marked—

(*a*) elsewhere than in the proper place ; or
(*b*) otherwise than by means of a cross ; or
(*c*) by more than one mark ;

shall not by reason thereof be rejected if an intention that the vote shall be for one or other of the candidates clearly appears, and the way the paper is marked does not of itself identify the voter and it is not shown that he can be identified thereby. [737]

Operation of this Part.—See the note at the head of this Schedule, *ante*.
Ballot Act, 1872, *Sched. I.*—7 Halsbury's Statutes 436. For rr. 33 and 35 thereof, see 7 Halsbury's Statutes 443.
Returning officer.—See ss. 16 and 17, *ante*.
Same declaration of secrecy, etc.—See the Ballot Act, 1872, Sched. I, r. 54 (7 Halsbury's Statutes 447).
Counting agents.—Cf. the Ballot Act, 1872, Sched. I, r. 31 (7 Halsbury's Statutes 442).
Para. 5.—Initials enable a voter to be identified, but the addition of pencil marks over a cross does not (*Re South Newington (Kingston-upon-Hull) Municipal Election Petition, Lewis* v. *Shepperdson*, [1948] 2 All E. R. 503, *post*).

PART V

SPECIAL CASES, AND COMPUTATION OF TIME

Telegraphic information of writ

1.—(1) Official telegraphic information of the writ having been issued for a parliamentary election may be given in such cases and by such persons as may be directed by His Majesty in Council.

(2) Any steps for holding an election which may be taken on or after the receipt of the writ may be taken on or after the receipt of an official telegraphic intimation of the writ having been issued.

Death of candidate

2.—(1) If a poll is to be taken in a constituency, and after publication of the statement of persons nominated and before the poll is commenced proof is given to the satisfaction of the returning officer of the death of one of the persons shown as standing nominated, the returning officer shall countermand notice of the poll, and all proceedings with reference to the election shall be commenced afresh in all respects as if the writ had been received on the day on which proof was given to the returning officer of the death :

Provided that no fresh nomination shall be necessary in the case of a person shown in the statement as standing nominated.

(2) Where by reason of the death of a candidate proceedings at an election are commenced afresh under this paragraph, then in the case of a general election, as in the case of a bye-election, the time for delivery of nomination papers and the time for polling shall be determined in accordance with the third column in Part I of this Schedule (with the modification required by the foregoing sub-paragraph of any reference to the date on which the writ is received).

Adjournment in case of riot

3. Where the proceedings for or in connection with nomination are on any day interrupted or obstructed by riot or open violence, the proceedings shall be abandoned for that day, and if that day is the last day for the delivery of nomination papers, the proceedings shall be continued on the next day as if that were the last day for the delivery thereof, and that day shall be treated for the purposes of this Schedule as being the said last day (subject however to any further application of this paragraph in the event of interruption or obstruction on that day) :

Provided that where proceedings are abandoned by virtue of this paragraph—

(*a*) nothing may be done after they are continued, if the time for doing it had passed at the time of the abandonment, nor shall anything done before the abandonment be invalidated by reason thereof ;

(*b*) subject to the foregoing sub-paragraph, if the day on which the proceedings are continued is a Saturday and is (or is to be treated as) the said last day, the proviso to the entry in Part I of this Schedule relating to the making of objections shall not apply.

4.—(1) Where the proceedings at any polling station are interrupted or obstructed by riot or open violence, the presiding officer shall adjourn the proceedings till the following day and, if he is not the returning officer, shall forthwith give notice to the returning officer.

(2) Where the poll is adjourned at any polling station,—

(*a*) the hours of polling on the day to which it is adjourned shall be those laid down by Part I of this Schedule for the original day ; and

(*b*) references in any enactment to the close of the poll shall be construed accordingly.

Computation of time

5.—(1) In computing any period of time for the purposes of this Schedule or of the First Schedule to the Ballot Act, 1872, a Sunday, Christmas Day, Good Friday, bank holiday or day appointed for public thanksgiving or mourning shall be disregarded, and any such day shall not be treated as a day for the purpose of any proceedings mentioned in Part I or II of this Schedule nor shall the returning officer be obliged to proceed with the counting of the votes thereon.

(2) In this paragraph the expression " bank holiday " means—

(*a*) in relation to a general election, a day which is a bank holiday under the Bank Holidays Act, 1871, in any part of the United Kingdom ; and

(*b*) in relation to a bye-election, a day which is a bank holiday under the said Act in that part of the United Kingdom in which the constituency in question is situated :

Provided that at a general election paragraph (*b*) and not paragraph (*a*) of this sub-paragraph shall apply—

(i) in relation to any proceedings commenced afresh by reason of the death of a candidate ; and

(ii) in relation to any proceedings extending, by reason of riot or open violence, beyond the time laid down by Part I of this Schedule. [738]

Operation of this Part.—See the note at the head of this Schedule, *ante*.

Parliamentary election.—See the notes to s. 1, *ante*.

Any steps for holding, etc.—Cf. Part I of this Schedule, *ante*.

Publication of statements of persons nominated.—See Part II, para. 11 of this Schedule, *ante*.

Returning officer.—See ss. 16 and 17, *ante*.

Last day for delivery of nomination papers.—See Part I of this Schedule, *ante* (but note paras. 2 (2) and 5, *supra*).

Presiding officer.—Cf. the Ballot Act, 1872, Sched. I, r. 21 (7 Halsbury's Statutes 440).

Ballot Act, 1872, Sched. I.—7 Halsbury's Statutes 436.

Bank Holidays Act, 1871.—19 Halsbury's Statutes 417. The bank holidays thereunder in England (including Wales) and Northern Ireland are Easter Monday, Whit Monday, the first Monday in August, December 26 if a weekday, and December 27 if December 26 falls on a Sunday. Those in Scotland only relevant for the purposes of para. 5 (2) (*a*), *supra*, are New Year's day, January 2, if New Year's day falls on a Sunday, and the first Monday in May (see s. 1 of, and the Schedule to, the Act of 1871 ; 19 Halsbury's Statutes 417, 418, and Holidays Extension Act, 1875, s. 2 ; 19 Halsbury's Statutes 419). But see also for powers to appoint special bank holidays and to alter the date of a bank holiday, ss. 4 and 5 of the Act of 1871 (19 Halsbury's Statutes 417, 418) and s. 3 of the Act of 1875 (19 Halsbury's Statutes 419).

United Kingdom.—See the notes to s. 6, *ante*.

Section 28 **FOURTH SCHEDULE**

AMENDMENTS OF LOCAL ELECTIONS RULES

General note.—This Schedule takes effect by virtue of s. 28 (1), *ante*, which is in Part II of the Act. It must, therefore, on account of its subject-matter, be taken as coming into force on the appointed day (see s. 80 (3) and the notes to s. 80, *ante*), that is to say, such day as the Secretary of State may by statutory instrument appoint for the purpose (s. 80 (10) (*a*), *ante*). But none of the provisions of this Schedule is to apply in relation to any election begun before the provision in question comes into force (s. 80 (8), *ante*), the beginning of an election for this purpose being the day on which notice of the election is given (s. 80 (10) (*b*), *ante*). As to the appointed day, see S.I. 1949 No. 327, reg. 75 (1).

PART I

ADAPTATIONS TO VOTING BY POST AND BY PROXY

Absent voters list, list of proxies, etc.

1.—(1) At every contested election, the registration officer shall as soon as practicable prepare the following special lists for the purposes of the election, namely,—

(*a*) a list (in this Act referred to as " the absent voters list ") giving the name and number on the register of every person entitled to vote at the election as an absent voter ;

(*b*) a list (in this Act referred to as " the list of proxies ") giving—

(i) the names and numbers on the register of the electors for whom proxies have been appointed ; and

(ii) the names and addresses of the persons appointed ;

(*c*) a list of any persons entitled to vote by post as proxy at the election.

(2) The duty of the returning officer or mayor under paragraph 7 of Part III of the local elections rules to provide each polling station with copies of the register of electors or such part thereof as contains the names of the electors allotted to vote at the station shall include a duty to provide the corresponding parts of any special lists prepared for the election.

Issue and receipt of ballot papers for voting by post

2.—(1) At every contested election, the returning officer or mayor shall as soon as practicable send to those entitled to vote by post, at the addresses furnished by them for the purpose, a ballot paper and a declaration of identity in the prescribed form, together with an envelope for their return.

(2) Before the returning officer proceeds to count the votes he shall count such of the said ballot papers as have been duly returned and record the number counted, and the papers counted under this provision shall be included with the ballot papers of those voting in person when they are mixed before the count as required by paragraph 31 of Part III of the local elections rules.

(3) A ballot paper sent to a person for the purpose of voting by post shall not be deemed to be duly returned, unless it is returned in the proper envelope so as to reach the returning officer before the close of the poll and is accompanied by the declaration of identity duly signed and authenticated.

(4) Nothing in sub-paragraph (1) of the foregoing paragraph or in this paragraph shall require or authorise any steps to be taken on a Sunday, Christmas Day, Good Friday, Bank Holiday or day appointed for public thanksgiving or mourning, or in Scotland on a public holiday.

Adaptations in relation to persons voting as proxy

3.—(1) Subject to the following provisions of this paragraph, in Parts III and IV of the local elections rules—

(*a*) the word " voter " shall be substituted for the word " elector ", wherever it occurs except in the phrases " register of electors " and " register of local government electors " ; and

(*b*) the word " voter " shall mean a person voting whether as an elector or as proxy for an elector, and the word " vote " (whether noun or verb) shall be construed accordingly.

(2) Notwithstanding anything in the foregoing sub-paragraph—

(*a*) in sub-paragraph (*a*) of paragraph 7 of the said Part III and in the last place in sub-paragraph (*e*) of that paragraph, the word " electors " shall remain and shall be taken as meaning electors entitled to vote in person or by proxy, and the word " vote " shall be construed accordingly in those sub-paragraphs ;

(*b*) in sub-paragraphs (*a*) to (*d*) of paragraph 18 of the said Part III the word " elector " shall remain but a mark shall be placed against the name of the proxy in the list of proxies as well as against the number of the elector in the register, and the marked copies of the list of proxies

shall after the close of the poll be sealed up in the same packet as the marked copies of the register ;

(*c*) in any other provision a reference to a voter's number on the register of electors shall, in relation to a person voting as proxy for an elector, be taken as a reference to the elector's number on the register ;

(*d*) in sub-paragraph (3) of paragraph 21 of the said Part III, and in the said Part IV in the form of declaration to be made by the companion of a blind voter after the words " entitled to vote " there shall be inserted the words " as an elector " ;

(*e*) in paragraph 23 of the said Part III, for the words " If a person, representing himself to be a particular elector named on the register, applies for a ballot paper after another person has voted as such elector," there shall be substituted the following words—

" If a person, representing himself to be—

(*a*) a particular elector named on the register and not named in the absent voters list ; or

(*b*) a particular person named in the list of proxies as proxy for an elector and not named in the list of persons entitled to vote by post as proxy ;

applies for a ballot paper after another person has voted in person either as the elector or as his proxy " ;

(*f*) in sub-paragraph (4) of paragraph 41 of the said Part III, the word " elector " shall remain, and the word " vote " shall refer only to voting as an elector but shall include voting otherwise than in person ;

(*g*) in paragraph 54 of the said Part III, the word " elector " shall remain in the first place where it is there used and the words " or proxy for an elector " shall be inserted after it in that place.

(3) In the said Part IV in the form of declaration of secrecy for the words " read by me " there shall be substituted the words " read to me ", and when the provisions referred to in that form are read to a person making a declaration of secrecy they shall be read as amended by this paragraph.

4.—(1) In paragraph 16 of the said Part III, at the end of the second of the questions which may be asked of a person applying for a ballot paper, there shall in the case of a person applying as an elector be added the words " otherwise than as proxy for some other person ".

(2) In the case of a person applying for a ballot paper as proxy there shall be substituted for the questions set out in the said paragraph 16 the following questions, that is to say—

(*a*) are you the person whose name appears as A.B. in the list of proxies for this election as entitled to vote as proxy on behalf of C.D.?

(*b*) have you already voted here or elsewhere at the present election as proxy on behalf of C.D.?

and any reference to the questions set out in that paragraph shall be construed accordingly.

Infringement of secrecy

5. Every person attending the proceedings in connection with the issue or the receipt of ballot papers for persons voting by post at local government elections shall maintain and aid in maintaining the secrecy of the voting and shall not—

(*a*) except for some purpose authorised by law communicate, before the poll is closed, to any person any information obtained at those proceedings as to the official mark ; nor

(*b*) except for some purpose authorised by law, communicate to any person at any time any information obtained at those proceedings as to the number on the back of the ballot paper sent to any person ; nor

(*c*) except for some purpose authorised by law, attempt to ascertain at the proceedings in connection with the receipt of the ballot papers the number on the back of any ballot paper ; nor

(*d*) attempt to ascertain at the proceedings in connection with the receipt of the ballot papers the candidate for whom any vote is given in any particular ballot paper or communicate any information with respect thereto obtained at those proceedings ;

and any person who acts in contravention of this paragraph shall be liable on summary conviction to imprisonment for a term not exceeding six months.

Supplementary

6. Where the expression " returning officer or mayor," is used in this Schedule, the reference to the mayor shall apply, and shall only apply, in the case of an election of borough councillors under the Local Government Act, 1933, and in the case of any such election paragraph 10 of Part I of the Second Schedule to that Act (which provides for the case where there is no mayor or the mayor is unable to act) shall apply for the purpose of this Schedule as it applies for the purpose of that Schedule. [739]

Operation of this Part.—See the note at the head of this Schedule, *ante.*

Absent voters list, etc.—Para. 1, *supra,* corresponds to para. 15 of Part II of Sched. III, *ante.* Sub-para. (1) is supplemented by regs. 26, 31 and 33 of S.I. 1949 No. 327. See also as to district and parish elections, S.I. 1949 No. 197, Sched. II, rr. 24 and 25 (3); S.I. 1949 No. 285, Sched. II, rr. 23 and 24 (3); and S.I. 1949 No. 284, Sched. II, rr. 23 and 24 (3).

Registration officer.—See ss. 4 and 66, *ante.*

Entitled to vote as an absent voter.—See ss. 25 and 26, *ante.*

Electors for whom proxies have been appointed.—See s. 27, *ante,* in conjunction with s. 10 (4), (5), *ante.*

Persons entitled to vote by post as proxy.—See s. 27 (4), (6), *ante,* in conjunction with s. 11 (5), (6), *ante.*

Returning officer.—See the enactments and rules cited under the headings " Returning officer; Act as returning officer " in the notes to s. 25, *ante.*

Local elections rules.—This means, as respects England and Wales, except London, Sched. II to the Local Government Act, 1933 (26 Halsbury's Statutes 295), and, as respects London, Sched. II to the London Government Act, 1939 (32 Halsbury's Statutes 259) (see s. 75 (1), *ante*). The reference to Part III of the local elections rules is to be taken as a reference to Part III of Sched. II to the Act of 1933 (26 Halsbury's Statutes 479) and Part II of Sched. II to the Act of 1939 (32 Halsbury's Statutes 357), the references to specified paragraphs of Part III of the local elections rules are to be construed accordingly, and the references to Part IV of the local elections rules are to be taken as references to Part IV of Sched. II to the Act of 1933 (26 Halsbury's Statutes 493) and Part III of Sched. II to the Act of 1939 (32 Halsbury's Statutes 368) (see s. 75 (3) (*a*), Sched. XII, Part II).

For paras. 7 and 31 of Part III of Sched. II to the Act of 1933, see 26 Halsbury's Statutes 480, 487, and for paras. 18, 21 (3), 23, 41 (4) and 54 of that Part, see 26 Halsbury's Statutes 483 *et seq.*, 489, 491.

For paras. 7 and 31 of Part II of Sched. II to the Act of 1939, see 32 Halsbury's Statutes 358, 363, and for paras. 18, 21 (3), 23, 41 (4) and 54 of that Part, see 32 Halsbury's Statutes 360 *et seq.*, 365, 367.

Ballot papers for postal voting.—Para. 2, *supra,* corresponds to para. 17 of Part II, in conjunction with para. 5 of Part V, of Sched. III, *ante.* It is supplemented by Part III of S.I. 1949 No. 327. See also as to urban district elections, S.I. 1949 No. 197, Sched. II, r. 21.

Prescribed.—See s. 76 (1), (4), *ante,* and S.I. 1949 No. 327, reg. 36.

Close of the poll.—In case of adjournment of the poll on account of riot or open violence (see Sched. III, Part V, para. 4 (1), *ante,* in conjunction with the Local Government Act, 1933, Sched. II, Part III, para. 25; 26 Halsbury's Statutes 485, and the London Government Act, 1939, Sched. II, Part II, para. 25; 32 Halsbury's Statutes 362), references to the close of the poll must obviously be read in the light of para. 4 (2) (*b*) of Part V of Sched. III, *ante.*

Bank Holiday.—This means a bank holiday under the Bank Holidays Act, 1871 (19 Halsbury's Statutes 417), in the part of Great Britain in which the election is taking place (cf. the notes to Sched. III, Part V, *ante*).

Infringement of secrecy.—Para. 5, *supra,* corresponds to s. 19 (2), *ante.*

Local government elections.—For meaning, see s. 77 (1), *ante.*

Before the poll is closed.—See the note " Close of the poll ", *supra.*

Local Government Act, 1933.—26 Halsbury's Statutes 295. For Sched. II, Part I, para. 10 thereof, see 26 Halsbury's Statutes 478.

PART II

AMENDMENTS TO SECURE CONFORMITY WITH RULES AS TO PARLIAMENTARY ELECTIONS

Nomination and matters connected therewith

1.—(1) In the list of a candidate's names in a nomination paper, his surname shall be placed first.

(2) The description of a candidate in his nomination paper shall not refer to his political activities, and need not refer to his rank, profession or calling so long as, with the other particulars of the candidate, it is sufficient to identify him.

(3) If the description is unduly long, the returning officer or mayor after consultation (if possible) with the candidate or his election agent, proposer or seconder, may shorten it or substitute another.

(4) Where a nomination paper bears the signatures of more than the required number of persons as proposing, seconding or assenting to the nomination of a

candidate, the signature or signatures (up to the required number) appearing first on the paper in each category shall be taken into account to the exclusion of any others in that category.

(5) In determining whether a person's signature on a nomination paper is inoperative on the ground that he has signed more papers than is allowed, a paper previously signed by him shall be disregarded if the candidate thereby nominated has died or withdrawn before delivery of the first mentioned paper.

(6) The returning officer or mayor shall not in England or Wales be entitled to hold a nomination paper invalid except on one of the following grounds, that is to say—

(*a*) that the particulars of the candidate or the persons subscribing the paper are not as required by law ; and

(*b*) that the paper is not subscribed as so required ;

or, where a nomination paper and the candidate's consent is delivered in accordance with paragraphs 3 and 4 of Part I of the local elections rules, be entitled to hold the nomination invalid except on the ground of the invalidity of the nomination paper.

(7) The statement of persons nominated shall show all persons who have been nominated, including those who have withdrawn or died, and in the case of those not remaining nominated shall give the reason why they do not remain nominated.

(8) The said statement shall show the persons standing nominated arranged alphabetically in the order of their surnames, and if there are two or more of them with the same surname, of their other names, and shall take the particulars of all persons nominated from their nomination papers or, in the case of a person nominated by more than one nomination paper, from such one of the papers as the candidate or the returning officer or mayor in default of the candidate may select.

(9) In the case of a candidate nominated by more than one nomination paper, the paper selected under the last foregoing sub-paragraph shall be deemed to be his nomination paper for the purpose of any reference in Part III of the local elections rules.

Withdrawal of Candidates

2. In the case of a candidate who is outside the United Kingdom, a notice of withdrawal signed by his proposer and accompanied by a written declaration also so signed of the candidate's absence from the United Kingdom shall be of the same effect for the purpose of paragraph 7 of Part I of the local elections rules as a notice of withdrawal signed by the candidate :

Provided that where the candidate stands nominated by more than one nomination paper a notice of withdrawal under this paragraph shall be effective if, but only if,—

(*a*) it and the accompanying declaration are signed by all the proposers except any who is, and is stated in the said declaration to be, outside the United Kingdom ; or

(*b*) it is accompanied, in addition to the said declaration, by a written statement signed by the candidate that the proposer giving the notice is authorised to do so on the candidate's behalf during his absence from the United Kingdom.

Notice of poll

3.—(1) The order of the names of the candidates, and the particulars of the candidates, in the notice of poll shall be the same as in the statement as to the persons nominated.

(2) The notice of poll shall give the names of all persons signing a candidate's nomination paper, and not only those of the proposer and seconder, and in the case of a candidate nominated by more than one nomination paper, the candidate may require the returning officer or mayor to include in the notice the names of the persons signing a second and third nomination paper.

Death of candidate

4. If before the commencement of the poll proof is given to the satisfaction of the returning officer that a candidate shown in the statement as to the persons nominated as remaining nominated had in fact died before the latest time for delivery of nomination papers, the returning officer shall countermand the poll

and the local elections Act shall apply as if the candidate had died after the latest time for delivery of nomination papers.

Form of directions for the guidance of voters

5. The directions for the guidance of voters which are to be exhibited outside every polling station and in the compartments of polling stations shall include a direction in the following terms—

" The voter should see that the ballot paper, before it is handed to him, is stamped with the official mark."

Form of ballot paper

6. So far as practicable, the same arrangements shall be observed in the printing of the ballot papers as in the case of a parliamentary election.

Proceedings at polling station

7.—(1) In paragraph 16 of Part III of the local elections rules for England and Wales (which enables two electors to require the questions there set out to be put to an applicant for a ballot paper) the reference to two electors shall cease to have effect.

(2) So much of paragraph 17 of Part III of the local elections rules as requires the words " protested against for personation " to be placed in the register where an elector is challenged by a polling agent shall cease to have effect, and any reference in the said paragraph 17 to a polling agent shall include a reference to a candidate or his election agent.

(3) So much of paragraph 20 of Part III of the local elections rules as requires a person who is unable to read to make a declaration of his inability before a ballot paper can be marked in the manner directed by him shall cease to have effect, and in that paragraph for the words " makes a declaration " there shall be substituted the words " declares orally ".

(4) No person shall be admitted to vote in person elsewhere than at his own polling station under the provisions of this Act relating to constables and persons employed by the returning officer or mayor, except on production and surrender of a certificate as to his employment, which shall be in the prescribed form and signed by the prescribed officer of police or by the returning officer or mayor, as the case may be ; and any certificate surrendered under this paragraph shall forthwith be cancelled and thereafter dealt with in the same way as the counterfoils to ballot papers are directed by law to be dealt with.

(5) Notwithstanding anything in the local elections rules, the marked copies of the register of electors and the counterfoils of the used ballot papers shall be sealed up in separate packets after the close of the poll, and not in the same packet.

The count

8.—(1) In paragraph 33 of Part III of the local elections rules for England and Wales (which excludes from the time during which the counting of the votes is to proceed the hours between eight o'clock in the evening and nine o'clock on the succeeding morning, except so far as the returning officer with the concurrence of the counting agents, if any, otherwise determines), the word " except " and the word " otherwise " where it first occurs shall be omitted ; and accordingly, so far as practicable, the counting of the votes under those rules shall (unless otherwise determined) proceed continuously by night as by day, allowing only time for refreshment.

(2) For the purposes of the said paragraph 33, the concurrence of a candidate or his election agent shall be as effective as that of his counting agents :

Provided that where at an election in a metropolitan borough counting agents have been appointed to attend on behalf of more than one candidate jointly, the concurrence of those agents shall be required unless each of those candidates or his election agent concurs.

(3) A candidate or his election agent may, if present when the counting or any re-count of the votes is completed, require the returning officer to have the votes re-counted or again re-counted, but the returning officer may refuse to do so if in his opinion the request is unreasonable.

(4) No steps shall be taken on the completion of the counting or any re-count of the votes until the candidates and election agents present at the completion thereof have been given a reasonable opportunity to exercise the right conferred by the last foregoing sub-paragraph.

(5) The provisions of section two hundred and ninety-five of the local elections Act and, in England and Wales, paragraph 12 of Part I of the local elections rules (which provide for excluding Sundays and other days therein mentioned) shall not apply in relation to the counting of the votes and the other proceedings of the returning officer after the close of the poll or to things done by other persons in the course of those proceedings, but the returning officer shall not be obliged to proceed with the counting on any day to which those provisions apply.

Rejection of ballot papers

9. A ballot paper on which a vote is marked—

(*a*) elsewhere than in the proper place ; or
(*b*) otherwise than by means of a cross ; or
(*c*) by more than one mark ;

shall not by reason thereof be rejected (either wholly or as respects that vote), if an intention that the vote shall be for one or other of the candidates clearly appears, and the way the paper is marked does not of itself identify the voter and it is not shown that he can be identified thereby.

Right to attend at polling station and counting of votes

10.—(1) A candidate's election agent shall have the same right to attend at a polling station or at the counting of the votes as the candidate, and a candidate's wife or husband shall also have the right to attend at the counting of the votes.

(2) Any candidate attending at a polling station or the counting of the votes, and any person so attending by virtue of this paragraph, and any person permitted by the returning officer to attend at the counting of the votes though not entitled to do so, shall be subject to paragraph 54 of Part III of the local elections rules in the same way as a candidate's polling agent or counting agent, but a declaration of secrecy required to be made by a candidate attending the counting or, by virtue of this paragraph, by any other person so attending need not be made before the opening of the poll, but shall be made before the person in question is permitted to attend the counting.

(3) Where the relevant sub-paragraphs of the said paragraph 54 are read to a person making a declaration of secrecy by virtue of this paragraph they shall be read with such modifications as are necessary to show how they apply to that person.

(4) An election agent attending at a polling station shall have the same right as the candidate to require the presiding officer to put the questions permitted by law to a person applying for a ballot paper.

11.—(1) The counting agents to attend on behalf of a candidate at the counting of the votes may be appointed, and notice of the appointment given to the returning officer, by the candidate's election agent, instead of by the candidate.

(2) Notwithstanding anything in the local elections rules, the returning officer may (except at an election in a metropolitan borough) limit the number of counting agents who may attend on behalf of the candidates, so, however, that the number of those who may attend shall be the same in the case of each candidate and the number allowed to a candidate shall not (except in special circumstances) be less than the number obtained by dividing by the number of candidates the number of persons appointed to assist the returning officer.

(3) In the case of an election for a metropolitan borough, sub-paragraph (1) of this paragraph shall apply to joint, as well as to separate, appointments and sub-paragraph (4) of paragraph 28 of Part II of the Second Schedule to the London Government Act, 1939, shall be construed accordingly.

(4) The counting agents attending on behalf of the candidates shall be given by the returning officer all such reasonable facilities for overseeing the proceedings, and all such information with respect thereto, as he can give them consistently with the orderly conduct of the proceedings and the discharge of his duties in connection therewith.

(5) In particular, where the votes are counted by sorting the ballot papers according to the candidate for whom the vote is given and then counting the number of ballot papers for each candidate, the counting agents shall be entitled to satisfy themselves that the ballot papers are sorted rightly.

Application to Scotland

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[740]

Operation of this Part.—See the note at the head of this Schedule, *ante*.

Nomination and matters connected therewith.—Para. 1 (1)–(3), *supra*, may be compared with para. 2 (2)–(4) of Part II of Sched. III, *ante*; para. 1 (4), *supra*, is identical with para. 3 (2) of the same Part; para. 1 (5), *supra*, may be compared with the proviso to para. 4 of that Part; para. 1 (6), *supra*, may be compared with para. 9 (2) of that Part; and para. 1 (7)–(9), *supra*, may be compared with para. 11 of that Part.

Nomination paper; Proposer, etc.; Signed more papers than is allowed.—See the Local Government Act, 1933, Sched. II, Part I, para. 2 (26 Halsbury's Statutes 474) and the London Government Act, 1939, Sched. II, Part I, para. 2 (32 Halsbury's Statutes 354). See also rr. 5 and 6 of Sched. II to the Urban District Council Election Rules, 1949 (S.I. 1949 No. 197), Rural District Council Election Rules, 1949 (S.I. 1949 No. 285), and Parish Council Election Rules, 1949 (S.I. 1949 No. 284).

The returning officer or mayor shall not . . . be entitled, etc.—Cf. the Local Government Act, 1933, Sched. II, Part I, para. 5 (26 Halsbury's Statutes 476) and the London Government Act, 1939, Sched. II, Part I, para. 5 (32 Halsbury's Statutes 355). See also r. 9 of Sched. II to the Urban District, Rural District and Parish Councils Election Rules (*supra*). As to the reference to the mayor, see also Part I, para. 6, of this Schedule, *ante*.

Local elections rules.—This means, as respects England and Wales, except London, Sched. II to the Local Government Act, 1933 (26 Halsbury's Statutes 474) and, as respects London, Sched. II to the London Government Act, 1939 (32 Halsbury's Statutes 354) (see s. 75 (1), *ante*). The reference to paras. 3 and 4 of Part I of the local elections rules is to be taken as a reference to paras. 3 and 4 of Part I of Sched. II to the Act of 1933 (26 Halsbury's Statutes 475, 476) and paras. 3 and 4 of Part I of Sched. II to the Act of 1939 (32 Halsbury's Statutes 355); the reference to para. 7 of the local elections rules is to be taken as a reference to para. 7 of Part I of Sched. II to the Act of 1933 (26 Halsbury's Statutes 477) and para. 7 of Part I of Sched. II to the Act of 1939 (32 Halsbury's Statutes 356); the reference to Part III of the local elections rules is to be taken as a reference to Part III of Sched. II to the Act of 1933 (26 Halsbury's Statutes 479) and Part II of Sched. II to the Act of 1939 (32 Halsbury's Statutes 357); references to specified paragraphs of Part III of the local elections rules are to be construed accordingly; and the reference to para. 12 of Part I of the local elections rules is to be taken as a reference to para. 12 of Part I of Sched. II to the Act of 1933 (26 Halsbury's Statutes 478) and para. 12 of Part I of Sched. II to the Act of 1939 (32 Halsbury's Statutes 357) (see s. 73 (3) (*a*), *ante*, Sched. XII, Part II, *post*).

Statement of persons nominated.—See the Local Government Act, 1933, Sched. II, Part I, para. 6 (26 Halsbury's Statutes 476) and the London Government Act, 1939, Sched. II, Part I, para. 6 (32 Halsbury's Statutes 356). See also r. 11 of Sched. II to the Urban District, Rural District and Parish Council Election Rules (*supra*).

Withdrawal of candidate.—Para. 2, *supra*, corresponds to para. 10 (2) of Part II of Sched. III, *ante*. See also r. 10 (2) of Sched. II to the Urban District, Rural District and Parish Council Election Rules (*supra*).

United Kingdom.—See the notes to s. 6, *ante*.

Notice of poll.—See the Local Government Act, 1933, Sched. II, Part III, para. 2 (26 Halsbury's Statutes 479) and the London Government Act, 1939, Sched. II, Part II, para. 2 (32 Halsbury's Statutes 357). See also r. 19 of Sched. II to the Urban District, Rural District and Parish Council Election Rules (*supra*).

Death of candidate.—Para. 4, *supra*, may be compared with para. 2 of Part V of Sched. III, *ante*. It supplements para. 6 of Part III of Sched. II to the Local Government Act, 1933 (26 Halsbury's Statutes 480), and para. 6 of Part II of Sched. II to the London Government Act, 1939 (32 Halsbury's Statutes 358). See also r. 20 of Sched. II to the Urban District, Rural District and Parish Council Election Rules (*supra*).

Local Elections Act.—This means, as respects England and Wales, except London, the Local Government Act, 1933 (26 Halsbury's Statutes 295), and, as respects London, the London Government Act, 1939 (32 Halsbury's Statutes 259) (see s. 75 (2), *ante*).

Form of directions for the guidance of voters.—Para. 5, *supra*, corresponds to para. 1 (2) of Part III of Sched. III, *ante*. As to the directions, see the Local Government Act, 1933, Sched. II, Part III, para. 9, and Part IV, Form B (26 Halsbury's Statutes 481, 494) and the London Government Act, 1939, Sched. II, Part II, para. 9, and Part III, Form B (32 Halsbury's Statutes 358, 369). See also r. 25 (4) of, and the appendix to, Sched. II to the Urban District Council Election Rules (*supra*), and r. 24 (4) of, and the Appendix to, Sched. II to the Rural District and Parish Council Election Rules (*supra*).

Para. 6.—See Sched. III, Part III, para. 2, *ante*. See also r. 15 of, and the Appendix to, Sched. II to the Urban District, Rural District and Parish Council Election Rules (*supra*).

Proceedings at polling station.—Para. 7 (4), *supra*, corresponds to para. 4 of Part III of Sched. III, *ante*. See also r. 28 (2), (3) of Sched. II to the Urban District Council Election Rules (*supra*) and r. 27 (2), (3) of Sched. II to the Rural District and Parish Council Election Rules (*supra*).

His own polling station.—Cf. s. 25 (1), *ante*.

Provisions relating to constables, etc.—See s. 25 (6), (9), *ante*.

Prescribed.—See s. 76 (1), (4), *ante*, and S.I. 1949 No. 327, reg. 34.

Signed by the . . . mayor.—This must clearly be read in the light of s. 25 (9), *ante*.

The count.—Para. 8, *supra*, may be compared with paras. 3 and 4 of Part IV of Sched. III, *ante*. See also rr. 2, 41 (4) and 42 of Sched. II to the Urban District Council Election Rules (*supra*) and rr. 2, 40 (3) and 41 of Sched. II to the Rural District and Parish Council Election Rules (*supra*).

Rejection of ballot papers—Para. 9, *supra*, corresponds to para. 5 of Part IV of Sched. III, *ante* (see the note to that Part). See also r. 43 (3) of Sched. II to the Urban District Council Election Rules (*supra*) and r. 42 (3) of Sched. II to the Rural District and Parish Council Election Rules (*supra*).

Right to attend at polling station and counting of votes.—Para. 10 (1)–(3), *supra*, may be compared with para. 3 of Part III, and para. 1 of Part IV of Sched. III, *ante*, and s. 19 (1), *ante*; para. 10 (4), *supra*, may be compared with para. 5 (1) and (2) of the first mentioned Part; and para. 11, *supra*, may be compared with para. 2 of the second-mentioned Part.

Shall have the same right to attend, etc.—Cf. the Local Government Act, 1933, Sched. II, Part III, paras. 14 (2), 30 (26 Halsbury's Statutes 482, 487) and the London Government Act, 1939, Sched. II, Part II, paras. 14 (2), 30 (32 Halsbury's Statutes 359, 363). See also rr. 28 (1) and 40 (2) of Sched. II to the Urban District Council Election Rules (*supra*), rr. 27 (1) and 39 (2) of Sched. II to the Rural District Council Election Rules (*supra*) and r. 39 (2) of Sched. II to the Parish Council Election Rules (*supra*).

Any candidate attending, etc.—See also r. 27 of Sched. II to the Urban District Council Election Rules (*supra*), and r. 26 of Sched. II to the Rural District and Parish Council Election Rules (*supra*).

Shall have the same right as the candidate to require, etc.—Cf. the Local Government Act, 1933, Sched. II, Part III, para. 16 (1) (26 Halsbury's Statutes 482) and the London Government Act, 1939, Sched. II, Part II, para. 16 (1) (32 Halsbury's Statutes 359). See also r. 31 (1) of Sched. II to the Urban District Council Election Rules (*supra*) and r. 30 (1) of Sched. II to the Rural District Council Election Rules (*supra*).

The counting agents . . . may be appointed, etc.—Cf. the Local Government Act, 1933, Sched. II, Part III, para. 28 (26 Halsbury's Statutes 486) and the London Government Act, 1939, Sched. II, Part II, para. 28 (32 Halsbury's Statutes 363). See also r. 26 of Sched. II to the Urban District Council Election Rules (*supra*) and r. 25 of Sched. II to the Rural District and Parish Council Election Rules (*supra*).

Facilities for counting agents.—See also r. 40 (3), (4) of Sched. II to the Urban District Council Election Rules (*supra*) and r. 39 (3), (4) of Sched. II to the Rural District and Parish Council Election Rules (*supra*).

Section 35

FIFTH SCHEDULE

SUPPLEMENTAL PROVISIONS AS TO USE FOR ELECTION MEETINGS OF ROOMS IN SCHOOL PREMISES AND OF MEETING ROOMS

1.—(1) Any arrangements for the use of a room in school premises shall be made with the local education authority maintaining the school.

(2) Any question as to the rooms in school premises which a candidate in any constituency is entitled to use, or as to the times at which he is entitled to use them, or as to the notice which is reasonable, shall be determined by the Minister of Education.

2.—(1) Every local education authority shall prepare for their area lists of the rooms in school premises which candidates in any constituency are entitled to use.

(2) The list shall include the rooms in premises outside, as well as those in premises in, the constituency.

(3) The list shall be revised from time to time as occasion may require.

3.—(1) With the exception of the London County Council, every county, county borough and metropolitan borough council shall prepare for their area lists of the meeting rooms which candidates in any constituency are entitled to use.

(2) The list shall indicate the person to whom applications for the use of the room are to be made in each case.

(3) The list shall be revised from time to time as occasion may require.

(4) The list shall not include any room if the person maintaining it disputes the right of candidates in the constituency to use it.

4. The lists of rooms in school premises and of meeting rooms prepared for each constituency shall be kept by the registration officer, and those lists and particulars of any change made on a revision thereof shall (where necessary) be forwarded to him accordingly.

5. In the event of a dissolution, or of a vacancy occurring in the seat for the constituency, any person stating himself to be, or to be authorised by, a candidate or his election agent shall be entitled at all reasonable hours to inspect the said lists or a copy thereof.

6. In the application of this Schedule to Scotland—

(*a*) for the reference in paragraph 1 to the Minister of Education there shall be substituted a reference to the Secretary of State, and for any reference to a local education authority there shall be substituted a reference to an education authority;

(*b*) sub-paragraph (1) of paragraph 2, sub-paragraph (1) of paragraph 3 and paragraph 4 shall not apply and it shall be the duty of the town clerk of each burgh being a county of a city and of the county clerk of each county (after consultation with the clerks of the town and district councils of the burghs and districts in the county) to prepare and keep for each constituency wholly situated in the burgh or county and for each part so situated of any other constituency—

(*a*) a list of rooms in school premises; and

(*b*) a list of meeting rooms;

which candidates in the constituency are entitled to use. [741]

Operation of Schedule.—This Schedule takes effect by virtue of s. 35 (6), *ante*, which is in Part III of the Act. It must, therefore, be taken as coming into force on the appointed day (see s. 80 (4) and the notes to s. 80, *ante*), that is to say, such day as the Secretary of State may by statutory instrument appoint for the purpose (s. 80 (9), (10) (*a*), *ante*). But see also s. 80 (8), (10) (*b*), *ante*. As to the appointed day, see S.I. 1949 No. 327, reg. 75 (2).

Local education authority.—See the Education Act, 1944, s. 114 (1) (37 Halsbury's Statutes 216).

County.—For definition, see s. 77 (1), *ante*.

Metropolitan borough council.—This includes the common council of the City of London (s. 77 (4), *ante*).

Registration officer.—See ss. 4 and 66, *ante*.

Section 57

SIXTH SCHEDULE

EFFECT OF CHANGE OF DATE OF LOCAL GOVERNMENT ELECTIONS IN ENGLAND AND WALES

County Councils

1.—(1) In the year nineteen hundred and forty-nine and every subsequent year of election—

(*a*) the ordinary day of retirement of county councillors shall be the fourth day after the day of election, and the newly elected councillors shall come into office on the said fourth day; and

(*b*) the date of the annual meeting shall be the eighth day after the day of retirement, or such other day within twenty-one days after the day of retirement as the county council may fix.

(2) So much of paragraph 1 of Part I of the Third Schedule to the Local Government Act, 1933, as directs the three meetings required to be held in addition to the annual meeting by a county council (other than the London County Council) to be held before the eighth day of March next following shall cease to have effect.

Borough Councils

2.—(1) The ordinary elections of borough councillors, and retirement of borough councillors, due (apart from this Act) to take place in November in the year nineteen hundred and forty-eight and subsequent years shall in each case be postponed so as to take place on the day provided by this Act in the following year:

Provided that in the case of metropolitan boroughs the postponement shall, except in the first instance, be to the next following year which is not a year of election of county councillors, and the ordinary election and retirement of metropolitan borough councillors shall accordingly take place in the year nineteen hundred and forty-nine, the year nineteen hundred and fifty-three and every third year after the year nineteen hundred and fifty-three.

(2) In the year nineteen hundred and forty-nine and subsequent years—

(*a*) the ordinary retirement of borough councillors shall take place on the fourth day after the day of election, and the newly elected councillors shall come into office on the said fourth day; and

(*b*) the date of the annual meeting shall be the eleventh day after the day of election of borough councillors, or such other day within the following seven days as the borough council may fix.

For the purpose of determining the date for the annual meeting of a metropolitan borough council in a year which is not a year of election, the reference in this sub-paragraph to the day of election shall be taken as a reference to the day of election in that year in boroughs other than metropolitan boroughs.

(3) The ordinary election of a mayor due to take place at the annual meeting in the year nineteen hundred and forty-eight, and the ordinary election and retirement of aldermen of a borough due to take place at that meeting, shall be postponed till the annual meeting in the following year and the first mentioned meeting shall be treated as not being an annual meeting for the purpose of determining the date of retirement of any deputy mayor of a metropolitan borough.

(4) So much of paragraph 1 of Part II of the Third Schedule to the Local Government Act, 1933, as directs the three meetings required to be held in addition to the annual meeting by a borough council (other than a metropolitan borough council) to be held before the first day of November next following shall cease to have effect; and for the purposes of that requirement the period between the annual meetings mentioned in the last foregoing sub-paragraph shall be treated as a year but so that only one meeting shall be required during that period instead of three.

(5) In a borough having a sheriff, the appointment of a sheriff due to take place at the annual meeting in the year nineteen hundred and forty-eight shall be postponed till the annual meeting in the following year and subsequent appointments shall, notwithstanding anything in section one hundred and seventy of the Municipal Corporations Act, 1882, be made at the annual meeting; and in relation to sheriffs going out of office at the annual meeting in that or any subsequent year the interval between two consecutive annual meetings shall be deemed to be a year for the purposes of section five of the Sheriffs Act, 1887 (which provides that the same person shall not be appointed twice in three years if he has served a full year).

District and Parish Councils

3. As respects the year nineteen hundred and forty-nine and subsequent years, the twentieth day of May shall be substituted for the fifteenth day of April in sections thirty-five and fifty of, and Parts III and IV of the Third Schedule to, the Local Government Act, 1933 (which relate among other things to the day of retirement of district and parish councillors and the date of the annual meeting of district and parish councils).

Casual vacancies

4.—(1) In subsection (3) of section sixty-seven of the local elections Act (which provides that a casual vacancy in the office of councillor is not to be filled by an election under that section if it occurs within six months before the ordinary day of retirement) for the reference to the ordinary day of retirement there shall be substituted a reference to the ninth day of May or, in the case of a county councillor, April in the year in which the councillor whose office is vacant would regularly have retired.

(2) If at the passing of this Act there is a vacancy in the office of a borough councillor who would (apart from this Act) regularly have retired in November, nineteen hundred and forty-eight, it shall be filled under the said section of the local elections Act as if it had occurred on the date of the passing of this Act.

General

5. The provisions of this Schedule shall have effect notwithstanding any provision of the local elections Act fixing or referring to the term of office of a member of a local authority as one year, three years or six years, or to the retirement of any such members in the third year or at the end of three years, and where inconsistencies arise in the local elections Act by virtue of this Schedule between any such reference and words referring to the day or year of election or retirement of councillors or the date of the annual meeting or any other matter affected by the operation of this Schedule, those words shall prevail.

6.—(1) Where it appears to the Secretary of State that by reason of special circumstances affecting any local authority the provisions of this Schedule are, in relation to that authority or some part of the members thereof, inapplicable or inadequate without some addition or modification, he may by order make such provision as appears to him to accord with the principles of this Schedule and to be necessary or expedient in consequence of the change effected by this Act in the date of the ordinary election of councillors.

(2) Any order under this paragraph shall have effect notwithstanding anything in any enactment (including this Act) or anything in any instrument made by virtue of any such enactment. [742]

Operation of Schedule.—This Schedule takes effect by virtue of s. 57 (7), *ante*, as from the passing of the Act, that is, July 30, 1948.

County; Borough.—For definitions, see s. 77 (1), *ante*.

Local Government Act, 1933.—For Sched. III, Part I, para. 1, and Part II, para. 1 thereto, see 26 Halsbury's Statutes 495, 497, and for ss. 35 and 50 thereof, and Sched. III, Parts III and IV thereto, see 26 Halsbury's Statutes 321, 330, 498, 499.

Municipal Corporations Act, 1882, s. 170.—10 Halsbury's Statutes 632.

Sheriffs Act, 1887, s. 5.—17 Halsbury's Statutes 1107.

Local elections Act.—This means, as respects England and Wales, except London, the Local Government Act, 1933 (26 Halsbury's Statutes 295) and, as respects London, the London Government Act, 1939 (32 Halsbury's Statutes 259) (see s. 75 (1) (*a*), *ante*). The reference to s. 67 (3) of the local elections Act is to be taken as a reference to s. 67 (3) of the Act of 1933 (26 Halsbury's Statutes 341), and s. 42 (3) of the Act of 1939 (32 Halsbury's Statutes 282) (see s. 75 (3) (*a*), *ante*, Sched. XII, Part II, *post*).

Passing of the Act.—July 30, 1948.

Section 65 SEVENTH SCHEDULE

CONSEQUENTIAL AND MINOR AMENDMENTS AS TO LOCAL GOVERNMENT IN SCOTLAND

* * * * *

[743]

Section 67 EIGHTH SCHEDULE

PROVISIONS WHICH MAY BE CONTAINED IN REGULATIONS AS TO REGISTRATION, ETC.

1. Provisions authorising a registration officer (other than a registration officer in Scotland) to require the clerk of the authority of any county borough, metropolitan borough or county district wholly or partly within the area for which he acts (or an officer designated for the purpose by the council of any such borough or district) to perform on his behalf all or any of his registration duties, so far as they relate to the preparation and publication of the electors lists, and to give information required for the purpose of his registration duties.

2. Provisions authorising a registration officer to require any householder or person owning or occupying any land or premises within the area for which he acts, or the agent or factor of any such person, to give information required for the purpose of his registration duties.

3. Provisions laying down a timetable for the preparation of the register and other matters, and providing that notices and other documents received by the registration officer out of time may be or shall be disregarded either altogether or for the purposes of a particular register or election.

4. Provisions as to the manner in which service declarations, and applications and notices from service voters, are to be transmitted to the registration officer.

5.—(1) Provisions as to the evidence which shall or may be required, or be deemed sufficient or conclusive evidence, of a person's service declaration having ceased to be in force.

(2) Provisions as to the evidence of age or nationality which may be required in connection with a person's registration otherwise than as a service voter or with his appointment as a proxy, and provisions—

(*a*) enabling any person to obtain for the purpose of the regulations a birth certificate on payment of a fee not exceeding sixpence ;

(*b*) exempting statutory declarations made for that purpose from stamp duty, and requiring any fee payable in connection with the making of any such declaration to be paid by the registration officer.

(3) Provisions as to the evidence which shall or may be required, or be deemed sufficient or conclusive evidence, in connection with a person's application to be treated as an absent voter, of his being subject to any physical incapacity and as to its probable duration or of the fact that he is acting as returning officer at any election or of his employment as a constable or by a returning officer, mayor or person acting as mayor and the circumstances of that employment.

6. Provisions as to the cases in which a claim or objection may be determined by the registration officer without a hearing, and as to a person's right in any such cases to make written representations to him.

7. Provisions authorising a registration officer to require any person's evidence at a hearing before him to be given on oath and to administer oaths for the purpose.

8. Provisions as to marking the register so as to distinguish those registered as service voters and others having special rights as to the place or manner of voting at any election.

9. Provisions requiring copies of the electors lists, register and other documents or prescribed parts thereof to be available for inspection by the public at such places as may be prescribed.

10. Provisions authorising or requiring the registration officer to supply to such persons as may be prescribed copies of the electors lists, register and other documents or prescribed parts thereof, whether free of charge or on payment of a prescribed fee.

11. Provisions as to the proceedings in connection with the issue and receipt of ballot papers for voting by post (including provisions as to the persons who are to be entitled or may be allowed to attend and the rights and obligations of persons attending), and provisions as to the steps to be taken to ensure the secrecy of the voting and the safe custody (before and after the count) of the ballot papers returned and other documents.

12.—(1) Provisions imposing pecuniary penalties (not exceeding one hundred pounds for any offence) on persons summarily convicted—

(*a*) of having failed to comply with, or given false information in pursuance of, any such requisition of the registration officer as is mentioned in paragraph 2 of this Schedule ;

(*b*) of having, without lawful authority, destroyed, mutilated, defaced or removed any notice published by the registration officer in connection with his registration duties, or any copies of a document which have been made available for inspection in pursuance of those duties.

(2) Any other provisions incidental or supplementary to those mentioned in the foregoing paragraphs of this Schedule. [744]

General note.—This Schedule takes effect by virtue of s. 67 (3), *ante*, which is in Part VI of the Act. It must, therefore, be taken as coming into force at the dates specified for the coming into force of Part VI (see s. 80 and note thereto, *ante*). But see also s. 80 (8), (10) (*b*), *ante*.

As to the Schedule generally, see S.I. 1949 No. 327.

Registration officer.—See ss. 4 and 66, *ante*.

Clerk of the authority, etc.—For interpretation, see s. 77, *ante*.

Registration duties ; Service voter.—For definitions, see s. 76 (1), *ante*.

Electors lists.—See s. 5 (5) (*b*) and 23 (7), *ante*.

Service declaration.—See ss. 6 and 23 (7), *ante*.

Appointment as a proxy.—See ss. 10 and 27, *ante*.

Application to be treated as absent voter.—See ss. 8, 9, 25 and 26, *ante*.

Voting by post.—See ss. 8, 11, 25 and 27 (4), (6), *ante*.

Section 74

NINTH SCHEDULE

FORMS

PART I

Form of Writ for Parliamentary Elections

* *The name of the sovereign may be altered when necessary.*

*George the Sixth, by the Grace of God, of Great Britain, Ireland and the British Dominions beyond the Seas King, Defender of the Faith, to the Returning Officer for the Constituency, Greeting :

† *This preamble to be omitted except in case of a general election.*

‡ *Except in a general election insert here in the place of A.B., deceased or otherwise, stating the cause of vacancy.*

†Whereas by the advice of Our Council We have ordered a Parliament to be holden at Westminster on the day of next, We command you that, due notice being first given, you do cause election to be made according to law of a Member to serve in Parliament for the said Constituency [‡in the place of] and that you do cause the name of such Member when so elected, whether he be present or absent, to be certified to Us, in Our Chancery, without delay.

Witness Ourself at Westminster, the day of in the Year of Our Reign, and in the Year of Our Lord 19

Label or direction of writ

To the Returning Officer for the Constituency.
A Writ of a new Election of a Member for the said Constituency.

Endorsement

Received the within Writ on the day of , 19

(Signed)

Returning Officer [*or as the case may be,*]

Certificate endorsed on writ

I hereby certify, that the Member elected for the Constituency in pursuance of the within written Writ is of in the County of

(Signed)

Returning Officer [*or as the case may be,*]

[745]

Operation of this Part.—This Part of the Schedule takes effect by virtue of s. 74 (4), *ante*, which is in Part VI of the Act and in turn is ancillary to Part I of the Act. It must, therefore, be taken as coming into force so as to have effect in relation to the parliamentary elections for which the autumn register of 1949 and subsequent registers are used (see s. 80 (1) and the notes to s. 80, *ante*).

PART II

Form of declarations as to expenses

Election in the .....constituency.

Date of publication of notice of election .....

Name of candidate .....

I solemnly and sincerely declare as follows :—

1. I am the person named above as a candidate at this election [and was my own election agent] *or* was at this election the election agent of the person named above as a candidate.

2. I have examined the return of election expenses [about to be] transmitted by my election agent [by me] to the returning officer, of which a copy is now shown to me and marked , and to the best of my knowledge and belief it is a complete and correct return as required by law.

3. To the best of my knowledge and belief, all expenses shown in the return as paid were paid by my election agent [by me], except as otherwise stated in relation to my [the candidate's] personal expenses.

4. I understand that the law does not allow any election expenses not mentioned in this return to be defrayed except in pursuance of a court order.

Signature of declarant.....

Signed and declared by the above named declarant on the day of , before me,

(Signed) .....

Justice of the Peace for .....

(NOTE.—Where there has been a change of election agent, suitable variations may be introduced into the declaration as to expenses.) [746]

Operation of this Part.—This Part of the Schedule takes effect by virtue of s. 32 (3), *ante*, which is in Part III of the Act. It must, therefore, be taken as coming into force on the appointed day (see s. 80 (4) and the notes to s. 80, *ante*), that is to say, such day as the Secretary of State may by statutory instrument appoint for the purpose (see s. 80 (10) (*a*), *ante*). But see also s. 80 (8), (10) (*b*), *ante*.

Section 74

TENTH SCHEDULE

ADAPTATION AND INTERPRETATION OF ENACTMENTS, ETC.

Operation of Schedule.—This Schedule takes effect by virtue of s. 74 (1), *ante*, which is in Part VI of the Act. It must, therefore, be taken as coming into force at the times specified for the coming into force of Part VI of the Act (see s. 80 and the notes thereto, *ante*.). But see also s. 80 (8), (10) (*b*), *ante*.

PART I

GENERAL PROVISIONS FOR ADAPTATION AND INTERPRETATION OF LAW

Matters arising out of redistribution

1.—(1) The constituencies for the time being established by this Act and any Order in Council under the House of Commons (Redistribution of Seats) Act, 1944, shall take the place of parliamentary counties and boroughs, and writs for parliamentary elections shall, notwithstanding anything in this Act, continue to be sealed and issued in accordance with the rules applying at the passing of this Act in the case of elections in parliamentary counties and boroughs.

(2) Subject to the following sub-paragraph—

(*a*) any reference in any Act passed before this Act to parliamentary counties and boroughs shall be construed as a reference to constituencies ;

(*b*) references in any Act passed before this Act to a parliamentary county shall be construed as references to a county constituency, and those to a parliamentary borough as references to a borough constituency, and references to a county election or a borough election shall be construed accordingly ;

(*c*) for the purposes of this paragraph and of any Act passed after this Act, the expression " constituency " shall mean an area having separate representation in the House of Commons ;

(*d*) references in any Act passed before this Act to a district of boroughs or to a district borough shall cease to have effect except in relation to Scotland and shall, in relation to Scotland (subject to any such

Order in Council as aforesaid) be taken as referring to the following constituencies, namely, Dunfermline burghs, Kirkcaldy burghs and Stirling and Falkirk burghs.

(3) Any reference in any Act passed before this Act to the authority having power to divide a county or a borough into polling districts or to appoint polling places for a county or a borough for the purposes of parliamentary elections shall, where the context is such as to show that the last foregoing sub-paragraph ought not to apply, be taken as a reference to the county council or the borough council, as the case may be.

Register, electors, etc.

2. Any reference in any Act (whenever passed) to the register of parliamentary and local government electors, or to the register of parliamentary electors, or to the register of local government electors, or to the electors lists for any such register, shall be taken as a reference to the register kept under this Act, or to that register so far as it relates to parliamentary electors, or to that register so far as it relates to local government electors, or to the electors lists therefor, as the case may be, and references in any Act to a parliamentary or local government elector shall be construed accordingly; and local government electors registered under this Act shall for all purposes, whether statutory or not, be in the same position as local government electors registered under the Representation of the People Act, 1918.

3. Except in any reference to the register, references in any Act passed before this Act, so far as it relates to elections at which voting by proxy is provided for by this Act, to an elector or voter, or to voting, shall be taken as including an elector's proxy under this Act and to voting by or as proxy, and references to the exercise of an elector's franchise shall be construed accordingly:

Provided that—

(*a*) any provision of the local elections Act regulating the number of votes which a person may give at an election shall be taken as referring to the number he may give as an elector or as proxy for any one elector; and

(*b*) this paragraph shall not have effect so as to qualify a proxy to hold any office, or to subscribe a nomination paper, or to present an election petition or a petition for the appointment of election commissioners.

Registration and Returning Officers, and Registration Expenses

4.—(1) Any reference in any Act (whenever passed) to the registration officer for the registration of parliamentary or local government electors, or to the returning officer for a parliamentary election or constituency, shall be taken as a reference to the registration officer or returning officer appointed under this Act.

(2) Any reference in any Act passed before this Act to a person temporarily appointed under the Representation of the People Act, 1918, to act in place of a registration officer in case of incapacity or a vacancy shall be taken as a reference to the person authorised under this Act so to act.

5.—(1) Any reference in any Act (whenever passed) to registration expenses in connection with the registration of parliamentary or local government electors shall (subject to the following sub-paragraph) be taken as a reference to registration expenses under this Act, and where, by an Act passed before this Act, any expenses are directed to be paid in the same way as such registration expenses, the authority paying them shall be entitled to the like contribution (if any) from any other local authority, and any such contribution shall be paid in the like manner, as if they were registration expenses.

(2) Where by any Act passed before this Act any expenses are directed to be paid in the same way as registration expenses, there shall be substituted in relation to Northern Ireland a direction that they shall be paid by the council of any county or county borough in which the constituency in question is wholly or partly situated and, where more than one council is concerned, shall be paid by them in such proportion as the Secretary of State may direct; and any expenses payable by virtue of this sub-paragraph—

(*a*) by a county council shall be paid out of the poor rate as a county at large charge;

(*b*) by the council of a county borough shall be paid out of the rate or fund out of which the general expenses of the council are paid.

Forms

6. Any form laid down by any Act passed before this Act for any document shall be adapted in such manner as is necessary to give effect to the provisions of this Act.

Day and place of election

7. Any reference in any Act passed before this Act to the day of election or to the place of election at a parliamentary election shall be taken as referring to the last day, or to the place, for the delivery of nomination papers, as the case may be.

Supplementary

8.—(1) The foregoing provisions of this Schedule shall apply to a reference to any of the matters mentioned therein, whatever the terms used in that reference and to a reference to any other matter which was to be construed as a reference to any of the said matters by virtue of an enactment repealed by this Act; but those provisions—

(*a*) shall have effect subject to any specific provision contained in this Act and in particular to Part II of this Schedule; and

(*b*) so far as they relate to Acts passed after this Act, shall not apply where the context otherwise requires; and

(*c*) so far as they relate to Acts not so passed, may be excluded, in whole or in part, by an order of the Secretary of State in any particular case where they appear to him to be inappropriate.

(2) Nothing in the foregoing provisions of this Schedule or in any other provision of this Act shall affect the qualification of any person for any office held by that person immediately before the coming into force of the first register prepared under this Act, so as to vacate or to require that person to vacate the office. [747]

Operation of this Part.—See the note at the head of this Schedule, *ante*.

House of Commons (Redistribution of Seats) Act, 1944.—37 Halsbury's Statutes 389. As to Orders in Council thereunder, see s. 5 thereof, as amended by s. 3 (1) and (3), *ante*, and set out in Sched. II, *ante*.

Passing of the Act.—July 30, 1948.

County constituency; Borough constituency.—Cf. s. 1 (1), *ante*.

County.—For definition, see s. 77 (1), *ante*.

Borough.—For interpretation, see s. 77 (1), (4), *ante*.

Parliamentary election.—See note to s. 1, *ante*.

Register kept under the Act.—See ss. 5 and 23, *ante*.

Electors lists.—See ss. 5 (5) (*b*) and 23 (7), *ante*.

Representation of the People Act, 1918.—7 Halsbury's Statutes 548.

Elections at which voting by proxy, etc.—See ss. 8 and 25, *ante*.

Local elections Act.—This means, as respects England and Wales, except London, Sched. II to the Local Government Act, 1933 (26 Halsbury's Statutes 474) and, as respects London, Sched. II to the London Government Act, 1939 (32 Halsbury's Statutes 354) (see s. 75 (1) (*a*), *ante*).

Election petition.—As to the meaning of this term, see the Parliamentary Elections Act, 1868, ss. 5 and 52 (7 Halsbury's Statutes 410, 422), and the Municipal Corporations Act, 1882, s. 77 (10 Halsbury's Statutes 598).

Registration officer or returning officer appointed under the Act.—See ss. 4 and 16, *ante* (but see also ss. 17 (3) and 66 (2), *ante*).

Person authorised under this Act so to act.—See s. 66 (4), *ante*.

Registration expenses under the Act.—See ss. 68 and 69, *ante*.

Last day or place for delivery of nomination papers.—See Sched. III, Part I, Part II, para. 7, and Part V, paras. 2, 3 and 5, *ante*.

Coming into force of first register prepared under the Act.—Cf. ss. 5, 23 and 80 (1), *ante*.

PART II

SPECIFIC ADAPTATIONS

Elections

1.—(1) In the following provisions of the Ballot Act, 1872, that is to say, sections eight, ten and eleven, and Rules 39, 42, 46, 47 and 50 of the First Schedule, any reference to that Act, and in Rule 59 of the said First Schedule any reference to that Schedule, shall be construed as including a reference to this Act so far as it relates to parliamentary elections.

(2) In subsection (2) of section twenty-five of the parliamentary corrupt practices Act, and in section twenty-three and subsection (2) of section thirty-four of the corrupt practices Act, any reference to that Act shall include a reference to Part III of this Act.

(3) In England and Wales, in section two hundred and ninety-five of the local elections Act (which relates to the computation of time for the purposes of that Act) any reference to that Act shall be construed as including a reference to Part IV of this Act.

2.—(1) In subsection (2) of section twenty-six of the corrupt practices Act, for the reference to any court having jurisdiction in the county or borough in which the election agent's office is situate, there shall be substituted a reference to any court having jurisdiction at the place where that office is situate.

(2) In section twenty-eight of the Parliamentary Elections Act, 1868 (which relates to the reception of the judge trying an election petition and is applied by subsection (4) of section thirty-eight of the parliamentary corrupt practices Act) for the words from " by the mayor " to the words " in which the borough is situate " there shall be substituted the words—

" (*a*) if the registration officer is town clerk of a borough, by the mayor of that borough ; and

(*b*) if not, by the sheriff of the county which is or includes the area of the authority whose clerk is registration officer ".

(3) In subsection (6) of section twenty-seven of the Parliament (Elections and Meeting) Act, 1943 (which relates to the conveyance of writs for parliamentary elections) for the words " City of London " where they first occur there shall be substituted the words " a constituency where the sheriffs of the City of London or either of them are or is returning officer ".

(4) A notice given (whether before or after the passing of this Act) for the purposes of the proviso to subsection (1) of the said section twenty-seven (which enables a sheriff, mayor or other officer who is returning officer to require the writ to be conveyed to the acting returning officer) shall have effect in relation to all constituencies of which the person giving it is or was returning officer at the time of giving it or of which he or a successor in office becomes returning officer by virtue of that office.

3. So much of section five of the local Act of the twelfth and thirteenth years of Queen Victoria, chapter ninety-four, as requires registration as a parliamentary elector as part of the qualification under that section for election to the common council of the City of London shall cease to have effect.

4. In the Sheriffs Act, 1887, the expression " writ " shall be taken as not including a writ for a parliamentary election.

5. Any advance made by the Treasury under section two of the Corrupt Practices Commission Expenses Act, 1869, and any other advance which is recoverable in the same way as an advance under that section, may be recovered by deduction from any sums payable under this Act to the authority liable for the expenses in respect of which the advance was made, or in any other manner, and sections three to six of the said Act and the Election Commissioners Expenses Act, 1871, shall cease to have effect.

6. Where the registration officer is the clerk of a county council and his salary was determined before the passing of this Act, any sums payable to him for his personal remuneration as registration officer in connection with the registration of electors under this Act shall be dealt with under subsection (2) of section ninety-nine of the Local Government Act, 1933 (which provides among other things that the clerk of a county council shall account to the county fund for all fees and costs payable to him except fees and costs excluded when his salary is determined), in the same way as, in his case, any sums payable for his personal remuneration in connection with the registration of electors under the Act of 1918 would be dealt with under the said subsection (2).

Juries

7.—(1) No jurors book shall be prepared under the Elections and Jurors Act, 1945, for the year following that in which the first register of electors is prepared under this Act, or for any subsequent year.

(2) In relation to jurors books for the year following that in which the first register is prepared under this Act, and any subsequent year, the Juries Act, 1922, shall have effect with the following modifications—

(*a*) the amendments made by any Order in Council under the Representation of the People (Economy Provisions) Act, 1926 (which provided for the modification of the said Act of 1922 in connection with the abolition of the spring register) shall not apply ;

(*b*) any reference to a registration area shall be deemed to include a constituency not forming part of a registration area, and any reference to registration units shall be taken as a reference to constituencies or parts of constituencies ;

(*c*) for any reference to the notice to be published by the registration officer under paragraph 6 of the First Schedule to the Representation of the People Act, 1918, there shall be substituted a reference to any notice required by regulations under this Act of the time and manner for making claims and objections in relation to the electors lists under this Act. [748]

Operation of this Part.—See the note at the head of this Schedule, *ante.*

Ballot Act, 1872.—For ss. 8, 10 and 11 thereof, and Sched. I, rr. 39, 42, 46, 47 and 50 thereto, see 7 Halsbury's Statutes 431, 432, 444 *et seq.*

Parliamentary corrupt practices Act.—This means the Corrupt and Illegal Practices Prevention Act, 1883 (7 Halsbury's Statutes 465) (see s. 75 (2) (*a*), *ante*). For ss. 25 (2) and 38 (4) thereof, see 7 Halsbury's Statutes 476, 485.

Corrupt practices Act.—This means, as respects England and Wales, the Corrupt and Illegal Practices Prevention Act, 1883 (see *supra*), and the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (7 Halsbury's Statutes 511) (see s. 75 (2), *ante*).

The reference to s. 23 of the corrupt practices Act is to be taken as a reference to s. 24 of the Act of 1883 (7 Halsbury's Statutes 474) and s. 20 of the Act of 1884 (7 Halsbury's Statutes 518) ; the reference to s. 34 (2) of the corrupt practices Act as a reference to s. 33 (2) of the Act of 1883 (7 Halsbury's Statutes 483) and, in relation to local government elections other than parish elections, to that subsection as applied by s. 38, *ante* ; and the reference to s. 26 (2) of the corrupt practices Act as a reference to s. 26 (2) of the Act of 1883 (7 Halsbury's Statutes 477) and in relation to local government elections other than parish elections, to that subsection as applied by s. 38, *ante* (see s. 75 (3) (*a*), *ante*, Sched. XII, Part I, *post*).

S. 295 *of the local elections Act.*—The reference to this subsection is to be taken as a reference, as respects England and Wales, except London, to s. 295 of the Local Government Act, 1933 (26 Halsbury's Statutes 462) and, as respects London, to s. 197 of the London Government Act, 1939 (32 Halsbury's Statutes 348) (see s. 75 (1), (3) (*a*), *ante*, Sched. XII, Part II, *post*).

Parliamentary Elections Act, 1868, *s.* 28.—7 Halsbury's Statutes 417.

Registration officer.—See s. 4, *ante.*

Borough.—For interpretation, see s. 77 (1), (4), *ante.*

County.—For definition, see s. 77 (1), *ante.*

Parliament (*Elections and Meeting*) *Act*, 1943, *s.* 27.—36 Halsbury's Statutes 107.

Returning officer.—See s. 16, *ante.*

Sheriffs Act, 1887.—17 Halsbury's Statutes 1107. Cf. s. 38 thereof (17 Halsbury's Statutes 1123).

Corrupt Practices Commission Expenses Act, 1869.—For ss. 2 and 3 thereof, see 7 Halsbury's Statutes 423.

Election Commissioners Expenses Act, 1871.—7 Halsbury's Statutes 425.

Passing of the Act.—July 30, 1948.

Local Government Act, 1933, *s.* 99 (2).—26 Halsbury's Statutes 358.

The Act of 1918.—*I.e.* the Representation of the People Act, 1918 (7 Halsbury's Statutes 548) (cf. the Local Government Act, 1933, s. 99 (3) ; 26 Halsbury's Statutes 358).

Elections and Jurors Act, 1945.—38 Halsbury's Statutes 104.

Preparation of the first register under the Act.—Cf. ss. 5, 23 and 80 (1), *ante.*

Juries Act, 1922.—10 Halsbury's Statutes 81.

Representation of the People (*Economy Provisions*) *Act*, 1926.—7 Halsbury's Statutes 649. As to the amendments made by Order in Council thereunder, see the Economy Provisions (Adaptation of Enactments) Order, 1927 (S. R. & O., 1927 No. 615).

Representation of the People Act, 1918, *Sched. I, para.* 6.—7 Halsbury's Statutes 573.

Section 74

ELEVENTH SCHEDULE

OBSOLETE ENACTMENTS

Session and Chapter	Title or Short Title	Provision ceasing to have effect
7 & 8 Will. 3, c. 7.	An Act to prevent false and double returns of members to serve in Parliament.	The provisions as to procuring returns in sections three and four.
32 Geo. 3, c. 63.	The Scottish Episcopalians Relief Act, 1792.	The provisions as to incapacity to vote at elections in sections seven and thirteen.
60 Geo. 3 & 1 Geo. 4, c. 11.	The Parliamentary Elections (Ireland) Act, 1820.	The provisions as to the attendance of constables at the poll and the expenses of the election in sections twenty-two and twenty-six.
1 & 2 Geo. 4, c. 58.	The Parliamentary Elections (Ireland) Act, 1821.	Section three (which relates to payments to the returning officer and other officers).
4 Geo. 4, c. 55.	The Parliamentary Elections (Ireland) Act, 1823.	The provisions as to the attendance of constables at the poll in sections sixty-three and sixty-six and the provisions as to procuring returns in section seventy-three.
16 & 17 Vict. c. 28.	The County Elections (Scotland) Act, 1853.	Section four (which relates to the provision of polling stations).
16 & 17 Vict. c. 68.	The Parliamentary Elections Act, 1853.	Section six (which relates to the provision of polling stations).
17 & 18 Vict. c. 102.	The Corrupt Practices Prevention Act, 1854.	Section eight (which relates to the employment of special constables on polling day).
30 & 31 Vict. c. 102.	The Representation of the People Act, 1867.	Section thirty-seven (which relates to the provision of polling stations) and section forty-nine (which relates to the corrupt payment of rates by way of bribery).
31 & 32 Vict. c. 46.	The Boundary Act, 1868.	Sections eleven and twelve (which deal with the limits of coastal constituencies and the marking of boundaries).
31 & 32 Vict. c. 49.	The Representation of the People (Ireland) Act, 1868.	Section eight (which disqualifies for voting electors employed by a candidate) and section ten (which relates to the provision of polling stations).
35 & 36 Vict. c. 33.	The Ballot Act, 1872.	Section fourteen (which relates to the use of municipal ballot boxes, etc., for parliamentary elections).
41 & 42 Vict. c. 26.	The Parliamentary and Municipal Registration Act, 1878.	Sections eleven and thirteen (which contain provisions as to furnishing and obtaining information).
48 & 49 Vict. c. 15.	The Registration Act, 1885.	Section sixteen (which contains provisions as to furnishing and obtaining information).
48 & 49 Vict. c. 17.	The Parliamentary Registration (Ireland) Act, 1885.	Section sixteen (which provides for information of deaths to be furnished to the registration officer).

Session and Chapter	Title or Short Title	Provision ceasing to have effect
54 & 55 Vict. c. 49.	The Returning Officers (Scotland) Act, 1891.	The provisions in section five as to the use at parliamentary elections of ballot boxes, fittings and compartments provided for other elections.
	Act of the Irish Parliament	
35 Geo. 3, c. 29.	An Act for regulating the election of members to serve in Parliament, and for repealing the several Acts therein mentioned.	The provisions as to procuring returns in section fourteen, and those of sections nineteen and twenty-three (which relate to treating and other matters dealt with by the parliamentary corrupt practices Act). [749]

Operation of Schedule—This Schedule takes effect by virtue of s. 74 (5), *ante*, which is in Part VI of the Act. It must, therefore, be taken as coming into force at the times specified for the coming into force of Part VI of the Act (see s. 80 and the notes thereto, *ante*). But see also s. 80 (8), (10) (*b*), *ante*.

7 & 8 *Will.* 3, *c.* 7, *ss.* 3, 4.—12 Halsbury's Statutes 431, 432.

Parliamentary Elections (Ireland) Act, 1821, *s.* 3.—7 Halsbury's Statutes 379.

Parliamentary Elections Act, 1853, *s.* 6.—7 Halsbury's Statutes 398.

Corrupt Practices Prevention Act, 1854, *s.* 8.—7 Halsbury's Statutes 402.

Representation of the People Act, 1867, *ss.* 37, 49.—7 Halsbury's Statutes 405.

Boundary Act, 1868, *ss.* 11, 12.—7 Halsbury's Statutes 407.

Ballot Act, 1872, *s.* 14.—7 Halsbury's Statutes 433.

Parliamentary and Municipal Registration Act, 1878, *ss.* 11, 13.—7 Halsbury's Statutes 462, 463.

Registration Act, 1885, *s.* 16.—7 Halsbury's Statutes 536.

Section 75

TWELFTH SCHEDULE

REFERENCES IN CORRUPT PRACTICES ACT AND LOCAL ELECTIONS ACT

Operation of Schedule.—This Schedule takes effect by virtue of s. 75 (3), *ante*, which is in Part VI of the Act. It must, therefore, be taken as coming into force at the times specified for the coming into force of that Part (see s. 80 and note thereto, *ante*). But see also s. 80 (8), (10) (*b*), *ante*.

PART I

THE CORRUPT AND ILLEGAL PRACTICES ACTS, 1883 TO 1895, AND THE CORRESPONDING ACTS

A : The parliamentary corrupt practices Act (the Corrupt and Illegal Practices Prevention Act, 1883)	A : The local corrupt practices Act	
	(*In England and Wales*) The Municipal Elections (Corrupt and Illegal Practices) Act, 1884	(*In Scotland*) The Elections (Scotland) (Corrupt and Illegal Practices) Act, 1890
Section 4	Section 3 (1)	Section 4 (1)
Section 6, and any subsection thereof.	The parliamentary provision as applied by section 2.	The parliamentary provision as applied by section 3.
Section 7	Section 4	Section 8
—	Section 5, and subs. (4)	Section 9, and subs. (3)
Section 9 (3)	Section 6 (3)	Section 10 (3)
Section 10	Section 7	Section 11
Section 16	Section 12	Section 16

A: The parliamentary corrupt practices Act (the Corrupt And Illegal Practices Prevention Act, 1883)	A: The local corrupt practices Act	
	(In England and Wales) The Municipal Elections (Corrupt and Illegal Practices) Act, 1884	*(In Scotland)* The Elections (Scotland) (Corrupt and Illegal Practices) Act, 1890
Section 17 and subs. (1)	Section 13 and subs. (1)	Section 17 and subs. (1)
Section 18	Section 14	Section 18
—	Section 16	Section 20
Section 21 (2)	Section 17 (2)	Section 21 (2)
Section 22, and paras. (*a*) and (*b*)	Section 19, and paras (*a*) and (*b*)	Section 23, and paras. (*a*) and (*b*)
Section 23	Section 20	Section 24
	Elections other than parish elections. / *Parish elections.*	
Section 24	The parliamentary provision as applied by this Act. / —	The parliamentary provision as applied by this Act.
Section 26	ditto / —	ditto
Section 29 (2) and (4)	ditto / Section 21 (1)	ditto
Section 29 (9)	ditto / —	ditto
Section 34	ditto / Section 21 (7)	ditto
subs. (2)	ditto / —	ditto
Section 35 (2)	ditto / —	ditto
Section 38 (5)	The parliamentary provision as applied by section 23.	Section 28 (2)
Section 39 and subs. (1)	Section 24 and subs. (1)	Section 29 and subs. (1)
Section 40	Section 25	Section 32
—	Subs. (1) and (2)	Subs. (1) (*b*) and (*c*)
Section 41 (1)	Section 26 (1)	Section 38 (4)
Section 43 (6)	Section 28 (6)	—
Section 45	The parliamentary provision as applied by section 30.	The parliamentary provision as applied by section 49.
B: The Corrupt and Illegal Practices Prevention Act, 1895	B: The Municipal Elections (Corrupt and Illegal Practices) Act, 1911	—
Section 3	Section 1 (3)	—
Section 4	Section 1 (4)	—

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Operation of this Part.—See the note at the head of this Schedule, *ante*.

Corrupt and Illegal Practices Prevention Act, 1883.—7 Halsbury's Statutes 465. For ss. 4, 6, 7, 9 (3), 10, 16, 18, 21 (2), 22–24, 26, 29 (2), (4), (9), 34, 35 (2), 38 (5), 39, 40, 41 (1), 43 (6) and 45 thereof, see 7 Halsbury's Statutes 467 *et seq.*, 472, 474, 476 *et seq.*, 482, 483, 485, 487 *et seq.*, 492, 494.

Municipal Elections (Corrupt and Illegal Practices) Act, 1884.—7 Halsbury's Statutes 511. For ss. 2, 3 (1), 4, 5, 6 (3), 7, 12–14, 16, 17 (2), 19, 20, 21 (1), (7), 23–25, 26 (1), 28 (6) and 30 thereof, see 7 Halsbury's Statutes 511 *et seq.*, 525, 526.

Corrupt and Illegal Practices Prevention Act, 1895, *ss.* 3, 4.—7 Halsbury's Statutes 544.

Municipal Elections (Corrupt and Illegal Practices) Act, 1911, *s.* 1 (3), (4).—7 Halsbury's Statutes 546.

PART II

THE LOCAL GOVERNMENT ACT, 1933, AND THE CORRESPONDING ACTS

The Local Government Act, 1933	The London Government Act, 1939	The Local Government (Scotland) Act, 1947
Section 67 (3)	Section 42 (3)	—
Section 70 (2)	Section 45 (2)	Section 61 (2)
Section 79	Section 53	Section 67 (1)
Section 81	Section 55	Section 68
Section 82	Section 56	Section 69
Section 115	Section 82	—
Section 116	Section 83	—
Section 295	Section 197	Section 366
Schedule II	Schedule II	Schedule II
	(*The local elections rules*)	
Part I	Part I	Part I
para. 3	para. 3	—
para. 4	para. 4	—
para. 7	para. 7	para. 3
para. 12	para. 12	—
Part III	Part II	Part III
The references to paragraphs in these Parts are identical except :—		
para. 54	para. 54	para. 53
Part IV	Part III	Part V (beginning with Form F)

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Operation of this Part.—See the note at the head of this Schedule, *ante*.

Local Government Act, 1933.—26 Halsbury's Statutes 295. For ss. 67 (3), 70 (2), 79, 81, 82, 115, 116 and 295 thereof and Parts I, III and IV of Sched. II thereto, see 26 Halsbury's Statutes 341, 343, 349, 350, 367, 368, 474, 479, 493.

London Government Act, 1939.—32 Halsbury's Statutes 259. For ss. 42 (3), 45 (2), 53, 55, 56, 82, 83 and 197 thereof, and Parts I, II and III of Sched. II thereto, see 32 Halsbury's Statutes 282, 286, 287, 298, 299, 348, 354, 357, 368.

Section 80

THIRTEENTH SCHEDULE

REPEALS

Session and Chapter	Title or Short Title	Extent of Repeal
5 Ric. 2, Stat. 2, c. 4.	Everyone shall obey his summons to Parliament. Penalty on sheriffs omitting returns of writs to Parliament.	The words from " and if any sheriff " to the end of the chapter.
34 & 35 Hen. 8, c. 13.	An Acte for Knightes and Burgesses to have places in the Parliament for the Countie Palantyne and Citie of Chestre.	The whole Act

Session and Chapter	Title or Short Title	Extent of Repeal
7 & 8 Will. 3, c. 7.	An Act to prevent false and double returns of members to serve in Parliament.	The whole Act except section five, and in section five the words " and for the more easy and better proof of any such false or double return " and the words from " and that the party " to the end of the section.
7 & 8 Will. 3, c. 25.	An Act for the further regulating elections of members to serve in parliament, and for the preventing irregular proceedings of sheriffs, and other officers, in the electing and returning such members.	The whole Act except section seven, and in section seven the words from the beginning of the section to " any future parliament " where those words first occur.
7 Geo. 2, c. 16.	An Act for the better regulating the election of members to serve in the House of Commons for that Part of Great Britain called Scotland; and for incapacitating the Judges of the Court of Session, Court of Justiciary and Barons of the Court of Exchequer in Scotland to be elected or to sit or vote as Members of the House of Commons.	Section eight.
32 Geo. 3, c. 63.	The Scottish Episcopalians Relief Act, 1792.	Section seven, and section thirteen so far as relating to incapacity to vote.
60 Geo. 3 & 1 Geo. 4, c. 11.	The Parliamentary Elections (Ireland) Act, 1820.	The whole Act.
1 & 2 Geo. 4, c. 58.	The Parliamentary Elections (Ireland) Act, 1821.	The whole Act.
4 Geo. 4, c. 55.	The Parliamentary Elections (Ireland) Act, 1823.	The whole Act, except section seventy-four.
10 Geo. 4, c. 44.	The Metropolitan Police Act, 1829.	In section eighteen, the words from " and no justice " to the end of the section.
2 & 3 Will. 4, c. 45.	The Reform Act, 1832.	The whole Act.
2 & 3 Will. 4, c. 65.	The Representation of the People (Scotland) Act, 1832.	Section thirty-one; in section thirty-six the words " to vote or " where those words first occur, and section thirty-eight.
5 & 6 Will. 4, c. 36.	The Parliamentary Elections Act, 1835.	The whole Act.
5 & 6 Will. 4, c. 78.	The Representation of the People (Scotland) Act, 1835.	The whole Act.

Session and Chapter	Title or Short Title	Extent of Repeal
6 & 7 Will. 4, c. 13.	The Constabulary (Ireland) Act, 1836.	In section eighteen, the words from " and no inspector-general " to the end of the section.
2 & 3 Vict. c. 93.	The County Police Act, 1839.	Section nine.
2 & 3 Vict. c. xciv.	An Act for regulating the Police in the City of London.	Section eight.
6 & 7 Vict. c. 18.	The Parliamentary Voters' Registration Act, 1843.	The whole Act except sections eighty-five and ninety-three, and in section ninety-three the words " or members ".
12 & 13 Vict. c. xciv.	An Act to amend an Act passed in the eleventh year of the reign of King George the First for regulating elections within the City of London and for preserving the peace, good order and government of the said City.	In section five the words from " and who " to the words " in respect to such premises ".
13 & 14 Vict. c. 68.	The Parliamentary Electors (Ireland), Act, 1850.	The whole Act.
13 & 14 Vict. c. 69.	The Representation of the People (Ireland) Act, 1850.	The whole Act, except section ninety-two.
15 & 16 Vict. c. 57.	The Election Commissioners Act, 1852.	In section one, the words " or members " in the second place where they occur.
16 & 17 Vict. c. 15.	The Parliamentary Elections (Polling) Act, 1853.	The whole Act.
16 & 17 Vict. c. 28.	The County Elections (Scotland) Act, 1853.	The whole Act.
16 & 17 Vict. c. 68.	The Parliamentary Elections Act, 1853.	The whole Act.
17 & 18 Vict. c. 102.	The Corrupt Practices Prevention Act, 1854.	Sections seven, eight and thirty-five, and in section thirty-eight the definitions of " county ", " city or borough ", " returning officer " and " revising barrister " and in the definitions of " election " and " voter " the words " or members ".
19 & 20 Vict. c. 2.	The Metropolitan Police Act, 1856.	In section nine, the words " or indirectly interfering therein ".
19 & 20 Vict. c. 69.	The County and Borough Police Act, 1856.	Section nine.
20 & 21 Vict. c. 72.	The Police (Scotland) Act, 1857.	Section seventeen.
23 & 24 Vict. c. 135.	The Metropolitan Police Act, 1860.	Section five.
25 & 26 Vict. c. 62.	The County Elections (Ireland) Act, 1862.	The whole Act.

Session and Chapter	Title or Short Title	Extent of Repeal
30 & 31 Vict. c. 102.	The Representation of the People Act, 1867.	In section two, the words from " nor in anywise " to the end of the section, section thirty-seven, section forty-nine, section fifty-seven, and in section sixty-one, the definitions of " member ", " county " and " borough " and in the definition of " election " the words " or members ".
31 & 32 Vict. c. 46.	The Boundary Act, 1868.	The whole Act.
31 & 32 Vict. c. 48.	The Representation of the People (Scotland) Act, 1868.	The whole Act, except sections one, two, twenty-three, twenty-eight, twenty-nine and thirty-one to thirty-five and Schedules E. and F.
31 & 32 Vict. c. 49.	The Representation of the People (Ireland) Act, 1868.	The whole Act except section thirteen.
31 & 32 Vict. c. 58.	The Parliamentary Electors Registration Act, 1868.	The whole Act.
31 & 32 Vict. c. 125.	The Parliamentary Elections Act, 1868.	In sections three and fifty-eight, the definitions of " county " and " borough ", and in the definition in section three of " election " the words " or members " ; and sections forty-four, forty-eight and forty-nine.
32 & 33 Vict. c. 21.	The Corrupt Practices Commission Expenses Act, 1869.	In section two the words " in manner hereinafter mentioned " and sections three to six.
34 & 35 Vict. c. 61.	The Election Commissioners Expenses Act, 1871.	The whole Act.
35 & 36 Vict. c. 33.	The Ballot Act, 1872.	Section one ; in section two the words " candidates or " and the words from " Where an equality of votes " to the end of the section ; section seven ; in section ten the words " and administering the oath " and the words " and administered to " ; in section eleven the words from the beginning to " one hundred pounds"; section thirteen ; section fourteen ; section twenty-four ; section twenty-six ; in section twenty-seven the words from " and shall apply " to the end of the section ; section twenty-nine ; section thirty-one ; in the First Schedule, rules 1 to 14 ; rule 18 ; in rule 22 the words from " contain " to " it shall " ; in rule 24 the words " either stamped or perforated " ; in rule 26 the words from " the said declaration " where those words first occur to the end of the rule, in rule 27 the words " and taking the oath " and the words

Session and Chapter	Title or Short Title	Extent of Repeal
35 & 36 Vict. c. 33—*cont.*	The Ballot Act, 1872 —*cont.*	" of and to be administered to voters ", in rule 29 the words " and the declarations of inability to read ", in rule 38 the words " declarations of inability to read " ; rule 56 ; in rule 57 the definitions of " district borough " and of " polling place " ; rules 60 and 61 ; in the Second Schedule the forms of writ (including the note) and declaration of inability to read, and in the directions as to printing the ballot paper the words from " The surname " to the last " and " ; and the Third Schedule.
38 & 39 Vict. c. 84.	The Parliamentary Elections (Returning Officers) Act, 1875.	The whole Act.
41 & 42 Vict. c. 26.	The Parliamentary and Municipal Registration Act, 1878.	Sections eleven to thirteen.
41 & 42 Vict. c. 41.	The Parliamentary Elections Returning Officers' Expenses (Scotland) Act, 1878.	Sections four and five.
43 Vict. c. 18.	The Parliamentary Elections and Corrupt Practices Act, 1880.	The whole Act.
45 & 46 Vict. c. 50.	The Municipal Corporations Act, 1882.	In section seven, the definition of " parliamentary borough ", section eighty-one, section eighty-five, and in section one hundred and seventy the words " on the ninth of November " in subsection (1) and the words " at the quarterly meeting of the council " in subsection (2).
46 & 47 Vict. c. 51.	The Corrupt and Illegal Practices Prevention Act, 1883.	In subsection (1) of section seven, paragraph (*c*) ; subsection (1) of section nine ; in section sixteen the words " cockades, ribbons, or other marks of distinction " ; in subsection (2) of section seventeen the words from " if he knew " to the end of the subsection ; in section thirty-three, in subsection (5) the words " to any person who sues for the same " ; subsections (2) to (8) of section thirty-nine ; subsection (5) of section forty ; in subsection (3) of section fifty-three the words " or action " ; in subsection (1) of section fifty-eight the words from " and the Election Commissioners Expenses Acts " to the end of the subsection ; section sixty-one ; subsection (2) of section sixty-three except the words " Provided that where a person has been declared to be a candidate by

Session and Chapter	Title or Short Title	Extent of Repeal
46 & 47 Vict. c. 51—*cont.*	The Corrupt and Illegal Practices Prevention Act, 1883—*cont.*	others without his consent, nothing in this Act shall be construed to impose any liability on such person unless he has afterwards given his assent to such declaration or has been nominated "; in section sixty-four, in the definition of "election" the words "or members"; in section sixty-eight the definition of "revising barrister" and paragraph (16); paragraphs (3) and (4) of section sixty-nine; the First Schedule except paragraph (2) of Part I; the Second Schedule except the form of return in Part I; and in the Third Schedule Part III except so far as relates to sections two and three of the Corrupt Practices Prevention Act, 1854.
47 & 48 Vict. c. 70.	The Municipal Elections (Corrupt and Illegal Practices) Act, 1884.	Paragraph (*c*) of subsection (1) of section four; subsection (1) of section six, so far as relates to elections of councillors; in section twelve the words "cockades, ribbons, or other marks of distinction"; in subsection (2) of section thirteen, the words from "if he knew" to the end of the subsection; in subsection (1) of section sixteen the word "either" and the words "or for holding a meeting"; section eighteen; in subsection (4) of section twenty-one the words "to any person who sues for the same"; in section twenty-four, the words "in July" in subsection (1) and subsections (2) to (9); in paragraph (*a*) of section thirty the words "other than a corrupt practice"; the second paragraph of section thirty-four, except as respects the City of London; section thirty-seven; Part I of the Third Schedule so far as it repeats the Representation of the People Act, 1867, s. 49 and the Ballot Act, 1872, s. 24; the Fourth Schedule.
48 & 49 Vict. c. 10.	The Election (Hours of Poll) Act, 1885.	The whole Act.
48 & 49 Vict. c. 15.	The Registration Act, 1885.	The whole Act.
48 & 49 Vict. c. 17.	The Parliamentary Registration (Ireland) Act, 1885.	The whole Act.
48 & 49 Vict. c. 23.	The Redistribution of Seats Act, 1885.	The whole Act.
50 & 51 Vict. c. 9.	The Police Disabilities Removal Act, 1887.	The whole Act.

Session and Chapter	Title or Short Title	Extent of Repeal
50 & 51 Vict. c. 55.	The Sheriffs Act, 1887.	In section thirty-one the words " and of the law relating to the election of members to serve in Parliament."
52 & 53 Vict. c. 63.	The Interpretation Act, 1889.	Paragraph (3) of section fifteen, and in paragraph (4) thereof the words from " and " onwards ; and in paragraph (1) of section seventeen the words " or members " and paragraphs (2) and (3) of that section.
53 & 54 Vict. c. 55.	The Elections (Scotland) (Corrupt and Illegal Practices) Act, 1890.	*Section five ; section six ;* paragraph (*c*) of subsection (1) of section eight in section sixteen the words " cockades, ribbons, or other marks of distinction " ; in subsection (2) of section seventeen the words from " if he knew " to the end of the subsection ; in subsection (1) of section twenty the word " either " and the words " or for holding a meeting " ; section twenty-two ; section twenty-five ; subsections (2) to (6) of section twenty-nine ; section fifty-one ; the First Schedule except so far as relates to sections two and three of the Corrupt Practices Prevention Act, 1854, *and sections one and two of* the Corrupt and Illegal Practices Prevention Act, 1883.
54 & 55 Vict. c. 49.	The Returning Officers (Scotland) Act, 1891.	Section two from the words " but shall not " to the end of the section, and in section five the words from " of ballot boxes," to " elections and ".
56 & 57 Vict. c. 6.	The Police Disabilities Removal Act, 1893.	The whole Act.
62 & 63 Vict. c. 14.	The London Government Act, 1899.	In subsection (1) of section eleven the words " list of voters and of ".
7 Edw. 7. c. 51.	The Sheriff Courts (Scotland) Act, 1907.	In section twenty-one the words from " nor shall he be entitled " to " within his sheriffdom ".
3 & 4 Geo. 5, c. 6.	The Extension of Polling Hours Act, 1913.	The whole Act.
7 & 8 Geo. 5, c. 64.	The Representation of the People Act, 1918.	The whole Act, except sections nineteen and forty-three in so far as they re-enact regulation 16 of section two of the Universities Elections Amendment (Scotland) Act, 1881, and subsection (3) of section twenty-one, and section forty-two and the Sixth Schedule so far as they relate to the Registration Amendment (Scotland) Act, 1885, or to subsection (1) of section twenty-nine of the Elections (Scotland) (Corrupt and Illegal Practices) Act, 1890.
7 & 8 Geo. 5, c. 65.	The Redistribution of Seats (Ireland) Act, 1918.	The whole Act.

Session and Chapter	Title or Short Title	Extent of Repeal
8 & 9 Geo. 5, c. 50.	The Representation of the People (Amendment) Act, 1918.	The whole Act.
9 & 10 Geo. 5, c. 8.	The Representation of the People (Returning Officers' Expenses) Act, 1919.	The whole Act.
10 & 11 Geo. 5, c. 26.	The Sheriffs (Ireland) Act, 1920.	In subsection (1) of section two the words "(including his powers and duties as returning officer)".
10 & 11 Geo. 5, c. 35.	The Representation of the People (No. 2) Act, 1920.	The whole Act.
10 & 11 Geo. 5, c. 67.	The Government of Ireland Act, 1920.	Paragraph (*a*) of section nineteen; section seventy-one; Part II of the Fifth Schedule.
11 & 12 Geo. 5, c. 34.	The Representation of the People Act, 1921.	The whole Act.
12 & 13 Geo. 5, c. 12.	The Representation of the People Act, 1922.	The whole Act.
12 & 13 Geo. 5, c. 31.	The Universities (Scotland) Act, 1922.	In section two, the proviso.
12 & 13 Geo. 5, c. 41.	The Representation of the People (No. 2) Act, 1922.	The whole Act.
16 & 17 Geo. 5, c. 9.	The Economy (Miscellaneous Provisions) Act, 1926.	Part III and the Third Schedule.
18 & 19 Geo. 5, c. 12.	The Representation of the People (Equal Franchise) Act, 1928.	The whole Act.
18 & 19 Geo. 5, c. 25.	The Representation of the People (Reading University) Act, 1928.	The whole Act.
23 & 24 Geo. 5, c. 51.	The Local Government Act, 1933.	Section nine; subsection (3) of section twenty-three; in section forty in paragraph (*b*) of subsection (1) the words "the day of the poll and" and the words from "so" onwards; and in subsection (2) of that section the words "(other than the provisions referred to in section thirty-seven of that Act)"; section fifty-one; in section fifty-four in paragraph (*b*) of subsection (1) the words "the day of election and the day of the poll and" and the words from "so" onwards, and in subsection (2) of that section the words "(other than the provisions referred to in section thirty-seven of that Act)"; subsection (1) of section seventy; section seventy-nine; sections eighty-two and one hundred and fifty-four; in the Second Schedule, in Part II, columns one and two except the words "Proceeding" and "Time" in the headings and the first and last entries, and the whole

Session and Chapter	Title or Short Title	Extent of Repeal
23 & 24 Geo. 5, c. 51—*cont.*	The Local Government Act, 1933—*cont.*	of column three; in Part III, sub-paragraph (2) of paragraph 2; sub-paragraphs (1) and (3) of paragraph 14; in sub-paragraph (1) of paragraph 16 the words "by two local government electors or"; in sub-paragraph (2) of paragraph 17 the words from "but the presiding officer" to the end of the sub-paragraph; in paragraph (*c*) of sub-paragraph (1) of paragraph 20 the words from "in this" onwards; in sub-paragraph (1) of paragraph 22 the words "The declaration of inability to read and" and the words "applies for a ballot paper or" and "as the case may be"; in sub-paragraph (*e*) of paragraph 26 the words "and the declarations of inability to read"; in paragraph 33, the word "except" and the word "otherwise" where it first occurs; paragraph 37; in paragraph 40 the words "declarations of inability to read"; and in Part IV of the Second Schedule, Form D and in the directions as to printing the ballot paper the words from "The surname" to the last "and"; in the Third Schedule, in Part I, paragraph (*a*) of sub-paragraph (2) of paragraph 1 and in sub-paragraph (3) of that paragraph the words "before the eighth day of March next following"; in Part II, the words "on each ninth day of November" and the words "before the first day of November next following" in sub-paragraph (2) of paragraph 1; in Part VI, in paragraph 3 the words "and is not a candidate for election thereat" in sub-paragraph (1) and the words "or unable to take the chair at" in sub-paragraph (3), and sub-paragraph (2) of paragraph 4.
2 & 3 Geo. 6, c. 40.	The London Government Act, 1939.	Section ten; subsections (2) and (3) of section eleven; section twenty-four; subsection (1) of section forty-five; proviso (*a*) to subsection (1) of section forty-six; subsection (2) of section fifty; section fifty-three; section fifty-six; in the Second Schedule, in Part I, in paragraph 4 the words from "not later" in sub-paragraph (1) to the end of the paragraph; in sub-paragraph (5) of paragraph 5 the words from "Not" to "election"; in paragraph 7 the

Session and Chapter	Title or Short Title	Extent of Repeal
2 & 3 Geo. 6, c. 40.—*cont.*	The London Government Act, 1939—*cont.*	words from "not later" onwards; in Part II, sub-paragraph (2) of paragraph 3; sub-paragraphs (1) and (3) of paragraph 14; in sub-paragraph (1) of paragraph 16 the words "by two electors or"; in sub-paragraph (2) of paragraph 17 the words from "but the presiding officer" to the end of the sub-paragraph, in paragraph (*c*) of sub-paragraph (1) of paragraph 20, the words from "in this" onwards; in sub-paragraph (1) of paragraph 22 the words "The declaration of inability to read and", the word "respectively", the words "Form D and", and the words "applies for a ballot paper or" and "as the case may be"; in sub-paragraph (*e*) of paragraph 26 the words "and the declarations of inability to read"; in paragraph 33 the word "except", and the word "otherwise" where it first occurs; paragraph 37; in paragraph 40 the words "declarations of inability to read"; and in Part III of the Second Schedule, Form D and in the directions as to printing the ballot paper the words from "The surname" to the last "and"; in the Third Schedule, in Part I, paragraph (*a*) of sub-paragraph (2) of paragraph 1; in Part II, the words "on the ninth of November" in sub-paragraph (2) of paragraph 1.
6 & 7 Geo. 6, c. 48.	Parliament (Elections and Meeting) Act, 1943.	Part I; in section twenty-seven, sub-section (7) and in subsection (8) the words from "and the expressions" to the end of the subsection; section twenty-eight; in section thirty, in subsection (2) the words "except in relation to university elections"; in subsection (5) of section thirty-one the words from "in section thirteen," to "1922," the words "or an assistant returning officer," and the words from "and nothing," onwards; sub-section (1) of section thirty-three; the First, Second, Fourth and Sixth Schedules.
7 & 8 Geo. 6, c. 24.	Parliamentary Electors (War-time Registration) Act, 1944.	The whole Act.
7 & 8 Geo. 6, c. 41.	The House of Commons (Redistribution of Seats) Act, 1944.	In section four, in subsection (1), the words "after the submission of their report under the last foregoing section" and in subsections (1) and (3)

Session and Chapter	Title or Short Title	Extent of Repeal
7 & 8 Geo. 6, c. 41—*cont.*	The House of Commons (Redistribution of Seats) Act, 1944—*cont.*	the words " and the number of members which they recommend should be returned by each of them ", section six, and in the Third Schedule, in rule 2 paragraph (1) and in paragraph (2) the word " other ", rule 3, in rule 5, sub-paragraph (*b*) (i) of paragraph (1), and in paragraph (2), in the definition of the expression " county " the words " in sub-paragraph (*a*) " and the words from " and in sub-paragraph (*b*) " onwards, rule 7 and in rule 8 in sub-paragraph (*a*) of paragraph (1) the words from " or in applying these rules ", to the end of paragraph (i) of the sub-paragraph, and paragraph (2).
8 & 9 Geo. 6, c. 5.	The Representation of the People Act, 1945.	Parts I, III, and IV; in section thirty-three in subsection (3) the words " or any part thereof " and the words from " or that part thereof " to " and "; sections thirty-five to thirty-seven, in section thirty-eight the words from " constituency " to " the same meaning as in that Act ", section thirty-nine; the First, Second and Fourth Schedules.
9 & 10 Geo. 6, c. 21.	The Elections and Jurors Act, 1945.	The whole Act.
10 & 11 Geo. 6, c. 10.	The House of Commons (Redistribution of Seats) Act, 1947.	Section one from the words " (2) For the purposes " in subsection (2) onwards, and the Schedule.
10 & 11 Geo. 6, c. 43.	The Local Government (Scotland) Act, 1947.	In paragraph (*b*) of the proviso to subsection (2) of section twenty-two, the words from " no person " to " ward, and "; in subsection (2) of section forty-four the words from " and (*b*) a person " to the end of the subsection; in section fifty-nine, subsection (7); in section sixty-one, in subsection (1) paragraph (*a*); subsection (1) of section sixty-seven; section sixty-nine; section seventy; in section one hundred and forty-five, paragraph (*a*); in Part II of the Second Schedule, column 3; in Part III of the Second Schedule, paragraph 3 and sub-paragraphs (1) and (3) of paragraph 14; in sub-paragraph (2) of paragraph 17 the words from " but the presiding officer " to the end of the sub-paragraph, in paragraph (*c*) of sub-paragraph (1) of paragraph 20, the words from " in this Schedule " onwards; in sub-paragraph (1) of paragraph 22

Session and Chapter	Title or Short Title	Extent of Repeal
10 & 11 Geo. 6, c. 43—*cont.*	The Local Government (Scotland) Act, 1947—*cont.*	the words " the declarations of inability to read and " ; in sub-paragraph (*e*) of paragraph 26 the words " and the declarations of inability to read " ; paragraph 37 ; in paragraph 40 the words " declarations of inability to read " and in Part V of the Second Schedule Form I, and in the directions as to printing the ballot paper the words from " The surname " to the last " and ".
	Act of the Irish Parliament	
35 Geo. 3, c. 29.	An Act for regulating the election of members to serve in Parliament, and for repealing the several Acts therein mentioned.	The whole Act.
	Order in Council	
S.R. & O., 1922, No. 1352.	The Government of Ireland (Election Laws Adaptation) (Northern Ireland) Order, 1922.	In Article 3, sub-paragraphs (*a*), (*b*) and (*c*) of paragraph (1) and paragraph (2). [752]

Operation of Schedule.—This Schedule takes effect by virtue of s. 80 (7), *ante*, which is in Part VI of the Act. It must, therefore, be taken as coming into operation at the times specified for the coming into force of that Part (see s. 80 and the notes thereto, *ante*). But see also s. 80 (8), (10) (*b*), *ante*.

5 *Ric.* 2, *Stat.* 2, *c.* 4.—12 Halsbury's Statutes 422.

7 & 8 *Will.* 3, *c.* 7.—12 Halsbury's Statutes 431. For s. 5 thereof, see 12 Halsbury's Statutes 432.

7 & 8 *Will.* 3, *c.* 25.—12 Halsbury's Statutes 433. For s. 7 thereof, see 12 Halsbury's Statutes 434.

7 *Geo.* 2, *c.* 16.—This is the Parliamentary Elections (Scotland) Act, 1733 (12 Halsbury's Statutes 440).

Metropolitan Police Act, 1829, *s.* 18.—12 Halsbury's Statutes 750.

Reform Act, 1832.—This means the Representation of the People Act, 1832 (7 Halsbury's Statutes 379).

Parliamentary Elections Act, 1835.—7 Halsbury's Statutes 383.

County Police Act, 1839, *s.* 9.—12 Halsbury's Statutes 778.

Parliamentary Voters' Registration Act, 1843.—7 Halsbury's Statutes 384. For ss. 85 and 93 thereof, see 7 Halsbury's Statutes 386, 388.

Election Commissioners Act, 1852, *s.* 1.—7 Halsbury's Statutes 391.

Parliamentary Elections (Polling) Act, 1853.—7 Halsbury's Statutes 396.

Parliamentary Elections Act, 1853.—7 Halsbury's Statutes 397.

Corrupt Practices Prevention Act, 1854, *ss.* 7, 8, 35, 38.—7 Halsbury's Statutes 401, 402.

Metropolitan Police Act, 1856, *s.* 9.—12 Halsbury's Statutes 811.

County and Borough Police Act, 1856, *s.* 9.—12 Halsbury's Statutes 814.

Metropolitan Police Act, 1860, *s.* 5.—12 Halsbury's Statutes 824.

Representation of the People Act, 1867, *ss.* 2, 37, 49, 57, 61.—7 Halsbury's Statutes 404 *et seq.*

Boundary Act, 1868.—7 Halsbury's Statutes 407.

Parliamentary Electors Registration Act, 1868.—7 Halsbury's Statutes 408.

Parliamentary Elections Act, 1868.—For ss. 3, 44, 48 and 49 thereof, see 7 Halsbury's Statutes 409, 421, 422.

Corrupt Practices Commission Expenses Act, 1869.—For ss. 2 and 3 thereof, see 7 Halsbury's Statutes 423.

Election Commissioners Expenses Act, 1871.—7 Halsbury's Statutes 425.

Ballot Act, 1872.—For ss. 1, 2, 7, 10, 11, 13, 14, 24, 27, 29, 31 thereof, and Scheds. I–III thereto, see 7 Halsbury's Statutes 427, 428, 431, 432, 433, 434, 435, 436, 448, 452.

Parliamentary Elections (Returning Officers) Act, 1875.—7 Halsbury's Statutes 455.
Parliamentary and Municipal Registration Act, 1878, *ss.* 11–13.—7 Halsbury's Statutes 462, 463.
Parliamentary Elections and Corrupt Practices Act, 1880.—7 Halsbury's Statutes 464.
Municipal Corporations Act, 1882.—For ss. 7, 81, 85, 170 (1), (2) thereof, see 10 Halsbury's Statutes 577, 590, 632.
Corrupt and Illegal Practices Prevention Act, 1883.—For ss. 7 (1) (*c*), 9 (1), 16, 17 (2), 33 (5), 39 (2)–(8), 40 (5), 53 (3), 58 (1), 61, 63 (2), 64 thereof, and Scheds. I–III thereto, see 7 Halsbury's Statutes 468, 469, 472, 481, 487, 488, 489, 496, 497, 499, 500, 503, 505, 509.
Municipal Elections (Corrupt and Illegal Practices) Act, 1884.—For ss. 4 (1) (*c*), 6 (1), 12, 13 (2), 16 (1), 18, 21 (4), 24, 30 (*a*), 34, 37 thereof, and Scheds. III, and IV thereto, see 7 Halsbury's Statutes 512, 514, 515, 516, 517, 519, 521, 527, 528, 530, 531, 535.
Election (Hours of Poll) Act, 1885.—7 Halsbury's Statutes 535.
Registration Act, 1885.—7 Halsbury's Statutes 536.
Police Disabilities Removal Act, 1887.—7 Halsbury's Statutes 540.
Sheriffs Act, 1887, *s.* 31.—17 Halsbury's Statutes 1120.
Interpretation Act, 1889, *ss.* 15, 17.—18 Halsbury's Statutes 998, 999.
Police Disabilities Removal Act, 1893.—7 Halsbury's Statutes 543.
London Government Act, 1899, *s.* 11 (1).—11 Statutes 1232.
Extension of Polling Hours Act, 1913.—7 Halsbury's Statutes 547.
Representation of the People Act, 1918.—7 Halsbury's Statutes 548. For ss. 19 and 43 thereof, see 7 Halsbury's Statutes 560, 572, and for ss. 21 (3) and 42 thereof, and Sched. VI thereto, see 7 Halsbury's Statutes 561, 572, 588.
Representation of the People (Amendment) Act, 1918.—7 Halsbury's Statutes 644.
Representation of the People (Returning Officers' Expenses) Act, 1919.—7 Halsbury's Statutes 645.
Representation of the People (No. 2) Act, 1920.—7 Halsbury's Statutes 646.
Government of Ireland Act, 1920, *ss.* 19 (*a*), 71, *Sched. V, Part II.*—5 Halsbury's Statutes 593, 614, 618.
Representation of the People Act, 1921.—7 Halsbury's Statutes 646.
Representation of the People Act, 1922.—7 Halsbury's Statutes 647.
Representation of the People (No. 2) Act, 1922.—7 Halsbury's Statutes 649.
Economy (Miscellaneous Provisions) Act, 1926, *Part III, Sched. III.*—7 Halsbury's Statutes 649, 650.
Representation of the People (Equal Franchise) Act, 1928.—7 Halsbury's Statutes 651.
Representation of the People (Reading University) Act, 1928.—7 Halsbury's Statutes 652.
Local Government Act, 1933.—For ss. 9, 23 (3), 40 (1) (*b*), (2), 51, 54 (1) (*b*), (2), 70 (1), 79, 82 and 154 thereof, and Scheds. II and III thereto, see 26 Halsbury's Statutes 310, 317, 325, 331, 332, 343, 349, 350, 391, 474, 495.
London Government Act, 1939.—For ss. 10, 11 (2), (3), 24, 45 (1), 46 (1), 50 (2), 53 and 56 thereof, and Scheds. II and III thereto, see 32 Halsbury's Statutes 270, 274, 282 *et seq.*, 286, 287, 354, 370.
Parliament (Elections and Meeting) Act, 1943.—For Part I, ss. 27 (7), (8), 28, 33 (1) thereof, and Scheds. I, II, IV, VI thereto, see 36 Halsbury's Statutes 93, 108, 109, 110, 111, 114, 115.
Parliamentary Electors (War-Time Registration) Act, 1944.—37 Halsbury's Statutes 238.
House of Commons (Redistribution of Seats) Act, 1944.—For ss. 4 (1), (3) and 6 thereof, and Sched. III thereto, see 37 Halsbury's Statutes 392 *et seq.*, 396.
Representation of the People Act, 1945.—For Parts I, II, IV, ss. 33 (3), 35–39, Scheds. I, II, IV, see 38 Halsbury's Statutes 70, 78, 86, 92, 94 *et seq.*
Elections and Jurors Act, 1945.—38 Halsbury's Statutes 104.
House of Commons (Redistribution of Seats) Act, 1947, *s.* 1 *and Sched.*—40 Halsbury's Statutes 678, 679.

ORDERS, CIRCULARS AND MEMORANDA

ELECTORAL REGISTRATION REGULATIONS, 1948

S.I. 1948 *No.* 1194

April 28, 1948

In pursuance of the powers conferred upon me by the Parliamentary Electors (War-Time Registration) Acts, 1943 and 1944, the Representation of the People Act, 1945, and the Elections and Jurors Act, 1945, I [*i.e.* the Secretary of State] hereby make the following regulations :—

1.—(1) These regulations may be cited as the Electoral Registration Regulations, 1948.

(2) These regulations shall come into force on the first day of August, nineteen hundred and forty-eight. **[753]**

2. In sub-paragraph (i) of paragraph (*b*) of Regulation 24 of the Electoral Registration Regulations, 1946 (which prescribes the date of publication of

the civilian residence and service electors lists), for the words " in England and Wales on the twelfth day of August " there shall be substituted the words " in England and Wales on the ninth day of August ". [754]

* * * * *

CASES

Election—Municipal election—Ballot papers—Validity—Papers insufficiently marked with official stamp—Initials written on papers—Mark near name of candidate—Local Government Act, 1933 (*c.* 51), *s.* 29, *Sched. II, Part III, paras.* 18, 34 (*a*), (*c*), (*d*).

By the Local Government Act, 1933, s. 29 : " Subject to the provisions of this Act, an election of councillors of a borough shall be conducted in accordance with the provisions of Sched. II to this Act." By Sched. II, Part III, para. 18 : " A ballot paper shall be delivered to an elector who applies therefor, and immediately before delivery—(*a*) the ballot paper shall be marked with the official mark, either embossed or perforated. . . ." By Sched. II, Part III, para. 34 : " Any ballot paper—(*a*) which does not bear the official mark ; or . . . (*c*) on which anything is written or marked by which the elector can be identified except the printed number on the back ; or (*d*) which is . . . void for uncertainty ; shall not be counted. . . ."

At a municipal election, the official mark for the ballot paper was ten perforated holes. A paper was rejected on which there was only one perforated hole and in two places marks where the holes should have been, but the perforation had not gone through the paper. A ballot paper on which the official mark was visible, but the stamp had failed to perforate the paper, was allowed :—

Held : where a voter, who had expressed his intention of voting for a particular candidate, was in no way to blame and the only defect in the ballot paper was on the part of the official machinery by which the election was conducted, special consideration should be given so that the voter should not be disfranchised ; the intention to apply the official mark was clearly indicated ; and the fact that the official stamp had been imperfectly applied did not invalidate the votes.

Gloucester (County) Cirencester Division Case, Lawson v. *Chester-Master* (1893), 4 O'M. & H. 194, and *Birmingham Case, Woodward* v. *Sarsons* (1875), L. R. 10 C. P. 733, *applied.*

Some ballot papers had initials written underneath the cross against the name of the candidate chosen :—

Held : ballot papers on which initials had been written were void under the Local Government Act, 1933, Sched. II, Part III, r. 34 (*c*), as the voters could be identified, and they should, therefore, have been rejected.

A ballot paper which was counted had some pencil marks over the cross against the name of one of the candidates :—

Held : there was nothing appearing on the ballot paper to invalidate the vote, and it was properly counted.—*Re* SOUTH NEWINGTON (KINGSTON-UPON-HULL) MUNICIPAL ELECTION PETITION, LEWIS *v.* SHEPPERDSON, [1948] 2 All E. R. 503 ; 206 L. T. Jo. 104 ; 112 J. P. 357 ; 92 Sol. Jo. 457. [755]

ELECTRICITY SUPPLY

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STATUTES

LOCAL GOVERNMENT ACT, 1948

(11 & 12 Geo. 6, c. 26)

PRELIMINARY NOTE

One section of the Local Government Act, 1948—s. 138—relates exclusively to the functional relations between local authorities and the new bodies responsible for the supply of electricity and gas under the nationalisation schemes recently implemented. The section enables local authorities which previously exercised electricity or gas functions to exercise certain powers and duties by agreement with the new bodies concerned, subject to the limitations prescribed. It is submitted that agreements under the section should be under seal.

Other provisions of the Act appear in the titles FINANCE ; HIGHWAYS ; MEMORIALS, WAR AND OTHER ; MUNICIPAL HOSPITALITY ; and RATES AND RATING, *post*. [756]

ARRANGEMENT OF SECTIONS

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PART VII

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Miscellaneous

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General

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* * * * *

An Act to amend the law relating to Exchequer grants to local authorities and other bodies and grants by local authorities to other local authorities or other bodies, and the law relating to rating, valuation for rating and precepts to rating authorities; to provide for payments for the benefit of local authorities by the British Transport Commission, the British Electricity Authority and the North of Scotland Hydro-Electric Board; to amend the Railway Freight Rebates Enactments, 1929 to 1943, section two hundred and eleven of the Local Government (Scotland) Act, 1947, the law relating to the payment of expenses and other allowances to members of local authorities and other bodies and the law relating to the manner in which certain securities of local authorities and other bodies may be transferred; to extend the powers of local authorities in certain respects; and for purposes connected with the matters aforesaid. [757]

[24th March 1948.]

* * * * *

PART VII

Miscellaneous

* * * * *

138. Power to assist in performance of transferred functions.—(1) Where, by or under the Electricity Act, 1947, or any Act passed during the present Session providing for the establishing of public ownership of the gas industry, any undertaking theretofore carried on by a local authority is transferred to any other body, the authority may enter into an agreement with the body for the performance by the authority, as agent for the body, for such period as may be specified in the agreement, of such of the functions of the body as may be so specified. [758]

(2) No agreement shall be made for the performance of functions by a local authority under this section for a period ending later than twelve months after the transfer of the undertaking in question except with the approval—

(*a*) in the case of an undertaking in the North of Scotland District transferred by or under the Electricity Act, 1947, of the Secretary of State; or

(*b*) in any other case, of both the Minister or, as the case may be, the Secretary of State and the Minister of Fuel and Power. [759]

General note.—A local authority whose electricity or gas undertaking is transferred under nationalisation to another body may agree with that body to carry on functions of that body as its agent for a limited period. This period may not exceed twelve months from the date of transfer except with the consent, in England and Wales, of both the Minister of Fuel and Power and the Minister of Health. This section came into force on the passing of the Act on March 24, 1948.

For many years consumers in different parts of the country have been accustomed to pay their electricity and gas accounts at the offices of the local authority, and it may be that the power of collection will be one of the functions the subject of agreements under the present section, at any rate during the stage of transition.

Electricity Act, 1947.—40 Halsbury's Statutes 409. The vesting date under the Act was April 1, 1948 (see ss. 14 and 15 thereof; and the Electricity (Vesting Date) Order, 1948, S.I. 1948 No. 217, *post*).

Act . . . providing for . . . public ownership of the gas industry.—See the Gas Act, 1948, title GAS, *post*. The vesting date under the Act is May 1, 1949 (see s. 17 thereof and the Gas (Vesting Date) Order, 1949, S.I. 1949 No. 392).

Local authority.—Defined in s. 144 (1), *post*, but here confined to local authorities (*a*) specified in the Electricity Act, 1947, *supra*, or (*b*) referred to in the Gas Act, 1948, *supra*, where the term is defined as meaning a county borough, county district or metropolitan borough council, the Common Council of the City of London, and a joint board of local authorities having functions as statutory undertakers and also other functions (see s. 74 (1) thereof).

Body.—I.e., the British Electricity Authority, Area Electricity Boards or the North of Scotland Hydro-Electric Board, under the Electricity Act, 1947, *supra* (see s. 14 thereof); and Area Gas Boards or the Gas Council under the Gas Act, 1948, *supra*.

The Minister.—The Minister of Health (s. 144 (1), *post*).

* * * * *

PART VIII

General

* * * * *

144. Interpretation.—(1) In this Act, except so far as the contrary is expressly provided or the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

"Minister" means the Minister of Health;

"local authority" means the council of a county, county borough, metropolitan borough or county district, or the Common Council of the City of London; . . . [760]

* * * * *

(7) In this Act, the expression "the North of Scotland District" means, as respects any period up to and including the vesting date within the meaning of the Electricity Act, 1947, the North of Scotland District as existing on that date for the purposes of that Act, and, as respects any subsequent period, means that District as for the time being existing for the purposes of that Act. [761]

* * * * *

(10) Except so far as the context otherwise requires, any reference in this Act to any other enactment shall be construed as a reference to that enactment as amended, extended or applied by or under any other enactment, including this Act. [762]

Local authority.—This definition, as stated earlier in the section, applies only so far as the contrary is not expressly provided or the context does not otherwise require. In s. 138, *ante*, the meaning of the term is obviously not that as here defined (see the notes to that section, *ante*).

* * * * *

148. Short title and extent.—(1) This Act may be cited as the Local Government Act, 1948. [763]

(2) This Act shall not extend to Northern Ireland. [764]

* * * * *

ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL REVOKING REGULATION 60CB OF THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1947, *No.* 2197

October 14, 1947

His Majesty, in pursuance of section three of the Supplies and Services (Transitional Powers) Act, 1945, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, that Regulation sixty CB of the Defence (General) Regulations, 1939 (which suspends the certification of electricity meters) is hereby revoked. [765]

* * * * *

ELECTRICITY (AREAS OF AREA BOARDS) ORDER, 1947

S. R. & O., 1947, *No.* 2465

November 18, 1947

The Minister of Fuel and Power (in this Order referred to as " the Minister "), after consultation with the Central Authority, in exercise of the power conferred on him by subsection (1) of section four of the Electricity Act, 1947 (in this Order referred to as " the Act "), and of all other powers enabling him in that behalf, hereby orders as follows :—

1. Areas of Area Boards.—The area for which each Area Board is established under the Act shall be the area lying within the boundaries shown on a map prepared on the authority of the Minister and certified under his hand, on the thirteenth day of November, 1947, as the map of the area of that Area Board. [766]

2. Application of Interpretation Act, 1889.—The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament. [767]

3. Commencement and citation.—This Order shall come into force on the first day of December, 1947, and may be cited as the Electricity (Areas of Area Boards) Order, 1947. [768]

* * * * *

ELECTRICITY (VESTING DATE) ORDER, 1948

S.I. 1948 *No.* 217

February 6, 1948

The Minister of Fuel and Power in pursuance of section fourteen of the Electricity Act, 1947 (in this Order referred to as " the Act ") hereby orders as follows :

1. Appointment of vesting date.—The vesting date for the purposes of the Act shall be the first day of April, nineteen hundred and forty-eight. [769]

2. Commencement and citation.—This Order shall come into force on the twelfth day of February, nineteen hundred and forty-eight, and may be cited as the Electricity (Vesting Date) Order, 1948. [770]

* * * * *

ELECTRICITY SUPPLY (RELAXATION OF OBLIGATIONS) ORDER, 1948

S.I. 1948 *No.* 223

February 10, 1948

The Minister of Fuel and Power in exercise of the powers conferred upon him by Regulation fifty-six of the Defence (General) Regulations, 1939, as having effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945, as extended by the Supplies and Services (Extended Purposes) Act, 1947, hereby orders as follows :—

1. Undertakers in respect of a public utility undertaking for the supply

of electricity shall not be under any obligation by virtue of any Act or other instrument determining their functions :—

(*a*) to give or continue a supply of electrical energy to the owner or occupier of any premises not connected with the mains of the undertakers before the commencement of this Order ;

(*b*) to furnish or lay any electric lines for the purposes of a supply of electrical energy to any premises not so connected or a supply of greater power to any premises ; or

(*c*) to supply or fix any meter otherwise than in replacement of another meter of the same capacity. [771]

2. This Order shall come into operation on the thirteenth day of February, nineteen hundred and forty-eight, and may be cited as the Electricity Supply (Relaxation of Obligations) Order, 1948. [772]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Order, but is intended to indicate its general purport.*)

This Order relaxes the obligations upon electricity undertakers (imposed generally by the application of the Electric Lighting (Clauses) Act, 1899) (a) to connect and supply with electricity premises not connected at the commencement of this Order and (b) to replace lines or meters in order to provide for increased supplies.

ELECTRICITY (PRICE CONTROL) ORDER, 1948

S.I. 1948 *No.* 224

February 10, 1948

Note.—This Order was revoked as from April 1, 1948, the vesting date under the Electricity Act, 1947, by the Electricity (Price Control) (Revocation) Order, 1948 (S.I. 1948 No. 596), *post.*

The Minister of Fuel and Power (in this Order referred to as "the Minister") in exercise of the powers conferred upon him by Regulation fifty-five AB of the Defence (General) Regulations, 1939, as having effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945, as extended by the Supplies and Services (Extended Purposes) Act, 1947, hereby orders as follows :—

1. Charges or rates of charge not to be reduced.—(1) Unless under the authority of a licence, no undertaker shall in respect of any supply of electricity reduce any fixed or standing charge or charge at any lower rate for energy supplied than the corresponding rate applicable immediately before the date of the coming into force of this Order.

(2) Where two or more standard tariffs of any undertakers would in normal circumstances be applicable to a supply of electricity furnished by them to any person and they were at the date of this Order charging that person in respect of that supply in accordance with one of those tariffs, nothing in this Order shall prohibit those undertakers from charging that person in respect of that supply in accordance with any other standard tariff so applicable. [773]

2. Restriction on rebates and discounts.—Unless under the authority of a licence, no undertakers shall in connection with any supply of electricity (not being a supply in bulk) allow any discount or rebate :

Provided that where any undertakers at the date of this Order allowed any discount or rebate for prompt payment those undertakers may allow the same at a rate not exceeding five per centum on the sum discharged, or at any greater rate which has been continuously allowed by them during a period of not less than three years next before the said date. [774]

3. Interpretation.—In this Order the following expressions have the meanings hereby assigned to them respectively, that is to say :—

" licence " means a licence granted by the Minister ;
" the Minister " means the Minister of Fuel and Power ;
" prompt payment " means payment within the period of one month from the date of demand ;
" supply in bulk " means any supply to undertakers given by the Central Electricity Board or other undertakers and any supply to a railway company for haulage or traction purposes ;
" undertakers " means any body or person authorised to supply electricity to whom the Electricity (Supply) Acts, 1882 to 1936, apply. [775]

4. Commencement and citation.—This Order shall come into operation on the thirteenth day of February, nineteen hundred and forty-eight ; and may be cited as the Electricity (Price Control) Order, 1948. [776]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Order, but is intended to indicate its general purport.*)

This Order prohibits (*a*) *reductions in charges or rates of charge,* (*b*) *discounts and rebates* (*except that existing discounts or rebates for prompt payment may on certain conditions be continued*) *with respect to supplies of electricity.*

Exceptions may be made by licence.

ELECTRICITY (PENSION SCHEME) REGULATIONS, 1948

S.I. 1948 *No.* 226

February 10, 1948

The Minister of Fuel and Power (in these Regulations referred to as " the Minister ") and the Secretary of State, in exercise of the powers conferred upon them by section fifty-four of the Electricity Act, 1947 (in these Regulations referred to as " the Act "), and of all other powers enabling them in that behalf, hereby make the following Regulations :—

1. Establishment by Electricity Boards of pension schemes.—Any Electricity Board may for the purposes of paragraph (*a*) of subsection (1) of section fifty-four of the Act establish and administer any pension scheme which has been approved by the Minister, or, in the case of a pension scheme to be established by the North of Scotland Board, by the Secretary of State, or participate in any such approved scheme established by another Electricity Board ; and may for the purposes of any such scheme as aforesaid contribute to any pension fund or execute or maintain any policy of insurance, bond, indemnity or other similar instrument. [777]

2. Saving.—Nothing in these Regulations or in any such scheme as aforesaid shall affect any liability in respect of pensions vesting in any Electricity Board by virtue of Part II of the Act. [778]

3. Interpretation.—The Interpretation Act shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [779]

4. Citation, commencement and retrospective effect.—(1) These Regulations may be cited as the Electricity (Pension Scheme) Regulations, 1948.

(2) These Regulations shall come into operation on the sixteenth day of February, nineteen hundred and forty-eight; but shall then be deemed to have had effect from the fourteenth day of August, nineteen hundred and forty-seven. [780]

* * * * *

EXPLANATORY NOTE

(This Note is not part of these Regulations, but is intended to indicate their general purport.)

These Regulations authorise any Electricity Board to establish or participate in any scheme approved by the Minister (or, in the case of the North of Scotland Board, the Secretary of State) for providing pensions in respect of persons in their employment or that of their Consultative Council, or in respect of the other persons who are mentioned in section 54 (1) (a) of the Electricity Act, 1947.

ELECTRICITY (VESTING OF ASSETS) REGULATIONS, 1948

S.I. 1948 *No.* 239

February 11, 1948

Arrangement of Regulations

PART I	Registration of title of Electricity Boards	Regulation 1
PART II	Provisions as to local authorities.	Regulations 2 to 8
	* * * * *	
PART V	Miscellaneous and General.	Regulations 13 to 18

Schedule

Notice under section 15 (4) of the Electricity Act, 1947

The Minister of Fuel and Power (in these Regulations referred to as "the Minister") in exercise of the powers conferred on him by sections fourteen, fifteen, seventeen, eighteen, twenty-five, thirty-five and forty-eight of the Electricity Act, 1947 (in these Regulations referred to as "the Act"), and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

PART I

Registration of title of Electricity Boards

1. Provisions as to registration of title of Electricity Boards.—(1) Every body and person any of whose assets vest in an Electricity Board by virtue of the Act, and every person responsible for keeping any register or book in which any such asset is registered or inscribed, or otherwise concerned with the registration or inscription of any such asset, shall do all such things as are necessary, or as the Electricity Board concerned may direct to be done, for the purpose of securing the due registration or inscription of the title to

the Board to that asset, and the delivery to the Board of any document constituting evidence of the said registration or inscription.

(2) The duty imposed under the preceding paragraph shall include a duty to do all such things as are necessary to secure that any dividend or interest payable on that asset on or after the date of the vesting thereof in the Board will be paid to the Board.

(3) A certificate, signed by such person as the Board may authorise for the purpose, that any specified asset is an asset which has vested in that Board by virtue of the Act shall be treated by any person responsible or concerned as aforesaid as evidence that that asset has so vested. [781]

PART II

Provisions as to local authorities

2. Property held or used by a local authority partly in their capacity as authorised undertakers and partly in other capacities.—(1) This Regulation shall apply to property held or used by any local authority partly in their capacity as authorised undertakers and partly in other capacities; and the expression "the Board" in this Regulation means, in relation to any such property, the Electricity Board in whom it would vest by virtue of the Act if it had been held or used by that authority wholly in their capacity as authorised undertakers.

(2) Where a notice embracing any such property has been duly served in pursuance of paragraph (*b*) of subsection (4) of section fifteen of the Act, the authority and the Board may agree that, on such terms (which may include the payment of money) as may be specified in the agreement, that property shall vest in the Board by virtue of the Act, or shall not so vest.

(3) Where any property to which this Regulation applies vests in the Board by virtue of the Act, the authority and the Board may agree that, on such terms (which may include the payment of money) as may be specified in the agreement, the Board shall grant to the authority any such interest in, or right over or attaching to, or right in respect of the user of, the property as may be agreed; and where any such property does not so vest in the Board, the authority and the Board may agree as aforesaid that the authority shall grant any such interest or right to the Board.

(4) Any question arising between the authority and the Board, whether as to the vesting of any property to which any such notice as aforesaid refers, or as to the granting of any such interest or right as aforesaid, or as to the terms on which the property, interest or right shall vest or be granted, as the case may be, may be referred at the instance of either of them for determination by the Minister of Health.

(5) All property to which any such agreement or determination as aforesaid relates shall vest in the Board by virtue of the Act, or shall not so vest, in accordance therewith; and every interest in, or right over or attaching to, or right in respect of the user of, any such property, which by the terms of any such agreement or determination as aforesaid should be granted, shall be granted in accordance therewith by the Board or by the authority in whom that property is vested. [782]

3. Post-war refunds in respect of excess profits tax.—(1) The last preceding Regulation shall not apply:—

(*a*) to any sums held by a local authority which represent the whole or any part of a post-war refund (within the meaning of Part IV of the Finance (No. 2) Act, 1945) paid to the authority in respect of excess profits tax in respect of profits earned by them partly in their capacity as authorised undertakers and partly in other capacities; or

(*b*) to any right to receive any such post-war refund or any part thereof; and the following provisions of this Regulation shall apply thereto, so however that in the case of any local authority whose undertaking is wholly or mainly carried on in the North of Scotland District there shall be substituted for references in those provisions to the British Electricity Authority references to the North of Scotland Board.

(2) Where any sum representing the whole or a part of a post-war refund has been paid to a local authority before the vesting date and has not been used, or appropriated for use, before the vesting date for the purposes of the electricity undertaking of the authority, such part of that sum as may be agreed between the local authority and the British Electricity Authority, or, in default of such agreement, be determined by the Minister of Health, to be attributable to the excess profits tax paid by the local authority in respect of profits earned by them in their capacity as authorised undertakers shall, subject to such reduction (if any) as may be just having regard to the provisions of section forty-six of the Finance (No. 2) Act, 1945, vest in the British Electricity Authority, and the remainder thereof shall not so vest.

(3) Where a local authority are entitled to a sum representing the whole or a part of a post-war refund but have not received it before the vesting date, the local authority and the British Electricity Authority may agree, and, in default of such agreement, the Minister of Health may determine, whether the right is to vest by virtue of the Act in the British Electricity Authority or is not so to vest, and the agreement or determination may contain terms as to the apportionment, as between the local authority and the British Electricity Authority, of the sum when paid. [783]

4. Agreements of a local authority made partly in their capacity as authorised undertakers and partly in other capacities.—(1) This Regulation shall apply to agreements entered into by a local authority partly in their capacity as authorised undertakers and partly in other capacities, including agreements which relate to the employment of officers by the local authority partly for the purposes of their electricity undertaking and partly for other purposes:

Provided that this Regulation shall not apply in any case where the only matters outstanding under the agreement will be disposed of in accordance with section twenty-two of the Act.

(2) In this Regulation the expression "the Board" means, in relation to any such agreement, the Electricity Board in whom rights and liabilities under the agreement would vest by virtue of the Act if the agreement had been entered into by the local authority wholly in their capacity as authorised undertakers:

Provided that, if the agreement relates partly to matters which concern another Electricity Board, the said expression shall include that Board also.

(3) Where any agreement to which this Regulation applies remains to be performed, in whole or in part, after the vesting date, that agreement shall, subject to the provisions of the following paragraphs of this Regulation, have effect, as from the vesting date, as if there were substituted therefor separate agreements—

(*a*) securing for the Board the benefits that would, but for the Act, have been secured for the electricity undertaking of the local authority under the original agreement, either directly or in accordance with arrangements made by the local authority for making benefits under the agreement available to the undertaking, and imposing on the Board the liabilities and obligations, so far as properly attributable to those benefits, that would have been imposed on the local authority by the original agreement; and

(*b*) securing for the local authority all other benefits that would have accrued to them under the original agreement and imposing on them the liabilities and obligations, so far as properly attributable to those benefits, that would have been imposed on them by the original agreement:

Provided that, in the case of an agreement relating to the employment by the local authority of any officer in a capacity which entitled him to pension rights, that officer shall, while the agreement has effect under this paragraph, be deemed, for the purposes of his pension rights, to be employed whole-time by the body (whether the Board or the local authority) to whom his services are mainly rendered.

(4) The authority and the Board may, with respect to any agreement to which this Regulation applies, on such terms (which may include the payment of money) as may be then specified agree either temporarily or permanently that all rights, liabilities and obligations thereunder shall vest in the Board by virtue of the Act, or that none of them shall so vest; and those terms may include provision that the Board or the authority, as the case may be, in whom the said rights, liabilities and obligations are to vest shall make available to the other of them any such benefits in relation to the agreement as are respectively mentioned in sub-paragraph (*b*) or sub-paragraph (*a*) of the last preceding paragraph.

(5) Any question arising in relation to any agreement to which this Regulation applies either as to the effect of paragraph (3) or, in pursuance of paragraph (4), as to the vesting of the rights, liabilities and obligations, or the terms on which they shall vest, or shall not vest, may be referred at the instance of any party to the question for determination:—

(*a*) if it is a question between the authority and the Board after they have agreed under paragraph (4) of this Regulation that the rights, liabilities and obligations shall vest, or shall not vest, by such method as may have been agreed, or be agreed, between them;

(*b*) in any other case, by the Minister of Health;

so however that any party to that agreement may, if not a party to the question, make representations thereon before the said determination.

(6) During the currency of any agreement or determination in pursuance of paragraph (4) that all rights, liabilities and obligations under an agreement shall vest in the Board by virtue of the Act, or that none of them shall so vest, whether or not any benefits are to be made available as there mentioned, paragraph (3) of this Regulation shall not apply to that agreement, but the said agreement shall have effect, and any such benefits be made available, as has been so agreed or determined. [784]

5. Easements, etc., to be granted over certain land.—(1) If any Electricity Board in whom land of any local authority is vested are of opinion that any easement or other right over or attaching to other land of that authority is required to enable the land which is so vested to be used for the purposes of the Board, that Board may, before the expiry of twelve months from the date of the vesting of that land, give notice in writing to the authority and to every other person concerned specifying the easement or right which in the opinion of the Board is so required.

(2) There shall be delivered with every such notice as aforesaid such maps or plans as are requisite to identify clearly the location of any land to which the specified easement or right relates.

(3) Any question arising as to whether, or to what extent, any easement or right is required by the Board for the purpose aforesaid, or as to the terms on which it shall be conferred, shall in default of agreement be determined by arbitration under the Act; and any such easement or right as

may be agreed or determined to be required as aforesaid shall vest in the Board on such terms (which may include the payment of money) as may be so agreed or determined. [785]

6. Severance of leases.—(1) Where any local authority were lessees of land of which part only was used by them in their capacity as authorised undertakers, the interest of the authority in the lease shall, in so far as the land vests in any Electricity Board by virtue of the Act, be severed as from the date of that vesting; and the provisions of this Regulation shall have effect in relation thereto.

(2) If the lease does not reserve separate rents for the several parts of the land, the rent reserved by the lease shall be apportioned, and the amounts thereof to be apportioned respectively to those parts of the land which have, and which have not, vested in that Board shall, in default of agreement between the lessor, the Board and the authority, be determined by arbitration under the Act.

(3) As from the date of the severance, no liability (whether to the lessor or to any other person) shall attach respectively to the Board and to the authority, or to their respective successors in title, in respect of any apportioned rent, or the breach of any covenant, agreement, or condition in the said lease, relating respectively to land which has not, and which has, vested in the Board.

(4) The authority shall be deemed to have given to the Board an acknowledgment in writing of the right of the Board to production of the lease and of all relevant documents, and to delivery of copies thereof; and section sixty-four of the Law of Property Act, 1925, shall apply on the basis that that acknowledgment did not contain any such expression of contrary intention as is mentioned in that section.

(5) The authority shall, not later than the date of vesting of the land (or such other date as the Board may permit), deliver to the Board a statement setting out full particulars of the ownership of the land, of the date of the lease and every relevant document, of the names, addresses and descriptions of the parties thereto, and of the effect thereof; and shall, in such manner and within such time as the Board may reasonably require, furnish all such supplementary information in relation to the interest vested in the Board as the Board may reasonably require.

(6) Any expenses reasonably incurred by the authority in complying with the last preceding paragraph, or with any requirement made thereunder, shall be paid by the Board; and the High Court shall have power on the application of the authority, being aggrieved by a refusal by the Board to pay any expenses, to give such directions as to the matter in question as appear to the Court to be just. [786]

7. Apportionments and indemnities.—(1) In the case of an agreement to which sub-paragraph (*a*) of paragraph (3) of Regulation four applies, or, where a lease is severed in pursuance of the last preceding Regulation, of that part of the lease which relates to land vesting in an Electricity Board, the provisions of this Regulation shall have effect.

(2) If any periodical payment, being a fixed or certain periodical payment, was accruing at the date of substitution of separate agreements or of severence of the original lease, as the case may be, (in this Regulation referred to as "the relevant date") that payment shall be deemed to have accrued from day to day and shall be apportioned as at the relevant date accordingly.

(3) If any periodical payment, being a payment calculated on a quantitative basis, was accruing at the relevant date, that payment shall be calculated on the relevant basis up to that date and shall (subject to the provisions of the next following paragraph) be the amount apportioned to that date.

(4) If, in relation to any such payment as is mentioned in the last preceding paragraph, provision was also made for a minimum periodical amount being paid in respect thereof, the amount accruing at the relevant date shall be calculated on a day to day basis to that date; and the amount of that payment apportioned to that date shall be whichever of the amounts calculated respectively in accordance with the last preceding paragraph and with this paragraph is the greater.

(5) Where any periodical payment (whether or not a minimum payment) has been made in advance in respect of the period in which the relevant date occurs, that payment shall be apportioned as between that part of the period which ended and that part which began on that date.

(6) Any sum apportioned in pursuance of the last preceding paragraph in respect of that part of the said period which began on the relevant date shall, if it was not before the relevant date debited or credited by the local authority concerned in the accounts of that authority in their capacity as authorised undertakers, be deemed to have been paid by or to the authority, as the case may be, on behalf of the Electricity Board concerned.

(7) Any question which may arise in giving effect to this Regulation, or as to the giving of any requisite and reasonable indemnity in relation to the severance of any lease or the substitution of any agreement, shall in default of agreement between all the parties concerned, be determined by arbitration under the Act. [787]

8. Form of notice under section 15 (4) of the Act.—Any notice given by a local authority or Electricity Board in pursuance of subsection (4) of section fifteen of the Act shall be in the form set out in the Schedule to these Regulations; and shall show all requisite information in relation to any matters mentioned in that Schedule; and shall be signed by a person authorised in that behalf. [788]

* * * * *

PART V

Miscellaneous and General

13. Period within which disclaimer of agreements, etc., may be referred to arbitration.—Where any Electricity Board have in pursuance of section eighteen of the Act given to any person notice of disclaimer of an agreement or lease made or varied on or after the nineteenth day of November, nineteen hundred and forty-five, by a body to whom Part II of the Act applies, the period within which that person (being a party to the agreement or lease) may refer to arbitration under the Act the question whether the said agreement or lease or variation was reasonably necessary for the purposes of the activities of the said body, or was made with unreasonable lack of prudence, shall be one month from the date of service upon him of that notice. [789]

14. Supplementary provisions in relation to awards.—(1) Where any question is referred for determination in pursuance of these Regulations to the Minister of Health, a statement of the material facts not in dispute shall be agreed between all parties to the question and submitted by the party by whom that question is referred; any party may in that statement indicate that his agreement extends only to such of the facts set out therein as he then specifies.

(2) Subsections (2) to (5) of section two hundred and ninety of the Local Government Act, 1933, shall apply to any inquiry held by the Minister of Health for the purpose of his determination of any question referred to him in pursuance of these Regulations.

(3) Any award made by the Minister, the Minister of Health, or the arbitration tribunal under these Regulations may include directions for the

preparation and execution of any instrument requisite for giving full effect to the award; and every such direction shall be complied with by every person to whom it is given. [790]

15. Power to extend time.—Where any period or date is specified in these Regulations as the period within which, or the date by which, any act or thing is to be done by any person, the Minister may, on written application made to him in that behalf, notwithstanding that that period has expired or that date has passed, extend that period or fix a later date for the doing of that act or thing in any case in which he is satisfied that there has been reasonable ground for not doing, or for not having done, that act or thing within that period or by that date, as the case may be. [791]

16. Interpretation.—(1) Expressions to which meanings are assigned by the Act or by these Regulations shall, unless the contrary intention appear, bear the same meanings in any instrument issued under the provisions of these Regulations; and the expression "instrument issued under the provisions of these Regulations" includes every acknowledgment, agreement, award, notice, statement and proposal for or draft of an agreement made, delivered, given or served, as the case may be, under those provisions.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [792]

17. Application to Scotland. [793]

18. Commencement and citation.—These Regulations shall come into force on the twenty-third day of February, nineteen hundred and forty-eight, and may be cited as the Electricity (Vesting of Assets) Regulations, 1948. [794]

* * * * *

Regulation 8

SCHEDULE

ELECTRICITY ACT, 1947

ELECTRICITY (VESTING OF ASSETS) REGULATIONS, 1948

Notice under Section 15 (4) *of the above-mentioned Act*
[*as applied by Section* 17 (4) *or* 48 (8) *of that Act*]

To the ..... (*a*) and
to ..... (*aa*)
.....
..... (*b*)

HEREBY GIVE NOTICE that the following question[s] [has] [have] arisen between them and the party last above mentioned, that is to say (*c*) :—

1. Under ..... [and] ..... (*d*)
Whether .....
[or, if not, whether] ..... (*e*)

2. Under ..... [and] ..... (*d*)
Whether .....
[or, if not, whether] ..... (*e*)

3. Under ..... [and] ..... (*d*)
Whether .....
[or, if not, whether] ..... (*e*)

4. Under ..... [and] ..... (*d*)
Whether .....
[or, if not, whether] ..... (*e*)

Dated ..... 1948.

..... (*f*)

[795]

(*a*) See Sections 17 (4) and 48 (8) and (14) of the Act.
(*aa*) Insert the name of the other party to the question[s].
(*b*) Insert the name of the party giving the notice, and the address to which communications should be sent.
(*c*) One numbered section should be used for each distinct holding of property; in the event of more than four sections being required, use additional sheets.
(*d*) Specify the provisions of the Act or of the Regulations.
(*e*) Specify the question or questions, and identify the property or lease to which [it] [they] relate[s].
(*f*) See Regulation 8 of the Electricity (Vesting of Assets) Regulations, 1948.

EXPLANATORY NOTE

(This Note is not part of these Regulations, but is intended to indicate their general purport.)

1. *These Regulations contain supplementary provisions regarding the vesting of property, etc., in Electricity Boards.*

2. *Part I deals with registration of title.*

3. *Part II deals with local authorities, and in particular with property and rights the interest in which was acquired partly in their capacity as authorised undertakers and partly in other capacities;*

(*a*) *provision is made for determining whether property, rights, liabilities and obligations so acquired shall or shall not vest under the Act; rights over such property may be granted to the other party;*
(*b*) *provision is also made for leases to be severed, and for new provisions to be substituted in agreements made by the authority partly in that capacity and partly in other capacities;*
(*c*) *easements may be granted to an Electricity Board over other land of the local authority.*

4. *Parts III and IV deal with composite companies and non-statutory undertakings; similar provisions to those in Part II are applied, together with additional provisions, in each case, in accordance with the terms of the Act.*

5. *In Part V, Regulation* 13 *prescribes one month as the period within which the disclaimer of agreements or leases may be referred to arbitration.*

ELECTRICITY (ALLOCATION OF UNDERTAKINGS TO AREA BOARDS) ORDER, 1948

S.I. 1948 *No.* 484

March 10, 1948

The Minister of Fuel and Power in pursuance of section fourteen of the Electricity Act, 1947 (in this Order referred to as "the Act"), and of all other powers enabling him in that behalf hereby orders as follows:—

1. The Area Board in which there vest by virtue of the Act upon the vesting date the property, rights, liabilities and obligations hereinafter mentioned of the authorised undertakers specified in any Part of the Schedule

to this Order (being undertakers to whom Part II of the Act applies) shall be the Area Board specified in that Part of the said Schedule.

The property, rights, liabilities and obligations hereinbefore referred to are those mentioned in subsection (1) of section fourteen of the Act (but not within the proviso to subsection (2) of that section) or, in relation to undertakers being a local authority or composite company, the property so mentioned and held or used by the local authority or composite company wholly or mainly in their capacity as authorised undertakers and rights, liabilities and obligations so mentioned and acquired or incurred by the local authority or composite company in the said capacity. [796]

2. This Order shall come into operation on the thirty-first day of March nineteen hundred and forty-eight, and may be cited as the Electricity (Allocation of Undertakings to Area Boards) Order, 1948. [797]

* * * * *

SCHEDULE

PART I

The London Electricity Board

Barking Corporation
Barnes Corporation
Battersea Borough Council
Beckenham Corporation
Bermondsey Borough Council
Bethnal Green Borough Council
Bexley Corporation
Bromley Corporation
Dartford Corporation
East Ham Corporation
Erith Corporation
Fulham Borough Council
Hackney Borough Council
Hammersmith Borough Council
Hampstead Borough Council
Ilford Corporation
Islington Borough Council
Leyton Corporation
Poplar Borough Council
St. Marylebone Borough Council
St. Pancras Borough Council
Shoreditch Borough Council
Southwark Borough Council
Stepney Borough Council
Stoke Newington Borough Council
Walthamstow Corporation
West Ham Corporation
Willesden Corporation
Wimbledon Corporation
Woolwich Borough Council

Central London Electricity Ltd.
Chislehurst Electric Supply Co. Ltd.
City of London Electric Lighting Co. Ltd.
County of London Electric Supply Co. Ltd.
Foots Cray Electricity Supply Co. Ltd.
London Electric Supply Corporation Ltd.
London Power Co. Ltd.
Notting Hill Electric Lighting Co. Ltd.
South London Electric Supply Corporation Ltd.
South Metropolitan Electric Light & Power Co. Ltd. [798]

PART II

The South Eastern Electricity Board

Ashford Urban District Council
Bexhill Corporation
Brighton Corporation
Canterbury Corporation
Croydon Corporation
Dover Corporation
Eastbourne Corporation
East Grinstead Urban District Council
Epsom & Ewell Corporation
Faversham Corporation
Gillingham Corporation
Gravesend Corporation
Guildford Corporation
Hastings Corporation
Horsham Urban District Council
Hove Corporation
Kingston-upon-Thames Corporation
London & Home Counties Joint Electricity Authority
Maidstone Corporation
Margate, Broadstairs & District Electricity Board
Reigate Corporation
Tonbridge Urban District Council
Tunbridge Wells Corporation
Walton & Weybridge Urban District Council
Worthing Corporation

Burgess Hill Electricity Ltd.
Central Sussex Electricity Ltd.
Folkestone Electricity Supply Co. Ltd.
*Guildford Gas Light & Coke Co.
Herne Bay & District Electricity Supply Co. Ltd.
Horley & District Electricity Supply Co. Ltd.
Kent Electric Power Co.
Lewes & District Electric Supply Co. Ltd.
Peacehaven Electric Light & Power Co. Ltd.
Ramsgate & District Electric Supply Co. Ltd.
Richmond (Surrey) Electric Light & Power Co. Ltd.
Ringer & District Electricity Co. Ltd.
Seaford & Newhaven Electricity Ltd.
Sevenoaks & District Electricity Co. Ltd.
Sheerness & District Electric Supply Co. Ltd.
Shoreham & District Electric Lighting & Power Co. Ltd.
South-East Kent Electric Power Co. Ltd.
Steyning Electricity Ltd.
Sussex Electricity Supply Co. Ltd.
Uckfield Gas & Electricity Co.
Weald Electricity Supply Co. Ltd.
West Kent Electric Co. Ltd.
Whitstable Electric Co. Ltd.
Woking Electric Supply Co. Ltd.

[799]

PART III

The Southern Electricity Board

Aldershot Corporation
Basingstoke Corporation
Bournemouth Corporation
Brentford & Chiswick Corporation
Calne Corporation
Chichester Corporation
Dorchester Corporation
Ealing Corporation
Fareham Urban District Council
Heston & Isleworth Corporation
High Wycombe Corporation
Maidenhead Corporation
Marlborough Corporation
Oxford Corporation
Portland Urban District Council
Portsmouth Corporation
Reading Corporation
Southampton Corporation
Swindon Corporation
Weymouth & Melcombe Regis Corporation
Winchester Corporation
Witney Urban District Council

Alton District Electricity Co. Ltd.
*Ascot District Gas & Electricity Co.
Blandford Forum & District Electric Supply Co. Ltd.
*Bognor & District Gas & Electricity Co.
Bournemouth & Poole Electricity Supply Co. Ltd.
Brentford Electric Supply Co. Ltd.
Burford Electric Light & Power Co. Ltd.
Egham & Staines Electricity Co. Ltd.
*Farnham Gas & Electricity Co.
Isle of Wight Electric Light & Power Co. Ltd.
Metropolitan Electric Supply Co. Ltd.
*Mid Southern Utility Co.
Milford-on-Sea Electric Supply Co. Ltd.
Milton & Barton-on-Sea (Hants.) Electricity Supply Co. Ltd.
Petersfield Electric Light & Power Co. Ltd.
Ringwood Electric Supply Co. Ltd.
Salisbury Electric Light & Supply Co. Ltd.
Slough & Datchet Electric Supply Co. Ltd.
Uxbridge & District Electric Supply Co. Ltd.
Wessex Electricity Co.
West Hampshire Electricity Co. Ltd.
*Whitchurch (Hants.) Gas & Electricity Co. Ltd.
Wilton Electricity Supply Co. Ltd.
Windsor Electrical Installation Co. Ltd.
Woodstock & District Electrical Distribution Co. Ltd.
*Yorktown (Camberley) Gas & Electricity Co.

[800]

PART IV

The South Western Electricity Board

Barnstaple Corporation
Bath Corporation
Bridport Corporation
Bristol Corporation
Exeter Corporation
Lyme Regis Corporation
Plymouth Corporation
Plympton St. Mary Rural District Council
Taunton Corporation
Tiverton Corporation
Torquay Corporation

* Composite company.

Bideford & District Electricity Supply Co. Ltd.
Bridgwater & District Electric Supply & Traction Co. Ltd.
Brixham Gas & Electricity Co.
Bude Electric Supply Co. Ltd.
Burnham & District Electric Supply Co. Ltd.
Chudleigh Electric Light & Power Co. Ltd.
Cornwall Electric Power Co.
Culm Valley Electric Supply Co. Ltd.
Dawlish Electric Light & Power Co. Ltd.
East Devon Electricity Co. Ltd.
Exe Valley Electricity Co. Ltd.
Holsworthy Electric Supply Co. Ltd.
Ilfracombe Electric Light & Power Co. Ltd.
Lynton & Lynmouth Electric Light Co. Ltd.
Mid-Somerset Electric Supply Co. Ltd.
Minehead Electric Supply Co. Ltd.
North Somerset Electric Supply Co. Ltd.
Paignton Electric Light & Power Co. Ltd.
St. Austell & District Electric Lighting & Power Co. Ltd.
Salcombe Gas & Electricity Co. Ltd.
Seaton & District Electric Light Co. Ltd.
South Somerset & District Electricity Co. Ltd.
Teignmouth Electric Lighting Co. Ltd.
Wellington District Electricity Co. Ltd.
West Devon Electric Supply Co. Ltd.
Weston-super-Mare & District Electric Supply Co. Ltd. [801]

PART V

The Eastern Electricity Board

Aylesbury Corporation
Bedford Corporation
Clacton Urban District Council
Colchester Corporation
East Dereham Urban District Council
Felixstowe Urban District Council
Finchley Corporation
Great Yarmouth Corporation
Harwich Corporation
Hertford Corporation
Hitchin Urban District Council
Hornsey Corporation
Ipswich Corporation
King's Lynn Corporation
Lowestoft Corporation
Luton Corporation
Norwich Corporation
Peterborough Corporation
Southend-on-Sea Corporation
Thurrock Urban District Council
Watford Corporation

Aldeburgh Electric Supply Co. Ltd.
Bedfordshire, Cambridgeshire & Huntingdonshire Electricity Co.
Brentwood District Electric Co. Ltd.
Bungay Gas and Electricity Co. Ltd.
Cambridge Electric Supply Co. Ltd.
Chesham Electric Light & Power Co. Ltd.
Colne Valley Electric Supply Co. Ltd.
East Anglian Electric Supply Co. Ltd.
East Suffolk Electricity Distribution Co. Ltd.
Frinton-on-Sea & District Electric Light & Power Co. Ltd.
*Letchworth Electricity Ltd.
Newmarket Electric Light Co. Ltd.
Northmet Power Co.
Northwood Electric Light & Power Co. Co. Ltd.
Welwyn Garden City Electricity Supply Co. Ltd.
Wickford & District Electricity Supply Co. Ltd.
Wisbech Electric Light & Power Co. Ltd.

[802]

PART VI

The East Midlands Electricity Board

Ashbourne Urban District Council
Bolsover Urban District Council
Burton-upon-Trent Corporation
Chesterfield Corporation
Coventry Corporation
Derby Corporation
East Retford Corporation
Kettering Corporation
Leicester Corporation
Lincoln Corporation
Long Eaton Urban District Council
Loughborough Corporation
Mansfield Corporation
Newark Corporation
Nottingham Corporation
Nuneaton Corporation
Rugby Corporation
Sleaford Urban District Council
Spalding Urban District Council
Uttoxeter Urban District Council
Worksop Corporation

* Electricity Act, 1947, s. 14 (3) and Letchworth and District Electricity Special Order, 1947.

Boston & District Electric Supply Co. Ltd.
Derbyshire & Nottingham Electric Power Co.
Leicestershire & Warwickshire Electric Power Co.
Melton Mowbray Electric Light Co. Ltd.
Midland Electric Light & Power Co. Ltd.
Mid Lincolnshire Electric Supply Co. Ltd.
Northampton Electric Light & Power Co. Ltd.
Oakham Gas & Electricity Co. Ltd.
Rushden & District Electric Supply Co. Ltd.
Tamworth District Electric Supply Co. Ltd.
Urban Electric Supply Co. Ltd.
Wellingborough Electric Supply Co. Ltd.

[803]

PART VII

The Midlands Electricity Board

Birmingham Corporation
Cannock Urban District Council
Cheltenham Corporation
Gloucester Corporation
Leek Urban District Council
Lichfield Corporation
Malvern Urban District Council
Newcastle-under-Lyme Corporation
North West Midlands Joint Electricity Authority
Stafford Corporation
Stoke-on-Trent Corporation
Stone Urban District Council
Sutton Coldfield Corporation
Walsall Corporation
Warmley Rural District Council
West Bromwich Corporation
West Midlands Joint Electricity Authority
Wolverhampton Corporation
Worcester Corporation

Chasetown & District Electricity Co. Ltd.
Market Drayton Electric Light & Power Co. Ltd.
Midland Electric Corporation for Power Distribution Ltd.
Shropshire, Worcestershire & Staffordshire Electric Power Co.
Stroud Electric Supply Co. Ltd.
Thornbury & District Electricity Co. Ltd.
West Gloucestershire Power Co. Ltd.

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PART VIII

The South Wales Electricity Board

Aberdare Urban District Council
Abertillery Urban District Council
Ammanford Urban District Council
Barry Corporation
Bedwas & Machen Urban District Council
Bedwellty Urban District Council
Bridgend Urban District Council
Caerphilly Urban District Council
Cardiff Corporation
Cardiff Rural District Council
Cwmbran Urban District Council
Ebbw Vale Urban District Council
Gellygaer Urban District Council
Llandrindod Wells Urban District Council
Maesteg Urban District Council
Milford Haven Urban District Council
Mountain Ash Urban District Council
Mynyddislwyn Urban District Council
Neath Corporation
Neath Rural District Council
Newport Corporation (Mon.)
Ogmore & Gawr Urban District Council
Penarth Urban District Council
Penybont Rural District Council
Pontardawe Rural District Council
Pontypridd Urban District Council
Port Talbot Corporation
Rhondda Urban District Council
Risca Urban District Council
Swansea Corporation
Tredegar Urban District Council

Aberayron & District Electricity Supply & Power Co. Ltd.
Carmarthen Electric Supply Co. Ltd.
Chepstow Electric Lighting & Power Co. Ltd.
Gorseinon Electric Light Co. Ltd.
Llanelly & District Electric Supply Co. Co. Ltd.
Merthyr Electric Traction & Lighting Co. Ltd.
Monmouth Electricity Co. Ltd.
Pontypool Electric Light & Power Co. Ltd.
Porthcawl Electricity Co. Ltd.
South Wales Electric Power Co.
West Cambrian Power Co. Ltd.

[805]

PART IX

The Merseyside and North Wales Electricity Board

Aberystwyth Corporation
Bangor Corporation
Bethesda Urban District Council
Birkenhead Corporation
Caernarvon Corporation
Chester Corporation
Colwyn Bay Corporation
Congleton Corporation
Connah's Quay Urban District Council
Conway Corporation
Crewe Corporation
Dolgelly Urban District Council
Formby Urban District Council
Hawarden Rural District Council
Holyhead Urban District Council
Hoylake Urban District Council
Liverpool Corporation
Llandudno Urban District Council
Llanfairfechan Urban District Council
Llangollen Urban District Council
Menai Bridge Urban District Council
Mold Urban District Council
North Wales & South Cheshire Joint Electricity Authority
Oswestry Corporation
Penmaenmawr Urban District Council
Prestatyn Urban District Council
Rhyl Urban District Council
Ruthin Corporation
St. Helen's Corporation
Southport Corporation
Wallasey Corporation
Warrington Corporation
Wrexham Corporation

Borth & Ynyslas Electric Supply Co. Ltd.
Electricity Distribution of North Wales and District Ltd.
Machynlleth Electric Supply Co. Ltd.
Mersey Power Co. Ltd.
Mid-Cheshire Electricity Supply Co. Ltd.
North Wales Power Co. Ltd.
Towyn, Aberdovey & District Electricity Co. Ltd.
Yale Electric Power Co. Ltd.

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PART X

The Yorkshire Electricity Board

Adwick-le-Street Urban District Council
Barnoldswick Urban District Council
Barnsley Corporation
Batley Corporation
Bingley Urban District Council
Bradford Corporation
Bridlington Corporation
Brighouse Corporation
Castleford Urban District Council
Cleethorpes Corporation
Colne Valley Urban District Council
Dearne District Electricity Board
Dewsbury Corporation
Doncaster Corporation
Earby Urban District Council
Elland Urban District Council
Gainsborough Urban District Council
Grimsby Corporation
Halifax Corporation
Hebden Royd Urban District Council
Heckmondwike Urban District Council
Holmfirth Urban District Council
Huddersfield Corporation
Ilkley Urban District Council
Keighley Corporation
Kingston-upon-Hull Corporation
Leeds Corporation
Louth Corporation
Mexborough Urban District Council
Mirfield Urban District Council
Morley Corporation
Normanton Urban District Council
Ossett Corporation
Pudsey Corporation
Rotherham Corporation
Scunthorpe Corporation
Sheffield Corporation
Shipley Urban District Council
Skipton Urban District Council
Spenborough Urban District Council
Todmorden Corporation
Wakefield Corporation

Buckrose Light & Power Co. Ltd.
Craven Hydro-Electric Supply Co. Ltd.
Electrical Distribution of Yorkshire Ltd.
North Lincolnshire & Howdenshire Electricity Co. Ltd.
*Pontefract Electricity Co. Ltd.
South East Yorkshire Light & Power Co. Ltd.
Tadcaster Electricity Co. Ltd.
Yorkshire Electric Power Co.

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* Electricity Act 1947, s. 14 (3) and Pontefract Electricity Special Order, 1947.

PART XI

The North Eastern Electricity Board

Amble Urban District Council
Crook & Willington Urban District Council
Darlington Corporation
Eston Urban District Council
Guisborough Urban District Council
Harrogate Corporation
Middlesbrough Corporation
Newcastle-upon-Tyne Corporation
Redcar Corporation
Richmond (Yorks) Corporation
Scarborough Corporation
Seaham Urban District Council
Skelton & Brotton Urban District Council
South Shields Corporation
Stanley Urban District Council
Stockton-on-Tees Corporation
Sunderland Corporation
Tynemouth Corporation
West Hartlepool Corporation
Whitby Urban District Council
York Corporation

Askrigg & Reeth Electric Supply Co. Ltd.
Hawes Electric Lighting Co. Ltd.
Newcastle & District Electric Lighting Co. Ltd.
North Eastern Electric Supply Co. Ltd.

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PART XII

The North Western Electricity Board

Accrington Corporation
Alderley Edge & Wilmslow Electricity Board
Ashton-in-Makerfield Urban District Council
Ashton-under-Lyne Corporation
Atherton Urban District Council
Bacup Corporation
Barrow-in-Furness Corporation
Blackburn Corporation
Blackpool Corporation
Bolton Corporation
Bredbury & Romiley Urban District Council
Brierfield Urban District Council
Burnley Corporation
Bury Corporation
Buxton Corporation
Carlisle Corporation
Cheadle & Gatley Urban District Council
Clitheroe Corporation
Colne Corporation
Darwen Corporation
Eccles Corporation
Farnworth Corporation
Fleetwood Corporation
Grange Urban District Council
Haslingden Corporation
Hazel Grove & Bramhall Urban District Council
Heywood Council
Hindley Urban District Council
Horwich Urban District Council
Kendal Corporation
Lancaster Corporation
Leigh Corporation
Littleborough Urban District Council
Lytham St. Anne's Corporation
Macclesfield Corporation
Manchester Corporation
Marple Urban District Council
Middleton Corporation
Millon Rural District Council
Milnrow Urban District Council
Morecambe & Heysham Corporation
Nelson Corporation
New Mills Urban District Council
Newton-le-Willows Urban District Council
Oldham Corporation
Padiham Urban District Council
Preston Corporation
Radcliffe Corporation
Rawtenstall Corporation
Rochdale Corporation
Sale Corporation
Salford Corporation
Stalybridge, Hyde, Mossley & Dukinfield Transport & Electricity Board
Stockport Corporation
Stretford & District Electricity Board
Swinton & Pendelbury Corporation
Thornton Cleveleys Urban District Council
Turton Urban District Council
Ulverston Urban District Council
Whitehaven Corporation
Whitworth Urban District Council
Wigan Corporation
Workington Corporation

Altrincham Electric Supply Ltd.
Cark & District Electricity Co. Ltd.
Keswick Electric Light Co. Ltd.
Lancashire Electric Power Co.
Mid-Cumberland Electricity Co. Ltd.
Ormskirk Electric Supply Co. Ltd.
Penrith Electric Supply Co. Ltd.
Sedbergh Electricity Supply Co. Ltd.
Settle & District Electricity Co. Ltd.
South Cumberland Electricity Supply Co. Ltd.
Trent Valley & High Peak Electricity Co. Ltd.
Westmorland & District Electricity Supply Co. Ltd.
Windermere & District Electricity Supply Co. Ltd.

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PART XIII

The South East Scotland Electricity Board

Borrowstounness Corporation
Denny & Dunipace Corporation
Edinburgh Corporation
Falkirk Corporation
Kirkcaldy Corporation
North Berwick Corporation
Stirling Corporation
West Lothian County Council

Fife Electric Power Co.
Lothians Electric Power Co.
Musselburgh & District Electric Light & Traction Co. Ltd.
Scottish Central Electric Power Co.
Scottish Midlands Electricity Supply Ltd.
Scottish Southern Electric Supply Co. Ltd.

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PART XIV

The South West Scotland Electricity Board

Airdrie Corporation
Ayrshire Electricity Board
Coatbridge Corporation
Dumbarton Corporation (assets owned by Electric Supply Corporation Ltd.)
Dumfries Corporation
Dumfriesshire County Council
Dunbartonshire County Council
Glasgow Corporation
Greenock Corporation
Hamilton Corporation
Helensburgh Corporation
Kirkcudbright County Council
Lanarkshire County Council
Motherwell & Wishaw Corporation
Paisley Corporation

Clyde Valley Electrical Power Co.
Electric Supply Corporation Ltd.
Galloway Water Power Co.
Lanarkshire Hydro Electric Power Co.
Skelmorlie Electric Supply Co. Ltd.
Strathclyde Electricity Supply Co. Ltd.
Wigtownshire Electricity Co. Ltd.

[811]

EXPLANATORY NOTE

(*This Note is not part of the Order, but is intended to indicate its general purport.*)

This Order determines in which Area Boards the property, rights, liabilities and obligations of the various authorised undertakers are to vest.

ELECTRICITY (PRICE CONTROL) (REVOCATION) ORDER, 1948

S.I. 1948 *No.* 596

March 22, 1948

General note.—For the Electricity (Price Control) Order, 1948, see p. 262, *ante*.

The Minister of Fuel and Power in exercise of the powers conferred upon him by Regulation ninety-eight of the Defence (General) Regulations, 1939, as having effect by virtue of the Supplies and Services (Transitional Powers)

Act, 1945, as extended by the Supplies and Services (Extended Purposes) Act, 1947, hereby orders as follows :—

1. The Electricity (Price Control) Order, 1948, is hereby revoked. [812]

2. This Order shall come into operation on the first day of April, nineteen hundred and forty-eight, and may be cited as the Electricity (Price Control) (Revocation) Order, 1948. [813]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order revokes the Electricity (Price Control) Order, 1948, which prohibited discounts, rebates and reductions in rates of charge.

ELECTRICITY (CONSULTATIVE COUNCIL) (AREAS) REGULATIONS, 1948

S.I. 1948 *No.* 898

April 28, 1948

The Minister of Fuel and Power, in exercise of the powers conferred upon him by section seven of the Electricity Act, 1947, and of all other powers enabling him in that behalf, hereby makes the following Regulations :—

1. Appointment and tenure of office of members, chairman and deputy chairman.—(1) The appointment of a member of the Consultative Council for any area (in these Regulations referred to as " a council ") shall be for such term not exceeding five years as may before his appointment be determined by the Minister; and shall be subject to the provisions of the next following Regulation, and to any conditions notified to him in writing by the Minister.

(2) Any member of a council may, on the expiry of his term of office, if eligible, be reappointed.

(3) The Minister will appoint a member of each council to be chairman, and another member to be deputy-chairman, of that council. [814]

2. Vacation of office.—(1) A member of a council appointed in pursuance of paragraph (*a*) of subsection (2) of section seven of the Act, shall remain a member of that council only so long as he is a member of a local authority in the area.

(2) Where any member of a council :—

(*a*) is absent, unless for a reason approved by the Minister, from every meeting of that council during six consecutive months ; or

(*b*) becomes in the opinion of the Minister unfit to continue as a member or incapable of performing his duties ;

the Minister may declare the office of that member to be vacant ; whereupon he shall cease to be a member of that council.

(3) The chairman, deputy-chairman and any member of a council may resign their respective appointments by one month's notice in writing given to the Minister. [815]

3. Frequency and constitution of meetings.—(1) Each council shall meet as often as may be necessary for the proper discharge of their duties ; and the period between any two consecutive meetings shall not be longer than three months.

(2) Where members of a council numbering one half or more of the total number for the time being deliver to the secretary of the council a requisition in writing for a meeting, the chairman, or if the chairman is not available, the deputy-chairman, shall ensure that a meeting is held before the expiry of ten days from the delivery of the requisition.

(3) No meetings of a council shall be held unless either the chairman or the deputy-chairman is present:

Provided that if:—

(*a*) by reason of vacancy in the office, or of serious illness, neither of them is available; or

(*b*) a meeting is not held before the expiry of ten days from the delivery of a requisition;

the council may meet and pass provisional resolutions which shall have effect until the duly constituted meeting next after they were passed, and which may be ratified at that meeting.

(4) At any meeting of a council, one half of the total number for the time being of the members shall be a quorum.

(5) All acts done at any meeting of a council shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of a person purporting to be a member of the council, be valid as if that defect had not existed. [816]

4. Voting.—Every resolution of a council shall be passed by the votes of the members of the council present and voting, or, in case of difference between them, of the majority of those members; and in the event of an equality of votes, the proposal in question shall be held to have been rejected. [817]

5. Minutes.—(1) Every council shall keep, or cause to be kept, minutes of their proceedings; and a record in any such minutes specifying the terms of a resolution passed at any meeting, and, in the case of a resolution that a representation be made to the Central Authority or the Minister, the number of votes cast for and against it, shall, if signed by the person purporting to be acting as chairman of the meeting to which the minutes relate, or of a meeting at which they were read, be evidence of those proceedings.

(2) A copy of any part of the minutes of the proceedings of any council shall, if purporting to be certified by the secretary of that council to be a true copy of that part of those minutes, be evidence of the proceedings of the council to which that part of the minutes relates.

(3) A meeting to which any such minutes as aforesaid relate shall, unless the contrary be proved, be deemed to have been regularly convened and constituted. [818]

6. Representations and references.—Where any representation is made to a council by a consumer or other person requiring a supply of electricity in the area, or where any matter is referred to a council by the Area Board of the area, that council shall consider the matter in question as soon as practicable and, in any event, before the expiry of three months after the representation is made, or the matter referred, as the case may be. [819]

7. Execution of documents.—Any document requiring to be executed by or on behalf of any council shall be signed by the chairman and secretary of that council, or by such one or more of the members and officers of the council as the council may in any particular case determine. [820]

8. Interpretation.—(1) In these Regulations the following expressions have the meanings hereby assigned to them respectively, that is to say:—

"the Act" means the Electricity Act, 1947;

" a council " has the meaning assigned to it by paragraph (1) of Regulation one ;

" the Minister " means the Minister of Fuel and Power.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [821]

9. Commencement and citation.—These Regulations shall come into operation on the third day of May, nineteen hundred and forty-eight ; and may be cited as the Electricity (Consultative Council) (Areas) Regulations, 1948. [822]

* * * * *

EXPLANATORY NOTE

(This Note is not part of these Regulations, but is intended to indicate their general purport.)

These Regulations regulate the chairmanship, terms of membership and proceedings of Consultative Councils in the areas for which Area Boards are established under the Electricity Act, 1947.

CASES

Electricity—Supply—Conversion from direct to alternating current—No contract between occupiers and undertakers—Right to supply of direct current—Expense of changing consumers' installation—Strand District Electric Lighting Order, 1895, *art.* 27—*Electricity Supply Regulations*, 1937, *reg.* 34 (*a*), (*b*).

On June 30, 1947, the plaintiffs acquired from S. A., Ltd., certain premises which were let off in flats to separate tenants, the plaintiffs being responsible for the electric lighting on the stairs and for the lifts which were run by electricity. The electric current for the lifts had hitherto been at the rate of 100 volts direct current, but the defendants, the electricity undertakers for the district, had been for some time past in the process of changing over to 230 volts alternating current. S. A., Ltd., on taking over the premises, had been asked by the defendants to enter into a contract and were notified that the current was to be changed. In view of the fact that the S. A., Ltd.'s, appliances on the property were adapted for 100 volts direct current, a special agreement was entered into between S. A., Ltd., and the defendants that direct current would continue to be supplied for the purpose of the appliances for three months from June 2, 1946, and thereafter at the will of the defendants.

The defendants were not informed of the fact that the plaintiffs had taken over the premises until August 11, 1947, and on September 3, 1947, they wrote to the plaintiffs enclosing a form of contract and informing them that the supply would be alternating current and that the plaintiffs' appliances on the premises would have to be altered to suit it. By art. 27 of the Strand District Electric Lighting Order, 1895, undertakers, on being required to do so by the owner or occupier of premises situated within a prescribed distance from the undertakers' distributing mains, were to " give and continue to give a supply of energy for such premises " in accordance with the provisions of the Order, subject to the following conditions (*inter alia*) : (*a*) that the owner or occupier should serve a notice on the undertakers specifying certain particulars, and (*b*) that, if required by the undertakers to do so, he was to

enter into a written contract with them in regard to the receipt of and payment for the supply. By a proviso to the article, the undertakers were not to be compelled to supply any premises unless satisfied that the apparatus therein was in good order and not calculated to affect injuriously the use of energy by the undertakers or other persons.

By the Electricity Supply Regulations, 1937, a " consumer " is defined as " any body or person supplied or entitled to be supplied with energy by the undertakers." By reg. 34 the undertakers are required to declare the type of current, frequency and voltage at supply terminals " before commencing to give a supply of energy to any consumer " and they are not to alter these, except within certain permissible variations, without the consent of the Electricity Commissioners. By reg. 35, the undertakers are required to maintain a constant supply without change of the neutral conductor unless otherwise allowed by the Electricity Commissioners.

The consent of the Electricity Commissioners to the change over from direct to alternating current had been given on January 19, 1937, on the conditions (*inter alia*) that a notice of their intention to carry out the change over be affected and that the defendants were to be responsible for the cost of the necessary alterations to consumers' installations. It was contended by the plaintiffs that the defendants were under a statutory duty to continue to supply to them the 100 volts direct current, the fact that they themselves had not entered into a contract being immaterial because the provision in regard to a written contract applied only to the first owner or occupier who required undertakers to supply current to the premises. It was further contended that, under the conditions attached to the consent of the Electricity Commissioners to the change over, the expense of any necessary alterations to their installations was to be borne by the defendants :—

Held : (i) under art. 27 of the Strand Order, every occupier of premises was required to enter into a written contract if requested to do so by the electricity company and the fact that a previous occupier had entered into a contract did not entitle a subsequent occupier as of right to a supply. Accordingly, until the plaintiffs had entered into a contract with the defendants, they were not entitled to demand a supply, and when they did enter into a contract, they would be entitled only to the type of current declared by the defendants in accordance with reg. 34 (*a*) of the regulations of 1937. If the type of current which the defendants proposed to supply did not fit the plaintiffs' installation, the plaintiffs would have to alter their installation to fit the supply.

(ii) the condition imposed by the Electricity Commissioners requiring the defendants to pay for the cost of any necessary alterations to consumers' installations applied only in the case of consumers who had already entered into contracts with the defendants and to whom a declaration in regard to the type of current, voltage and frequency, had been made in accordance with reg. 34 (*a*) of the regulations of 1937.

Stevens v. *Aldershot Gas, Water and District Lighting Co.* (*now Mid-Southern District Utility Co.*) (1932), 102 L. J. (K. B.) 12, *distinguished.*

Husey v. *London Electric Supply Corpn.*, [1902] 1 Ch. 411, *applied.*—LONDON INVESTMENT AND MORTGAGE CO., LTD. *v.* CENTRAL LONDON ELECTRICITY, LTD., [1948] Ch. 266; [1948] 1 All E. R. 886; [1948] L. J. R. 881; 205 L. T. Jo. 134; 64 T. L. R. 135. [823]

FACTORIES

ORDERS, CIRCULARS AND MEMORANDA :— PAGE
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ORDERS, CIRCULARS AND MEMORANDA

FACTORIES (CLEANLINESS OF WALLS AND CEILINGS) (AMENDMENT) ORDER, 1948

S.I. 1948 *No.* 1674

July 19, 1948

The Minister of Labour and National Service by virtue of the powers conferred on him by section 1 of the Factories Act, 1937, and the Transfer of Functions (Factories, &c., Acts) Order, 1946, and of all other powers in that behalf hereby makes the following Order :—

1. Short title, commencement and interpretation.—(1) This Order may be cited as the Factories (Cleanliness of Walls and Ceilings) (Amendment) Order, 1948, and shall come into operation on the 1st day of August, 1948, and this Order and the Factories (Cleanliness of Walls and Ceilings) Order, 1938 (hereinafter referred to as " the principal Order ") may be cited together as the Factories (Cleanliness of Walls and Ceilings) Orders, 1938 and 1948.

(2) The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament. [824]

2. Amendment of the First Schedule to the principal Order.—The principal Order shall have effect as though in Part B of the First Schedule thereto there were substituted for the words " foundries other than foundries in which brass casting is carried on " the words " foundries not being iron foundries or foundries in which brass casting is carried on ". [825]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Order, but is intended to indicate its general purport.*)

This Order, made under Section 1 *of the Factories Act,* 1937 (*which relates to cleanliness of factories*) *narrows, as regards iron foundries, the scope of an exemption from the periodic washing, painting, whitewashing, or colourwashing of walls and tops of rooms which was provided for in the Factories* (*Cleanliness of Walls and Ceilings*) *Order,* 1938.

FINANCE

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STATUTES

PUBLIC WORKS LOANS ACT, 1947

(11 & 12 Geo. 6, c. 13)

PRELIMINARY NOTE

S. 1 of this Act makes provision similar to that made by previous Public Works Loans Acts for the issuing to the Public Works Loan Commissioners of sums, in this case up to £250 millions, for the purpose of local loans until the next Act for that purpose. Ss. 3 and 4 together with the Schedule, which are also customary form in Public Works Loans Acts, provide for writing off the principal of, and interest on, certain existing loans.

Under the Public Works Loans (No. 2) Act, 1946, s. 2 (1) (39 Halsbury's Statutes 320), the Loan Commissioners were empowered to enter into undertakings to make further loans, including undertakings under which the loan or any instalment thereof might fall to be advanced after the expiration of the issue period current at the time the undertaking was entered into. By s. 2 (2) of that Act the aggregate of their outstanding commitments together with advances during the last issue period were limited to £500 millions. S. 2 of the present Act provides that the limit for the current issue period is to be £400 millions, this representing a greater reduction than *prima facie* appears.

In relation to ss. 1 and 2, see, further, ss. 1 and 2 of the Public Works Loans Act, 1948, *post*. [826]

An Act to grant money for the purpose of certain local loans out of the Local Loans Fund and for other purposes relating to local loans. [827]

[18th December, 1947.]

1. Grants for public works.—(1) There may be issued by the National Debt Commissioners for the purpose of local loans by the Public Works Loan Commissioners any sum or sums not exceeding in the whole the sum of two hundred and fifty million pounds. [828]

(2) The sums so issued shall be issued during a period beginning with the passing of this Act and ending on the day on which a further Act granting money for the purposes of those loans comes into operation, and in accordance with the provisions of the National Debt and Local Loans Act, 1887. [829]

General note.—This section is in identical terms with s. 1 of the Public Works Loans (No. 2) Act, 1946 (39 Halsbury's Statutes 320); see also s. 1 of the Public Works Loans Act, 1948, *post*.

National Debt Commissioners.—For the constitution of the Commissioners, see s. 14 of the National Debt Reduction Act, 1786 (16 Halsbury's Statutes 27).
National Debt and Local Loans Act, 1887.—12 Halsbury's Statutes 282.

2. Limit on commitments by Public Works Loan Commissioners.—The period aforesaid shall be an "issue period" within the meaning of section two of the Public Works Loans (No. 2) Act, 1946 (which makes provision as to undertakings by the Public Works Loan Commissioners to grant loans), and the aggregate of—

(*a*) the commitments of the said Commissioners outstanding at any time during the said issue period in respect of undertakings entered into by them (whether during or before the beginning of that period) to grant local loans, and

(*b*) the advances in respect of local loans made by the said Commissioners during that period up to that time.

shall not exceed the sum of four hundred million pounds. [830]

General note.—S. 2 (4) of the Public Works Loans (No. 2) Act, 1946 (39 Halsbury's Statutes 321), provides that in that Act the expression "issue period" is to mean a period beginning with the coming into operation of that Act and ending on the day on which a further Act granting money for the purposes of local loans comes into operation, and in any such further Act that expression is to have a corresponding meaning unless the contrary intention appears.
See, further, s. 2 of the Public Works Loans Act, 1948, *post*.

3. Certain debts not to be reckoned as assets of Local Loans Fund.—Whereas it is expedient that the principal of the several local loans specified in the table contained in Part I of the Schedule to this Act should, to the extent specified in the last column of that table, not be reckoned as assets of the Local Loans Fund established under the National Debt and Local Loans Act, 1887:

Now, therefore, the principal of the said loans to the extent aforesaid shall be written off from the assets of the Local Loans Fund, and the provisions of section fifteen of the said Act shall, so far as applicable, apply thereto. [831]

General note.—This section is in almost identical terms with s. 3 of the Public Works Loans Act, 1946 (39 Halsbury's Statutes 312).
National Debt and Local Loans Act, 1887.—12 Halsbury's Statutes 282. The Local Loans Fund was established by s. 7 of that Act, s. 15 of which provides for the writing off of losses.

4. Remission of interest of local loan.—Whereas the principal of the local loan specified in the table contained in Part II of the Schedule to this Act has been repaid, and arrears of interest, of the amount specified in the last column of that table, are irrecoverable:

Now, therefore, the said arrears of interest shall be remitted. [832]

Shall be remitted.—This provision is comparable with s. 4 of the Public Works Loans Act, 1946 (39 Halsbury's Statutes 312).

5. Short title.—This Act may be cited as the Public Works Loans Act, 1947. [833]

Section 4 SCHEDULE

LOANS BY THE PUBLIC WORKS LOAN COMMISSIONERS UNDER THE AGRICULTURAL CREDITS ACT, 1923

PART I

Name of Borrower	*Amount of Loan*	*Amount to be written off*
	£	£ s. d.
Mr James Baxter	2,300	2,229 15 0
Mr. Thomas Cook	19,275	9,456 1 6
Mr. Ernest William Nickerson and Mr. Charles Alfred Peck	7,500	485 9 8
Mr. Thomas Ford Robinson	13,207	4,797 1 2

[834]

PART II

Name of Borrower	Amount of Loan	Amount of interest to be remitted
	£	£ s. d.
Mr Alexander Fowlie and Mrs. Mary Ann Fowlie.	1,785	400 7 7

[835]

Agricultural Credits Act, 1923.—1 Halsbury's Statutes (2nd Edn.) 613. This Act was passed to facilitate financial advances and the giving of credit for purposes connected with agriculture.

LOCAL GOVERNMENT ACT, 1948

(11 & 12 Geo. 6, c. 26)

PRELIMINARY NOTE

Part I of the Local Government Act, 1948, which received the Royal Assent on March 24, 1948, provides for the termination, as from April 1, 1948, of the Exchequer Grants payable to local authorities under the Local Government Acts, 1929 to 1946 (10 Halsbury's Statutes 883 ; 30 Halsbury's Statutes ; 34 Halsbury's Statutes 175 ; 39 Halsbury's Statutes 239), and for their replacement as from that date by new Exchequer Equalisation Grants, supplemented, for the first five years thereafter, by Exchequer Transitional Grants. In addition, this Part of the Act contains a number of miscellaneous provisions, including special provision as to the payment of grants in certain cases for the transitional period before Part II of the National Health Service Act, 1946 (39 Halsbury's Statutes 523), came into force on July 5, 1948, and the discontinuance of burden payments on changes of boundary.

The Local Government Act, 1929, s. 86 (10 Halsbury's Statutes 938), provided for the annual payment of general exchequer contributions, or block grants, towards the expenses of local authorities in counties and county boroughs. These grants were to be paid during " fixed grant periods," the first period being for three years from the commencement of the Act (1930–1933) and the second for the four succeeding years (1933–1937), while the third and subsequent periods were each to be of five years' duration. The amount of the grant was to be revised for each new period. The third fixed grant period, which would normally have terminated on March 31, 1942, was extended by the Local Government (Financial Provisions) Act, 1941 (34 Halsbury's Statutes 175), until such date after the expiration of the Emergency Powers (Defence) Act, 1939 (32 Halsbury's Statutes 930), as Parliament should determine. At the same time the amount of the grant for the extended period was stabilised at £46,172,000 which was the amount fixed by the Local Government (Financial Provisions) Act, 1937 (30 Halsbury's Statutes 377), for each year in the third fixed grant period 1937–1942.

The Local Government (Financial Provisions) Act, 1946 (39 Halsbury's Statutes 239), provided for the payment towards local government expenses in counties and county boroughs of " Interim Supplementary Exchequer Contributions " in respect of the years beginning on April 1, 1945, 1946 and 1947, respectively. These contributions, which were additional to the stabilised block grants of £46,172,000, were fixed for those years respectively at £10,000,000, £11,000,000 and £12,000,000. In addition to the General and Interim Supplementary Exchequer Contributions, grants were payable during the third fixed grant period under the Midwives Act, 1936, s. 4 (29 Halsbury's Statutes 268), and the Cancer Act, 1939, s. 2 (32 Halsbury's Statutes 254), to off-set the additional expenditure imposed on local authorities by those Acts.

The present Act terminates the third fixed grant period for the purposes of all enactments as from March 31, 1948, and provides that no Exchequer Grants are to be payable under the Local Government Acts, 1929 to 1946, *supra*, for the year 1948–49 or any subsequent year. This provision for termination of Exchequer Grants is, however, subject to two exceptions covering the transitional period between March 31, 1948, and the coming into force of Part II of the National Health Service Act, 1946 (39 Halsbury's Statutes 523), on July 5, 1948 (see S.I. 1948 No. 112, title NATIONAL HEALTH SERVICE, *post*). First, Exchequer Grants

under the Midwives Act, 1936, s. 4, *supra*, and the Cancer Act, 1939, s. 2, *supra*, and certain other financial payments connected with maternity and child welfare and other health services were continued until July 4, 1948 (s. 12); and, secondly, special grants equal to a "relevant fraction" of the Exchequer Grants payable to local authorities under the Local Government Acts, 1929 to 1946, *supra*, for the year 1947–48, less certain deductions, were payable in respect of this period (s. 13). The special grant is deducted for the purpose of computing the Exchequer Equalisation Grant, *infra*, but is left out of account in computing the Exchequer Transitional Grant, *infra* (s. 13 (6), (7)).

New grants, known as Exchequer Equalisation Grants, are to be paid for the year 1948–49 and for each subsequent year to the council of every county or county borough whose rateable value for the year is less than the standard rateable value for that county or county borough for that year, the amount by which the rateable value falls short of the standard rateable value being known as the rateable value credited to that county or county borough (s. 2).

The standard rateable value of a county or county borough for any year, which is a proportion of the rateable value for England and Wales for that year, is arrived at by the following formula :—

$$\text{Standard Rateable Value} = \frac{\text{Rateable value for England and Wales} \times \text{Weighted population of the county or county borough}}{\text{Weighted population of England and Wales}}$$

The weighted population of a county or county borough is the population of the county or county borough plus the number of children under fifteen and, in the case of a county whose population divided by the road-mileage is less than seventy, plus also one-third of the additional population needed in order that the population divided by the road mileage should be seventy.

The amount of an Exchequer Equalisation Grant is to be a fraction, known as "the relevant fraction," of the excess of the standard rateable value of an area over its rateable value (s. 2), this fraction being arrived at by dividing the relevant local expenditure, as defined in s. 4 (2), by the sum of the rateable value credited and the product of a rate of 20*s.* in the pound (s. 4).

The total amounts of the new grants will be revised annually and will not be known until local government expenditure for the year has been ascertained, but it has been officially estimated that after allowing for the transfer of functions under the National Health Service Act, 1946 (39 Halsbury's Statutes 515) and the National Assistance Act, 1948, title PUBLIC ASSISTANCE, *post*, they will show a considerable net saving to the rates.

Additional grants, called Exchequer Transitional Grants, are to be paid in certain cases to the councils of counties and county boroughs during the first five years. The object of these grants is to assure to each county as a whole and to each county borough an initial gain equivalent to a rate of 6*d.* in the pound in the year 1948–49 after allowing for reductions in local authority expenditure as a result of the coming into force of Part II of the National Health Service Act, 1946 (39 Halsbury's Statutes 523), and the National Assistance Act, 1948, title PUBLIC ASSISTANCE, *post*, and the introduction of the new education grants (see the Education (Local Education Authorities) Grant Regulations, 1948, S.I. 1948 No. 334). An Exchequer Transitional Grant will be paid to a local authority whose income from grants, after the allowances have been made, is either reduced or is increased by less than the product of a rate of 6*d.* in the pound. The amount of the grant in 1948–49 will be the sum required to provide a gain of 6*d.*, and in the subsequent four years will be that amount reduced by one-fifth each year (s. 5).

The Act contains provisions similar to those of the Local Government Act, 1929, ss. 104, 106 (10 Halsbury's Statutes 948, 949), enabling the Minister of Health to reduce the amount of a grant (s. 6) and empowering him to pay a council's contribution to voluntary associations out of sums payable as grants when so requested by a council (s. 8).

A county council must pay every year to each district council in the county an amount, estimated by the Minister of Health, equal to a fraction of the aggregate of the Exchequer Equalisation Grants payable for that year to county councils in England and Wales outside London. The fraction in question is one-half of the population of a borough or urban district and one-quarter of the population

of a rural district divided in each case by the aggregate of the population of all counties in England and Wales outside London. If the councils concerned agree, payment may be effected, in whole or in part, by deduction from the amount due under a precept (s. 9). Corresponding provision is made in the case of London for payments by the London County Council to the metropolitan boroughs, the amount of such payments being left to be determined by a scheme made by the Minister (s. 10).

Grants payable to local health authorities under the National Health Service Act, 1946, s. 53 (1) (39 Halsbury's Statutes 559), instead of being determined by regulations, are now fixed at one-half of the expenditure in respect of which the grant is made, subject to reduction by the Minister under like circumstances as apply to Exchequer Equalisation Grants (s. 7).

Investigations are to be made into the working of the provisions as to the amount of payments to local authorities under Part I of the Act at five-yearly intervals beginning with the year (either 1952 or 1953) in which the new valuation lists under Part III of the Act, title RATES AND RATING, *post*, come into force (s. 14).

No provision is to be made for burden payments under the Local Government Act, 1933, s. 152 (1) (*b*) (26 Halsbury's Statutes 390), in respect of alterations of local government boundaries or other changes taking place after March 31, 1948 (s. 11).

Part VI of the Act substantially implements the recommendations made in the Report (Cmd. 7126) of the Committee of which Lord Lindsay was chairman, appointed jointly by the Minister of Health and the Secretary of State for Scotland, to consider the question of the expenses of members of local authorities.

Provision is made for the payment of allowances to members of the local government and other bodies specified in s. 111 or regulations made under it (see the Local Government (Allowances to Members) (Prescribed Bodies) Regulations, 1948, S.I. 1948 No. 1643, *post*). These allowances are of three kinds: (1) financial loss allowance; (2) travelling allowance; and (3) subsistence allowance.

A financial loss allowance will be payable in respect of (*a*) loss of earnings which the member would otherwise have made; and (*b*) additional expense to which he would not otherwise have been subject (other than expense on travelling or subsistence). This allowance is not to exceed certain specified amounts and will not be payable to parish councillors in respect of duties performed within their parishes (s. 2).

A travelling or subsistence allowance will be payable, as the name implies, in respect of expenditure incurred on travelling or subsistence, except in certain cases where expenditure is likely to be small (*e.g.* where the duty is performed within three miles of the member's residence). Rates of travelling and subsistence allowances are to be determined by the body responsible (generally the body of which the claimant is a member) but may not exceed those prescribed (s. 113) (see the Local Government (Members' Allowances) Regulations, 1948, S.I. 1948 No. 1784, *post*).

In the case of all three allowances, the loss of earnings or expense must have been necessarily suffered or incurred by the member for the purpose of enabling him to perform an approved duty, as defined in s. 115, as a member of his body (ss. 112 (1), 113 (1)). The body responsible for paying the allowances is specified in s. 114, and is generally the body as a member of which the applicant performs the duty. Subject to application being made in the prescribed form (see S.I. 1948 No. 1784, *supra*) the payment of an allowance is obligatory on the said body.

Certain existing powers of paying travelling expenses are consequentially repealed, subject to a saving with regard to conference expenses for educational purposes (see now the Local Government (Conferences) Regulations, 1948, S.I. 1948 No. 1932, *post*); and any power under any other Act of paying expenses, other than travelling expenses, must now be exercised in accordance with this Part of this Act (s. 114 (2), (3)).

Expenditure on allowances will not be taken into account for the purpose of determining any sums payable to a body out of moneys provided by Parliament other than Exchequer Equalisation Grants (s. 114 (4)).

In addition, Part VI of the Act authorises the payment of a reasonable allowance to the chairman of a district council to enable him to meet the expenses of his office (s. 116).

Part VII of the Act contains miscellaneous amendments of local government law of which a number come within the scope of this title. The Minister is empowered to make regulations providing that stock issued by a local authority whether before or after the Act shall be transferable in law only by instrument in writing (s. 125). A county council is authorised with the Minister's consent to contribute a sum to defray the whole or any part of a district council's expenses (s. 126). By s. 128 the maximum liability which may be incurred by a county council, including the London County Council, or by a metropolitan borough without a resolution passed on an estimate submitted by the finance committee is raised from £50 to £100. Local authorities are authorised to pay subscriptions to local government associations (s. 129), to insure their members against accidents (s. 130), and to assist local bodies engaged in certain activities such as the development of local trade and activities beneficial to the area or its residents (s. 136). The law relating to the disability of members of local authorities for voting on questions concerning contracts in which they have a pecuniary interest is modified by s. 131.

Part VIII, the final Part of the Act, is of general application. It provides for compensating persons suffering loss of employment or loss or diminution of emoluments attributable to the operation of the Act (s. 140), and the section following deals with the application of sums received by local authorities under Part I. In addition, Part VIII contains terms as to regulations (s. 142), expenses (s. 143), and interpretation (s. 144).

Other provisions of this Act are included in the titles ELECTRICITY SUPPLY, *ante*; and HIGHWAYS; MEMORIALS, WAR AND OTHER; MUNICIPAL HOSPITALITY; and RATES AND RATING, *post*. [836]

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An Act to amend the law relating to Exchequer grants to local authorities and other bodies and grants by local authorities to other local authorities or other bodies, and the law relating to rating, valuation for rating and precepts to rating authorities; to provide for payments for the benefit of local authorities by the

British Transport Commission, the British Electricity Authority and the North of Scotland Hydro-Electric Board; to amend the Railway Freight Rebates Enactments, 1929 to 1943, section two hundred and eleven of the Local Government (Scotland) Act, 1947, the law relating to the payment of expenses and other allowances to members of local authorities and other bodies and the law relating to the manner in which certain securities of local authorities and other bodies may be transferred; to extend the powers of local authorities in certain respects; and for purposes connected with the matters aforesaid. [837]

[24th March, 1948.]

PART I

EXCHEQUER GRANTS AND OTHER FINANCIAL PROVISIONS (ENGLAND AND WALES)

Discontinued grants

1. Termination of certain Exchequer grants, and of third fixed grant period.—Save as otherwise provided by this Part of this Act—

(*a*) no Exchequer grant shall be payable under the Local Government Acts, 1929 to 1946, for the year 1948–49 or any subsequent year; and

(*b*) the third fixed grant period shall for the purposes of all enactments be terminated at the end of March, nineteen hundred and forty-eight. [838]

Save as otherwise provided.—See ss. 12 and 13, *post*.

Local Government Acts, 1929 to 1946.—The Local Government Act, 1929 (10 Halsbury's Statutes 883), the Local Government (Financial Provisions) Act, 1937 (30 Halsbury's Statutes 377), the Local Government (Financial Provisions) Act, 1941 (34 Halsbury's Statutes 175), and the Local Government (Financial Provisions) Act, 1946 (39 Halsbury's Statutes 239). The relevant parts of the 1929 Act and the whole of the other Acts are repealed by s. 147 and Sched. I, Part I, *post*, for the year 1948–49 and subsequent years.

Year.—This means the period of twelve months beginning April 1 (s. 144 (1), *post*).

Third fixed grant period.—This grant period began on April 1, 1937, and should have lasted five years but was continued by the Local Government (Financial Provisions) Act, 1941 (34 Halsbury's Statutes 175), until a date to be determined by Parliament after the expiration of the Emergency Powers (Defence) Act, 1939 (32 Halsbury's Statutes 930).

The termination of the third fixed grant of the period made necessary the making of the Local Government (Special and Parish Rates) (Third Fixed Grant Period) Regulations, 1948 (S.I. 1948 No. 613), *post*.

Exchequer Grants to Counties and County Boroughs

2. Exchequer Equalisation Grants to counties and county boroughs.—(1) Where for the year 1948–49 or any subsequent year the rateable value for a county or county borough is less than the standard rateable value for that county or county borough (as defined by the subsequent provisions of this Part of this Act), there shall be paid out of moneys provided by Parliament to the council of the county or county borough a grant equal to the relevant fraction (as so defined) of the amount of the difference. [839]

(2) The said difference is in the subsequent provisions of this Part of this Act referred to as the rateable value credited to the county or county borough. [840]

(3) Grants under this section are in the subsequent provisions of this Part of this Act referred to as "Exchequer Equalisation Grants." [841]

General note.—Grants known as Exchequer Equalisation Grants are to be paid out of moneys provided by Parliament to each county council and county borough council whose rateable value in 1948–49 or any subsequent year is less than the standard rateable value for the county or county borough. The difference between the rateable value and the standard rateable value is known as "the rateable value credited to the county or county borough", and the grant will be a fraction, known as "the relevant fraction", of the difference between these values.

Exchequer Equalisation Grants.—The provisions relating to these grants are contained in the present section and in ss. 3 and 4, *post*, but payments under s. 13, *post*, are also ranked as

Equalisation Grants. Grants are treated as receipts for general county purposes in a county and for the benefit of the whole of a county borough (s. 144 (1), *post*).

Year.—This means the period of twelve months beginning on April 1 (s. 144 (1), *post*).

Standard rateable value.—For definition, see s. 3, *infra*.

Relevant fraction.—For definition, see s. 4, *post*.

3. Meaning of "standard rateable value."—(1) The standard rateable value for a county or county borough for the purposes of the preceding provisions of this Part of this Act is the amount which bears to the weighted population of that county or county borough for the year in question the same proportion as the sum which is to be taken for the purposes of this subsection as the rateable value for England and Wales for that year bears to the aggregate of the weighted populations of all the counties and county boroughs in England and Wales for that year. [842]

(2) In this section, the expression "the weighted population" in relation to a county or county borough means the population thereof plus the number of children under fifteen years of age therein and, in the case of a county the population whereof divided by the road-mileage thereof is less than seventy, plus also one-third of the additional population needed in order that the population thereof divided by the road-mileage thereof should be seventy. [843]

(3) The sum which is to be taken for the purposes of subsection (1) of this section as the rateable value for England and Wales for any year is the rateable value for England and Wales for that year, increased, in the case of any year subsequent to the year 1948–49, to such extent, if any, as the Minister may direct in relation to that subsequent year. [844]

(4) The power conferred on the Minister by the last preceding subsection to direct such increases as are therein referred to shall, as respects any year, be used for the purpose and only for the purpose of securing that the proportion which the aggregate of the rateable values credited to all the counties and county boroughs in England and Wales bears to the rateable value for England and Wales shall be as nearly as may be the same for that year as for the year 1948–49; but the Minister shall not use the said power as respects any year unless the effect of the use thereof would be to increase the aggregate of the rateable values credited to all counties and county boroughs in England and Wales for that year by at least one per cent. [845]

General note.—This section lays down the basic principle by which the amounts of Exchequer Equalisation Grants are to be determined, *i.e.* the rateable value per head of weighted population.

The standard rateable value for a county or county borough in any year is a proportion of the rateable value for England and Wales in that year, and is arrived at by the following proportion sum:

Aggregate of the weighted populations of all the counties and county boroughs in England and Wales : Rateable value for England and Wales : : Weighted population of the county or county borough : Standard rateable value for the county or county borough.

The values and populations are in each case those for the year in question. Weighted population means the population increased by the number of children under fifteen years of age and by one-third of the additional population needed to bring the population divided by the road-mileage up to seventy. The rateable value for England and Wales for this purpose may be increased by the Minister in any year after 1948–49 in order to secure that the aggregate of the rateable values credited to all the counties and county boroughs bears the same proportion to the rateable value for England and Wales as in 1948–49. This power of the Minister may only be exercised where its effect will be to increase the aggregate of the rateable values credited by at least 1 per cent.

Standard rateable value.—The standard rateable value for a county or county borough ascertained under this section is required in order to arrive at the rateable value credited to the county or county borough under s. 2, *ante*. It has to be calculated separately for each year.

Weighted population.—Defined in sub-s. (2), *supra*. The method of arriving at the population is laid down in s. 15 (2), *post*.

Rateable value for England and Wales.—This is the aggregate of the totals of rateable values shown in the valuation list for all the rating areas in England and Wales on April 1 (April 6 in London) until the year after the coming into force of the first new valuation lists under Part III of the Act, title RATES AND RATING, *post*. These totals have to be adapted to take into account any alterations made under Part V of the Act, title RATES AND RATING, *post*, having retrospective effect (s. 144 (2), *post*).

Children under fifteen.—As to ascertaining the number of children under fifteen years of age in an area, see s. 15 (2), *post*.

Road mileage.—As to calculating road mileage, see s. 15 (2), *post*. Under the Local Government Act, 1929 (10 Halsbury's Statutes 888), in the weighting of the population the factor of road mileage operated in favour of a county with a population of less than 300 per mile of road and this was increased to 900 under the Local Government (Financial Provisions) Act, 1937 (30 Halsbury's Statutes 877).

Year.—This means the period of twelve months beginning April 1 (s. 144 (1), *post*).

The Minister.—The Minister of Health (s. 144 (1), *post*).

4. Meaning of "the relevant fraction."—(1) The relevant fraction for a county or county borough for the purposes of the preceding provisions of this Part of this Act is the fraction arrived at by dividing the relevant local expenditure for the year in question by the sum of the following amounts, that is to say, the rateable value credited to the county or county borough for that year and the product of a rate of one pound in the pound for the county or county borough for that year. [846]

(2) In this section, the expression "the relevant local expenditure" means so much of the total expenditure for the year—

(*a*) in the case of a county, of the council of the county and of the other local authorities in the county; and

(*b*) in the case of a county borough, of the council of the county borough, as would have to be met out of rates levied within the county or county borough if no Exchequer Grants under this Part of this Act and (so far as any such Grant is relevant to the year in question) no Exchequer Grants payable for any previous year under the Local Government Acts, 1929 to 1946, were payable, and if no grants had been made out of moneys provided by Parliament to local authorities by the Minister by way of special assistance in respect of their financial difficulties arising out of the war. [847]

(3) Where, by virtue of a precept or other instrument, not being a precept or instrument issued by a county council, any sum falls to be paid by a local authority to any other authority, the amount payable shall be treated for the purposes of subsection (2) of this section as expenditure of the first-mentioned authority. [848]

(4) The provisions of subsection (2) of this section shall, as respects the year 1948–49, have effect subject to the special provisions relating to Exchequer Grants for that year contained hereafter in this Part of this Act. [849]

General note.—The relevant fraction of the rateable value credited to a county or county borough to arrive at the grant payable is obtained by adding together the rateable value so credited and the product of a rate of 20*s*. in the £ for the county or county borough, and by dividing the result into the relevant local expenditure. The figures are for the year in each case. The relevant local expenditure is the total expenditure of a county borough council, and in the case of a county of the county council and other local authorities in the county. It is the total expenditure which would have to be met out of rates in the county or county borough if no Exchequer Grants at all were payable and if the Minister had made no grants by way of special assistance for financial difficulties arising out of the war (this is subject to modification for 1948–1949). A local authority's expenditure will include payments under precept to another authority except to a county council.

Year.—This means the period of twelve months beginning on April 1 (s. 144 (1)).

Rateable value credited.—This is the excess of the standard rateable value for the county or county borough over its actual rateable value in the year in question (s. 2, *ante*).

Rate.—For the definition of this term, see s. 144 (1), *post*.

Local Government Acts, 1929 to 1946.—As to the Acts comprised in this collective title, see note to s. 1, *ante*.

Local authority.—"Local authority" is defined in s. 144 (1), *post*, as meaning a county, county borough, metropolitan borough or county district council or the Common Council of the City of London, but in this case the county council and county borough council must be excluded and in the present context "local authority" therefore means a metropolitan borough council, district council or the Common Council of the City of London (see Local Government Act, 1933, s. 1 (26 Halsbury's Statutes 306), and the London Government Act, 1939, s. 1 (32 Halsbury's Statutes 267)). Local authorities in the county are those whose areas form a part of the county (s. 144 (8), *post*).

Exchequer Grants.—These include Exchequer Equalisation Grants under s. 2, *ante*; Exchequer Transitional Grants under s. 5, *post*; grants under s. 12, *post*, for the extension of the third fixed grant period; and the special grants under s. 13, *post*. In addition, any payments in respect of grants due for any year before 1948–1949 are covered.

The Minister.—The Minister of Health (s. 144 (1), *post*).

5. Exchequer Transitional Grants for first five years.—(1) The Minister shall estimate in relation to each county and county borough in England and Wales the sums specified in subsections (2) and (3) of this section, being, in every case, sums estimated for the year 1947–48. [850]

(2) The Minister shall first estimate—

(*a*) the aggregate of all Exchequer Grants payable under the Local Government Acts, 1929 to 1946, to the council of the county or county borough or in the case of a county, to any other local authority in the county, less any contributions payable by the council of the county or county borough under section three of the Local Government (Financial Provisions) Act, 1937, section sixteen of the Old Age and Widows' Pensions Act, 1940, or section three of the Local Government (Financial Provisions) Act, 1946;

(*b*) the aggregate of the grants payable to the local education authority for the county or county borough by virtue of regulations under section one hundred or section one hundred and one of the Education Act, 1944, or, where a joint education board has been constituted for the county or county borough, of the proper proportion of any such grants payable to that board; and

(*c*) the product of a rate of sixpence in the pound for the county or county borough. [851]

(3) The Minister shall then estimate—

(*a*) the aggregate of so much of the expenditure incurred by the council of the county or county borough or, in the case of a county, by any other local authority in the county, in—

(i) providing services which it will be the duty of the Minister to provide under Part II of the National Health Service Act, 1946; and

(ii) performing any functions falling to be discontinued by virtue of any Act of the present Session terminating the existing poor law,

as would have had to be met out of rates levied in the county or county borough if no Exchequer Grants under the Local Government Acts, 1929 to 1946, and no contributions under section three of the Local Government (Financial Provisions) Act, 1937, section sixteen of the Old Age and Widows' Pensions Act, 1940, or section three of the Local Government (Financial Provisions) Act, 1946, had been payable;

(*b*) the sum which would have been the aggregate mentioned in paragraph (*b*) of subsection (2) of this section if for the regulations under the enactments mentioned in that paragraph there had been substituted the provisions of such regulations made thereunder as determined the grants payable for the year 1948–49;

(*c*) the Exchequer Equalisation Grant, if any, which would have been payable to the council of the county or county borough if—

(i) this Part of this Act had applied to the year 1947–48 as it applies to the year 1948–49 and the third fixed grant period had been terminated thereby at the end of March nineteen hundred and forty-seven; and

(ii) the sum estimated under paragraph (*b*) of this subsection had been payable under section one hundred and section one hundred and one of the Education Act, 1944, in lieu of the sums mentioned in paragraph (*b*) of subsection (2) of this section; and

(iii) the first day of April, nineteen hundred and forty-seven had been both the appointed day for the purposes of Part II of the National Health Service Act, 1946, and the day appointed for the discontinuance of the functions falling to be discontinued by virtue of any Act of the present Session terminating the existing poor law, and the expenditure of the council of the county or county borough and, in the case of a county, of all other local authorities in the county, had been diminished accordingly.

Where, by virtue of a precept or other instrument, not being a precept or instrument issued by a county council, any sum falls to be paid by a local authority to any other authority in respect of the expenditure of that other authority in providing any services or performing any functions, the amount payable shall be treated for the purposes of this subsection as expenditure of the first-mentioned authority incurred by them in providing those services or performing those functions. [852]

(4) If for any county or county borough the total of the sums estimated by the Minister under subsection (2) of this section exceeds the total of the sums so estimated under subsection (3) thereof, there shall be payable out of moneys provided by Parliament to the council of the county or county borough grants for the year 1948–49 and each of the four following years. [853]

(5) The amount of the grant for the year 1948–49 shall be the amount of the said excess and the amounts of the grants for the four following years shall be respectively four-fifths, three-fifths, two-fifths and one-fifth of the amount of the said excess. [854]

(6) Grants under this section are in the subsequent provisions of this Part of this Act referred to as "Exchequer Transitional Grants." [855]

General note.—Transitional grants of diminishing amount are to be paid to county and county borough councils in certain circumstances in 1948–1949 and the four following years, the intention being to ease the transition from the old system to the new.

Calculating Transitional Grants.—The provisions relating to Transitional Grants are contained almost wholly in this section. But the method of calculating Transitional Grants is affected by s. 13 (7), *post*, which requires grants under that section to be left out of account in making the computation. Under s. 141 (1), *post*, Transitional Grants are receipts for general county purposes and in a county borough are receipts for the benefit of the whole of the borough.

The Minister.—The Minister of Health (s. 144 (1), *post*).

Year.—This means the period of twelve months beginning April 1 (s. 144 (1), *post*).

Local Government Acts, 1929 to 1946.—As to the Acts comprised in this collective title, see note to s. 1, *ante*.

Local Government (Financial Provisions) Act, 1937, *s.* 3.—30 Halsbury's Statutes 379.

Old Age and Widows' Pensions Act, 1940, *s.* 16.—33 Halsbury's Statutes 519.

Local Government (Financial Provisions) Act, 1946, *s.* 3.—39 Halsbury's Statutes 242.

This Act, together with the Act of 1937, *supra*, and s. 16 of the Act of 1940, *supra*, are repealed for the year 1948–1949 and subsequent years by s. 147 (2) and Sched. II, Part I, *post*.

Education Act, 1944, *ss.* 100, 101.—37 Halsbury's Statutes 207, 209.

National Health Service Act, 1946, *Part II.*—39 Halsbury's Statutes 523–537. The appointed day was July 5, 1948 (see S.I. 1948 No. 112, title NATIONAL HEALTH SERVICE, *post*).

Act terminating the existing poor law.—See the National Assistance Act, 1948, title PUBLIC ASSISTANCE, *post*.

Exchequer Equalisation Grant.—See ss. 2, 3 and 4, *ante*, and s. 13, *post*.

Third fixed grant period.—See note to s. 1, *ante*.

Definitions.—For definitions of "local authority" and "rate", see s. 144 (1), *post*.

6. Power to reduce Exchequer grants.—(1) The Minister may, subject to the provisions of this section, reduce any Exchequer Equalisation Grant

or Exchequer Transitional Grant payable to a council by such amount as he thinks just, if—

(*a*) he is satisfied, either upon representations made to him or without any such representations, that the council have failed to achieve or maintain a reasonable standard of efficiency and progress in the discharge of their functions, regard being had to the standards maintained in other areas; or

(*b*) he is satisfied that the expenditure of the council has been excessive and unreasonable, regard being had to the financial resources and other relevant circumstances of the area. [856]

(2) Before reducing any grant by virtue of this section, the Minister shall make and cause to be laid before Parliament a report stating the amount of the reduction, and the reasons therefor, and he shall not make the reduction until the said report is approved by a resolution of the Commons House of Parliament. [857]

Reduction of Exchequer Grants.—The power of reduction conferred by this section is similar to that in s. 104 of the Local Government Act, 1929 (10 Halsbury's Statutes 948), which allowed the reduction of grants in much the same circumstances as those envisaged in the present section. In one sense at least the powers of the present section are subject to more stringent safeguards than the earlier provisions: for under the Act of 1929 the Minister had power to make the reduction and was required to report to Parliament only when such power was exercised, whilst under the present section the Minister must report to Parliament any proposal to reduce a grant and is not to make the actual reduction until that proposal has been endorsed by resolution of the House of Commons.

The Minister.—The Minister of Health (s. 144 (1), *post*).

Exchequer Equalisation Grant.—See ss. 2, 3 and 4, *ante*, and s. 13, *post*.

Exchequer Transitional Grant.—See s. 5, *ante*.

7. Provisions as to Health Service Exchequer Grants.—(1) The amount of any grant payable out of moneys provided by Parliament under subsection (1) of section fifty-three of the National Health Service Act, 1946, to a local health authority shall, in lieu of being determined by regulations under the said subsection (1), be one-half of the expenditure in respect of which the grant is made. [858]

(2) The provisions of the last preceding section shall apply in relation to grants payable under the said section fifty-three as they apply in relation to Exchequer Equalisation Grants and Exchequer Transitional Grants, subject to the following modifications, that is to say—

(*a*) the reference in paragraph (*a*) of subsection (1) of that section to the discharge of their functions by the council shall be construed as a reference to the discharge of their functions under the National Health Service Act, 1946, by the local health authority; and

(*b*) the reference in paragraph (*b*) of the said subsection (1) to the expenditure of the council shall be construed as a reference to the expenditure of the local health authority under the said Act. [859]

General note.—The grant payable to a local health authority under s. 53 (1) of the National Health Service Act, 1946 (39 Halsbury's Statutes 559), is now to be one half of the expenditure in respect of which it is made instead of being determined by regulations. This grant may be reduced by the Minister subject to the same conditions as apply to Exchequer Equalisation Grants or Transitional Grants under s. 6, *ante*, with appropriate modifications.

National Health Service Act, 1946, s. 53 (1).—39 Halsbury's Statutes 559.

Exchequer Equalisation Grants.—See ss. 2, 3 and 4, *ante*, and s. 13, *post*.

Exchequer Transitional Grants.—See s. 5, *ante*.

8. Power to pay council's contributions to voluntary associations out of sums payable as Exchequer grants.—Upon application being made to the Minister by the council of any county or county borough requesting that the contributions of the council towards the expenses of any voluntary association having as its object the promotion of public health services should be paid directly to the association out of an Exchequer Equalisation Grant or an Exchequer Transitional Grant to the council, the Minister may pay such

contributions accordingly, and any payment so made by him shall be deemed to be a payment to the council on account of the Grant. [860]

General note.—A county council or county borough council may apply to the Minister to pay the council's contributions towards the expenses of a voluntary association for promoting public health services direct to that association out of an Exchequer Equalisation Grant or Transitional Grant, and such payment has effect as if on account of the Grant.

The Minister.—The Minister of Health (s. 144 (1), *post*).

Exchequer Equalisation Grants.—See ss. 2, 3 and 4, *ante*, and s. 13, *post*.

Exchequer Transitional Grants.—See s. 5, *ante*.

Payments by county councils to local authorities in county

9. Payments to county districts.—(1) Before the beginning of the year 1948–49 and each subsequent year, the Minister shall estimate for the year in relation to every county district in England and Wales the amount following, that is to say, the amount which is equal to the fraction hereinafter specified of the aggregate of the Exchequer Equalisation Grants which will become payable for that year to the councils of counties in England and Wales outside London, and the council of each county shall pay to the council of each county district in the county the amount so estimated by the Minister in relation to that district. [861]

(2) The said fraction is—

(*a*) in the case of any county district other than a rural district, one-half of the population of the county district; and

(*b*) in the case of a rural district, one-quarter of the population of the rural district,

divided, in any case, by the aggregate of the population of all counties in England and Wales outside London. [862]

(3) Any payment under this section may, if the councils concerned so agree, be effected in whole or in part by making the appropriate deduction from the amount due under a precept. [863]

General note.—A county council must pay to each district council in the county every year an amount estimated by the Minister as representing a fraction of the aggregate of the Exchequer Equalisation Grants payable for that year to county councils in England and Wales outside London. The fraction in question is one-half of the population of a borough or urban district and one-quarter of the population of a rural district divided by the aggregate of the populations of all counties in England and Wales outside London. This payment may be effected by means of a deduction from the amount due from the district council under precept.

Under the block grant system, non-county borough councils and urban district councils received, out of the county apportionments, in proportion to their populations, five times the amount given to rural district councils (Local Government Act, 1929, s. 91, and Sched. IV, Part IV; 10 Halsbury's Statutes 941, 948), while, in relation to the Interim Supplementary Contribution, the proportion was reduced to three times that amount (Local Government (Financial Provisions) Act, 1946, s. 4; 39 Halsbury's Statutes 243).

These provisions for payments to county districts are repealed by s. 147 and Sched. II, Part I, *post*, and are replaced by those of the present section.

Year.—This means the period of twelve months beginning on April 1 (s. 144 (1), *post*).

The Minister.—The Minister of Health (s. 144 (1), *post*).

Exchequer Equalisation Grants.—See ss. 2, 3 and 4, *ante*, and s. 13, *post*.

Population.—Population is calculated by estimates of the Registrar General (s. 15 (2), *post*).

10. Payments to metropolitan boroughs.—(1) In the year 1948–49 and every subsequent year, the London County Council shall pay to the councils of the metropolitan boroughs mentioned in subsection (2) of this section such sums as may be prescribed in relation to those boroughs respectively by a scheme to be made by the Minister after consultation with the London County Council, the Common Council of the City of London and any association or committee which appears to the Minister to be representative of metropolitan borough councils. [864]

(2) The metropolitan boroughs to the councils of which payments are to be made under subsection (1) of this section are the boroughs the rateable

values for which are less than the standard rateable value as defined by the scheme. [865]

(3) Any paym nt under a scheme made under this section shall, if the scheme so provides, be effected in whole or in part by making the appropriate deduction from the amount due under a precept. [866]

(4) Any scheme under this section may be revoked or varied by any subsequent scheme made in like manner as the original scheme. [867]

(5) No reduction or increase in the amount to be contributed by a separately rated area in London towards the amount required to be levied by rate for general county purposes shall be made for the year 1948–49 or any subsequent year by virtue of section one hundred of the Local Government Act, 1929, or of any scheme under section seven of the local Government (Financial Provisions) Act, 1937. [868]

General note.—The present section is the provision for London corresponding to s. 9, *ante*, for the provinces. The payments are receipts for the whole of the metropolitan borough concerned, even where payment is made by means of a deduction from the amount due under a precept (s. 141, *post*). A scheme has been agreed between the representatives of the metropolitan boroughs and the London County Council for a redistribution inside London which will have roughly the same effect as the scheme for the country as a whole (see 444 H. of C. Official Report 997).

Any association or committee.—The purpose of enacting that the discussion should take place with a representative association of the metropolitan borough councils rather than with the councils themselves is to avoid the necessity for all the London councils to debate the discussion with the Minister (see H. of C. Official Report, S.C.B., December 11, 1947, col. 134). Similar provision was made by s. 7 of the Local Government (Financial Provisions) Act, 1937 (30 Halsbury's Statutes 380).

Year.—This means the period of twelve months beginning April 1 (s. 144 (1), *post*).

The Minister.—The Minister of Health (s. 144 (1), *post*).

Rateable values.—The rateable value for a metropolitan borough for any year is the total of rateable values shown on April 6 in the valuation list in force for that area. In the year 1948–1949, however, account must be taken of any alteration made subsequently in the list under Part V of the Act, title RATES AND RATING, *post*, and having retrospective effect as if they had been made in the list as in force on April 6 (s. 144 (2), *post*).

Standard rateable value.—This standard rateable value must be distinguished from the standard rateable value of a county or county borough under ss. 2, 3 or 4, *ante*. In this case the standard rateable value is determined by the scheme.

Local Government Act, 1929, s. 100.—10 Halsbury's Statutes 945.

Local Government (Financial Provisions) Act, 1937, s. 7.—30 Halsbury's Statutes 380.

Miscellaneous

11. Discontinuance of burden payments on changes of boundary.—No provision shall be made for any payment to a local authority under paragraph (*b*) of subsection (1) of section one hundred and fifty-two of the Local Government Act, 1933, either as originally enacted, or as applied by any subsequent enactment, in respect of any increase of burden due to an alteration of boundaries or other change taking place after the end of the year 1947–48. [869]

General note.—Burden payments as between local authorities due to alteration of boundaries or other changes taking place after 1947–1948 will not be provided for under s. 152 (1) (*b*) of the Local Government Act, 1933 (26 Halsbury's Statutes 390).

Local authority.—For definition, see s. 144 (1), *post*.

Year.—This means the period of twelve months beginning on April 1 (s. 144 (1), *post*).

12. Continuation of third fixed grant period for certain purposes.—(1) This section shall have effect as respects the following enactments (which contain financial provisions relating to the third fixed grant period), that is to say—

(*a*) section ninety-three of the Local Government Act, 1929 (which provides for schemes for increasing the sum to be set aside out of a county apportionment in respect of a district the council of which has established a maternity and child welfare committee);

(*b*) sections one hundred and one and one hundred and two of the said Act (which provide for schemes for the payment of contributions by the councils of counties or county boroughs to voluntary associations or to the King Edward the Seventh Welsh National Memorial

Association in respect of maternity and child welfare and other health services);

(*c*) section four of the Midwives Act, 1936, and section two of the Cancer Act, 1939 (under which Exchequer grants are payable in respect of expenditure imposed by those Acts). [870]

(2) Notwithstanding the preceding provisions of this Part of this Act, the third fixed grant period shall not for the purposes of any of the said enactments be deemed to have terminated until immediately before the day which is the appointed day for the purposes of Part II of the National Health Service Act, 1946, and payments shall be made accordingly; and, without prejudice to the generality of the preceding words, payments shall be made under schemes made under section ninety-three of the Local Government Act, 1929, as if there had continued to be county apportionments:

Provided that any sum payable by the Minister by virtue of this section under any such scheme as is mentioned in paragraph (*a*) or paragraph (*b*) of subsection (1) of this section shall be paid by him out of the Exchequer Transitional Grant or Exchequer Equalisation Grant, if any, of the county or county borough council in question for the year 1948–49 and, in so far as it cannot be so paid, shall be paid out of moneys to be paid to the Minister by that council. [871]

(3) If the date on which any of the said enactments ceases to be in force (either by virtue of an Order in Council fixing an appointed day under the National Health Service Act, 1946, or of any Act of the present Session terminating the existing poor law) is a date before the end of the year 1948–49, the enactment in question and any relevant scheme made thereunder shall have effect so as to require the sum to be set aside or paid for the said year under that enactment or scheme to be the appropriate fraction of the estimated amount which would have been so set aside or paid if the said enactment had continued in force for the whole of the said year.

The appropriate fraction is the number of days in the period beginning with the first day of the said year and ending immediately before the date on which the enactment ceases to be in force divided by three hundred and sixty-five. [872]

(4) Any scheme made under any of the enactments mentioned in paragraph (*a*) or paragraph (*b*) of subsection (1) of this section which, by virtue of this section, continues in operation on or after the first day of April, nineteen hundred and forty-eight, may be altered or revoked by a subsequent scheme made at any time between that date and the date when the enactment in question ceases to be in force as aforesaid. [873]

General note.—The third fixed grant period, which terminated on March 31, 1948, by virtue of s. 1 (2), *ante*, is continued until immediately before the appointed day under Part II of the National Health Service Act, 1946 (39 Halsbury's Statutes 523), for the purposes of certain specified enactments, relating to special contributions to be made in connection with particular health services.

Third fixed grant period.—See note to s. 1, *ante*.

Local Government Act, 1929, *ss.* 93, 101, 102.—10 Halsbury's Statutes 942, 946, 948. Ss. 93, 101 and sub-ss. (2) and (3) of s. 102 are repealed as from the appointed day under the National Health Service Act, 1946 (see *infra*) by s. 76 of, and Sched. X to, that Act (39 Halsbury's Statutes 570, 590). S. 102 is also repealed by the National Assistance Act, 1948, ss. 62 (3), 68 (2), Sched. VII, Part III, title PUBLIC ASSISTANCE, *post*.

Midwives Act, 1936, *s.* 4.—29 Halsbury's Statutes 268.

Cancer Act, 1939, *s.* 2.—32 Halsbury's Statutes 254.

This section and s. 4 of the Midwives Act, 1936, *supra*, are repealed as from the appointed day under the National Health Service Act, 1946, Part II (see *infra*) by s. 76 of, and Sched. X to, that Act (39 Halsbury's Statutes 570, 590).

National Health Service Act, 1946, *Part II.*—39 Halsbury's Statutes 523–537. The appointed day was July 5, 1948 (see S.I. 1948 No. 112; title NATIONAL HEALTH SERVICE, *post*).

The Minister.—The Minister of Health (s. 144 (1), *post*).

Exchequer Transitional Grants.—See s. 5, *ante*.

Exchequer Equalisation Grant.—See ss. 2, 3 and 4, *ante*, and s. 13, *post*.

Year.—This means the period of twelve months beginning on April 1 (s. 144 (1), *post*).

13. Special provisions as to Exchequer Grants for 1948–49.—(1) The provisions of this section shall have effect if the appointed day for the purposes of Part II of the National Health Service Act, 1946, is after the beginning of, but within, the year 1948–49. [874]

(2) The Minister shall ascertain, in relation to every county and county borough in England and Wales, the total amount of the Exchequer Grants payable under the Local Government Acts, 1929 to 1946—

(*a*) in the case of a county, to the council of the county or to any other local authority in the county ;

(*b*) in the case of a county borough, to the council of the county borough, for the year 1947–48. [875]

(3) The Minister shall then ascertain, in relation to each such county and county borough as aforesaid, the amount of the contributions payable under section three of the Local Government (Financial Provisions) Act, 1937, section sixteen of the Old Age and Widows' Pensions Act, 1940, and section three of the Local Government (Financial Provisions) Act, 1946, by the council of the county or county borough for the year 1947–48. [876]

(4) There shall be paid out of moneys provided by Parliament to each such county or county borough as aforesaid such sum as bears to the excess of the amount estimated under subsection (2) of this section in relation to the county or county borough over the amount estimated under subsection (3) of this section in relation thereto the like proportion as the number of days in the part of the year 1948–49 which precedes the appointed day for the purposes of Part II of the National Health Service Act, 1946, bears to the number of days in the whole of that year. [877]

(5) The amounts paid under the last preceding subsection shall be paid in addition to any sum otherwise payable by way of Exchequer Equalisation Grant, for the year 1948–49 but shall, subject to the provisions of the two succeeding subsections, be treated for the purposes of this Part of this Act as, or, as the case may be, as part of, the Exchequer Equalisation Grant to the council in question for that year, and references in this Part of this Act to Exchequer Equalisation Grants shall be construed accordingly. [878]

(6) In computing the amount of the Exchequer Equalisation Grant falling to be made apart from the preceding provisions of this section to any council for the year 1948–49, the relevant fraction for that council shall be ascertained as if the relevant local expenditure were diminished by the amount payable under subsection (4) of this section. [879]

(7) In computing the amounts of the Exchequer Transitional Grants, the amounts payable under subsection (4) of this section shall be left out of account. [880]

General note.—This section makes special provision for reimbursing local authorities additional expenditure arising from the coming into force of the National Health Service Act, 1946, during 1948–1949.

National Health Service Act, 1946, *Part II.*—39 Halsbury's Statutes 523–537. The appointed day for the purposes of Part II of that Act was July 5, 1948 (see S.I. 1948 No. 112 ; title NATIONAL HEALTH SERVICE, *post*).

Local Government Acts, 1929 to 1946.—As to the Acts comprised in this collective title, see the notes to s. 1, *ante*.

Year.—This means the period of twelve months beginning on April 1 (s. 144 (1), *post*).

The Minister.—The Minister of Health (s. 144 (1), *post*).

Local Government (Financial Provisions) Act, 1937, *s.* 3.—30 Halsbury's Statutes 379.

Old Age and Widows' Pensions Act, 1940, *s.* 16.—33 Halsbury's Statutes 519.

Local Government (Financial Provisions) Act, 1946, s. 3.—39 Halsbury's Statutes 242.

This Act, together with the Act of 1937, *supra*, and s. 16 of the Act of 1940, *supra*, are repealed for the year 1948–1949 and subsequent years by s. 147 (2) and Sched. II, Part I, *post*.

Number of days.—The number of days in the part of the year 1948–1949 preceding the appointed day for the purposes of Part II of the National Health Service Act, 1946 (July 5, 1948 ; *vide supra*) is 95 and the proportion referred to in sub-s. (4), *supra*, will therefore be that borne by 95 to 365 or 19/73rds.

Exchequer Equalisation Grant.—See ss. 2, 3 and 4, *ante*.

Relevant fraction.—See ss. 2 and 4 (1), *ante*.

Relevant local expenditure.—See s. 4 (2), *ante*.

14. Investigation into working of provisions as to amount of payments to local authorities under Part I.—(1) In the year in which the first new valuation lists under Part III of this Act come into force and every fifth subsequent year, the Minister shall, in consultation with such associations of local authorities as appear to him to be concerned and with any local authority with whom consultation appears to him to be desirable, cause investigations to be made into the working of this Part of this Act (due regard being had, amongst other things, to the sums falling to be paid to local authorities under Part V of this Act). [881]

(2) The Minister shall cause a report of the result of any investigation under this section to be laid before Parliament. [882]

Year.—This means the period of twelve months beginning on April 1 (s. 144 (1), *post*).
Parts III and V.—For these Parts, see title RATES AND RATING, *post*.
Valuation lists.—The first new valuation lists under the present Act are due to come into force in 1952, but the date may be deferred one year by order of the Minister (s. 34 (1), (3), title RATES AND RATING, *post*).
The Minister.—The Minister of Health (s. 144 (1), *post*).
Local authority.—For definition of this expression, see s. 144 (1), *post*.

15. Supplemental provisions as to Part I.—(1) The Minister may make regulations for carrying this Part of this Act into effect and in particular—

(*a*) for determining the manner in which, subject to the express provisions of this Part of this Act, any calculation or estimate is to be made for any of the purposes of this Part of this Act and, in particular, for determining—

(i) the authority or person by or to whom any information required for the said purposes is to be given and the time at which and the form in which is to be given;

(ii) the adjustments to be made for any abnormal treatment of income or expenditure in accounts;

(*b*) for determining the times at which payments in respect of Exchequer Equalisation Grants and Exchequer Transitional Grants and payments by local authorities under this Part of this Act are to be made;

(*c*) for providing that the calculations or estimates by reference to which any payments or grants are made may be treated as either conclusive or provisional or conclusive for some purposes and provisional for other purposes and, in so far as they are treated as provisional, for the making of further calculations or estimates based on information not previously available and for adjusting, in the light thereof, any payments or grants already made;

(*d*) for modifying the operation of this Part of this Act in relation to any authority if and in so far as any such modification is required in relation to that authority in consequence of any alterations or combinations of authorities or alterations of boundaries:

Provided that regulations shall not be made under paragraph (*b*) of this subsection with respect to Exchequer Equalisation Grants or Exchequer Transitional Grants except with the consent of the Treasury. [883]

(2) The population of an area and the number of children under fifteen years of age in an area shall be calculated for the purposes of this Part of this Act by reference to estimates of the Registrar-General of Births, Deaths and Marriages, and the road-mileage of an area shall be taken for the purposes of this Part of this Act to be the total mileage of highways in that area repairable by the inhabitants at large as estimated by the Minister of Transport. [884]

General note.—Sub-s. (1) confers upon the Minister extensive powers of making regulations for carrying Part I of the Act into effect. Regulations for determining the times of payment of Exchequer Equalisation Grants and Exchequer Transitional Grants under this Part of the Act may be made only with the consent of the Treasury. Sub-s. (2) defines the method

of arriving at the population of an area, the number of children under fifteen years of age and the road mileage of an area for the purposes of Part I of the Act.

The Minister.—The Minister of Health (s. 144 (1), *post*).

Regulations.—See the Local Government (Payment of Grants, etc.) Regulations, 1949 (S.I. 1949 No. 488). As to regulations generally, see s. 142, *post*.

Exchequer Equalisation Grants.—See ss. 2, 3, 4 and 18, *ante*.

Exchequer Transitional Grants.—See s. 5, *ante*.

Local authority.—For definition of this expression, see s. 144 (1), *post*.

16. Extent of Part I.—This Part of this Act shall not extend to Scotland. [885]

* * * * *

PART VI

ALLOWANCES TO MEMBERS OF LOCAL AUTHORITIES AND OTHER BODIES

111. Bodies to which Part VI applies and members thereof.—(1) This Part of this Act shall apply to the following bodies, that is to say,—

(*a*) the councils of counties, county boroughs, metropolitan boroughs, county districts and rural parishes;

(*b*) any divisional executive established under the Education Acts, 1944 and 1946 (hereafter in this Part of this Act referred to as a "divisional executive for education");

(*c*) any body established in pursuance of regulations made under subsection (4) of section twenty-two of the National Health Service Act, 1946 (hereafter in this Part of this Act referred to as a "divisional executive for health services");

(*d*) catchment boards;

(*e*) assessment committees;

(*f*) local valuation panels;

(*g*) any joint committee, joint board, joint authority or other combined body all the members of which are representatives of local authorities; and

(*h*) any such other body as may be prescribed, being a body established in pursuance of any statutory provision upon which any such body as is mentioned in any of the preceding paragraphs of this subsection is represented. [886]

(2) For the purposes of this Part of this Act, save as otherwise expressly provided, a member of a committee or sub-committee of a body to which this Part of this Act applies shall be deemed to be a member of that body. [887]

(3) Nothing in this Part of this Act shall apply to the Common Council of the City of London and a member of that council shall not be entitled to receive any payment under this Part of this Act, either as a member of that council or as a member of any other body to which this Part of this Act applies on which he represents that council. [888]

General note.—This section specifies the local authorities and other bodies to which this Part of the Act applies.

Education Acts, 1944 and 1946.—37 Halsbury's Statutes 123; 39 Halsbury's Statutes 122. Divisional executives for education are constituted under s. 6 (2) of, and Sched. I, Part III, to the Act of 1944, as amended by s. 14 of, and Sched. II to, the Act of 1946.

National Health Service Act, 1946, s. 22 (4).—39 Halsbury's Statutes 520.

Catchment boards.—Catchment boards are constituted under the Land Drainage Act, 1930, ss. 2, 3 (23 Halsbury's Statutes 580).

Assessment committees.—Assessment committees will cease to exist when the appropriate sections of Part III of the Act, title RATES AND RATING, *post*, are brought into force on February 1, 1950 (S.I. 1949 No. 454).

Local valuation panels.—Local valuation panels will be constituted under s. 46 of this Act (see title RATES AND RATING, post).

"Such other body as may be prescribed."—See the Local Government (Allowances to Members) (Prescribed Bodies) Regulations, 1948 (S.I. 1948 No. 1643), *post*.

Local authority.—For definition of this expression, see s. 144 (1), *post*, and sub-s. (3), *supra*.

112. Financial loss allowance.—(1) A member of a body to which this Part of this Act applies shall be entitled to receive a payment by way of financial loss allowance where—

(*a*) loss of earnings which he would otherwise have made ; or

(*b*) additional expense (other than expense on account of travelling or subsistence) to which he would not otherwise have been subject,

is necessarily suffered or incurred by him for the purpose of enabling him to perform any approved duty as a member of that body :

Provided that any payment made under this subsection in respect of any one period of twenty-four hours shall not exceed—

(i) where the period of time over which earnings are lost or additional expenses are incurred is not more than four hours, the sum of ten shillings ; or

(ii) where the said period of time is more than four hours, the sum of twenty shillings. [889]

(2) A member of a parish council shall not be entitled to any payment under this section in respect of any approved duty as a member of that council performed within the area of the parish. [890]

General note.—Members of bodies to which this Part applies may receive payment by way of financial loss allowance for loss of earnings and additional expense (not for travelling or subsistence) necessarily incurred to enable them to perform an approved duty. Payments are limited to ten shillings for a period of not more than four hours and to twenty shillings for a longer period, both being within any one period of twenty-four hours. A parish councillor may not receive payment for an approved duty performed within the parish.

Member.—This term includes a member of a committee or sub-committee (see s. 111 (2), *ante*).

Body to which this Part applies.—See s. 111 (1), *ante*.

Approved duty.—For definition of this expression, see s. 115, *post*.

Parish council.—Parish councils are constituted under the Local Government Act, 1933, s. 43 (26 Halsbury's Statutes 326). As to the common parish council for a group of two or more parishes, see s. 45 of that Act.

113. Travelling allowance and subsistence allowance.—(1) A member of a body to which this Part of this Act applies shall be entitled to receive payments, at rates which shall be determined by the body but which shall not exceed those prescribed, by way of travelling allowance or subsistence allowance where expenditure on travelling or, as the case may be, on subsistence is necessarily incurred by him for the purpose of enabling him to perform any approved duty as a member of that body :

Provided that—

(*a*) a member of the council of a borough (including a metropolitan borough), of an urban district or of a rural parish shall not be entitled to any payments under this section in respect of the performance of any approved duty within the area of that council ;

(*b*) a member of any other body to which this Part of this Act applies who is a member thereof as the representative of any such council as is mentioned in the foregoing proviso shall not be entitled to any payment under this section in respect of the performance of any approved duty within the area of that council ;

(*c*) without prejudice to the foregoing provisos, a member of a body shall not be entitled to any payment under this section in respect of the performance of any approved duty within the area of that body except in respect of duties performed at a distance of more than three miles from his usual place of residence ;

(*d*) the rates of payments under this section to members of a divisional executive for education or of a divisional executive for health services shall, instead of being determined by the executive, be determined by the local education authority within the meaning

of the Education Acts, 1944 and 1946, or, as the case may be, by the local health authority within the meaning of the National Health Service Act, 1946. [891]

(2) Section two hundred and ninety-four of the Local Government Act, 1933, the Local Government (Members' Travelling Expenses) Act, 1937, section seventy-three of the London County Council (General Powers) Act, 1939, section one hundred and sixty-three of the London Government Act, 1939, and section eleven of the Education Act, 1946, shall not have effect in respect of expenses incurred after the passing of this Act. [892]

(3) In section two hundred and sixty-seven of the Local Government Act, 1933 (which authorises a local authority, other than a parish council, to defray in certain cases the reasonable expenses incurred by their members or officers in attending a conference or meeting), the words " other than a parish council " shall be repealed. [893]

General note.—This section entitles members of bodies to which this Part applies to be paid allowances for expenditure on travelling and subsistence necessarily incurred to enable them to perform an approved duty. This is subject to the limitation that a borough, urban district or parish councillor may not receive payment when the duty is performed in the area of his council, even when acting as its representative on any other body, and no member of a body may receive payment for a duty performed within three miles of his residence. The rates of payment will be determined by the body or, in the case of a divisional executive for education or for health services by the local education authority, but may not exceed those prescribed.

Member.—This term includes a member of a committee or sub-committee (see s. 111 (2), *ante*).

Body to which this Part applies.—See s. 111 (1), *ante*.

Prescribed rates.—See the Local Government (Members' Allowances) Regulations, 1948 (S.I. 1948 No. 1784, as amended by S.I. 1949 No. 457), *post*.

Approved duty.—For definition of this expression, see s. 115, *post*.

Divisional executive for education.—See s. 111 (1) (*b*), *ante*.

Divisional executive for health services.—See s. 111 (1) (*c*), *ante*.

Education Acts, 1944 and 1946.—37 Halsbury's Statutes 123; 39 Halsbury's Statutes 122. " Local education authority " is defined in s. 114 (1) of the Act of 1944 (37 Halsbury's Statutes 216).

National Health Service Act, 1946.—39 Halsbury's Statutes 515. A local health authority is a county or county borough council (see s. 19 of that Act).

Local Government Act, 1933, *ss.* 267, 294.—26 Halsbury's Statutes 448, 462.

Local Government (Members' Travelling Expenses) Act, 1937.—30 Halsbury's Statutes 384.

London County Council (General Powers) Act, 1939, *s.* 73.—32 Halsbury's Statutes 496.

London Government Act, 1939, *s.* 163.—32 Halsbury's Statutes 334.

Education Act, 1946, *s.* 11.—39 Halsbury's Statutes 128.

Passing of this Act.—March 24, 1948.

Defrayal of conference expenses.—Under the Local Government Act, 1933, s. 267, *supra*, as amended by sub-s. (3), *supra*, the Minister has made the Local Government (Conferences) Regulations, 1948 (S.I. 1948 No. 1932), *post*.

114. Bodies by whom payments by way of allowances are to be made.—(1) Any amounts by way of allowances payable under this Part of this Act—

(*a*) in respect of an approved duty performed by any person as a member of a divisional executive for education shall be payable by the local education authority within the meaning of the Education Acts, 1944 and 1946;

(*b*) in respect of an approved duty performed by any person as a member of a divisional executive for health services shall be payable by the local health authority within the meaning of the National Health Service Act, 1946;

(*c*) in any other case, shall be payable by the body as a member of which the person claiming payment performed the approved duty in respect of which the right to payment under this Part of this Act arises. [894]

(2) Where, by or under any statutory provision other than this Part of this Act, a body to which this Part of this Act applies has power to defray the expenses incurred by the members of the body on account of travelling for the purposes of the performance of approved duties as members of the

body, or otherwise to relieve the members of the body from the burden of meeting those expenses, that statutory provision shall cease to have effect in relation to the members of the body, but subject as aforesaid nothing in this Part of this Act shall affect any such statutory provision:

Provided that where a local education authority in England and Wales or an education authority in Scotland incur expenditure under this Part of this Act in paying or contributing towards the expenses of a member thereof on account of travelling for the purpose of attending a conference, being a conference in respect of which the authority is authorised to incur expenditure by or under section eighty-three of the Education Act, 1944, or, as the case may be, section twenty-eight of the Education (Scotland) Act, 1946, the first-mentioned expenditure shall, for the purpose of determining the amount of any sum payable to the authority out of moneys provided by Parliament, or out of the Education (Scotland) Fund, be deemed to have been incurred under the Education Acts, 1944 and 1946, or, as the case may be, the Education (Scotland) Act, 1946. [895]

(3) Where a body to which this Part of this Act applies has power, otherwise than under this Part of this Act, to defray expenses (other than expenses on account of travelling) incurred by any person in respect of which that person is entitled to a payment by way of allowance under this Part of this Act, that power shall not be so exercised as to defray those expenses otherwise than in accordance with the provisions of this Part of this Act, but subject as aforesaid nothing in this Part of this Act shall affect any other power of the body to defray expenses. [896]

(4) Subject to the provisions of subsection (2) of this section, any expenditure under this Part of this Act by a body to which this Part of this Act applies shall not be taken into account for the purpose of determining the amounts of any sums payable to that body out of moneys provided by Parliament otherwise than by way of an Exchequer Equalisation Grant within the meaning of Part I or Part II of this Act:

Provided that nothing in this subsection shall be construed as affecting the duty of the Minister to pay the expenses of local valuation panels. [897]

(5) Any expenditure under this Part of this Act by the council of a rural parish shall be left out of account for the purposes of subsection (3) of section one hundred and ninety-three of the Local Government Act, 1933 (which limits the sums which may be required to be raised in any financial year to meet the expenses of a parish council, other than expenses under the adoptive acts), and, accordingly, in the said subsection (3), after the words "other than expenses under the adoptive acts" there shall be inserted the words "or under Part VI of the Local Government Act, 1948". [898]

(6) In the application of this section to Scotland, any reference in subsection (2) to a statutory provision shall be construed as including a reference to a rule of the common law. [899]

General note.—This section specifies the bodies by whom payments by way of allowances are to be made.

Allowances payable under this Part.—See ss. 112, 113, *ante.*

Approved duly.—For definition of this expression, see s. 115, *post.*

Divisional executive for education.—See s. 111 (1) (*b*), *ante.*

Divisional executive for health services.—See s. 111 (1) (*c*), *ante.*

Education Acts, 1944 and 1946.—37 Halsbury's Statutes 123; 39 Halsbury's Statutes 122. Local education authority is defined in s. 114 (1) of the Act of 1944 (37 Halsbury's Statutes 216). For s. 83 of the Act of 1944, see 37 Halsbury's Statutes 196.

National Health Service Act, 1946.—39 Halsbury's Statutes 515. A local health authority is a county or county borough council (see s. 19 of that Act).

Statutory provision.—For definition of this term, see s. 144 (1), *post.*

Exchequer Equalisation Grant.—See ss. 2–4, *ante.*

The Minister.—The Minister of Health (s. 144 (1), *post*).

Local valuation panels.—See ss. 45 and 46, title RATES AND RATING, *post.*

Local Government Act, 1933, s. 193 (3).—26 Halsbury's Statutes 411.

115. Meaning of "approved duty."—In this Part of this Act, the expression "approved duty", in relation to a member of a body, means any of the following duties, that is to say,—

(*a*) attendance at a meeting of the body, or of any committee or sub-committee thereof;

(*b*) the doing of any other thing approved by the body for the purpose of, or in connection with, the discharge of the functions of the body, or of any committee or sub-committee thereof;

(*c*) attendance as a representative of the body at a conference or meeting convened by one or more bodies to which this Part of this Act applies or by any association of such bodies, where the body has power, under any statutory provision other than this Act, to defray the expenses incurred in such attendance; or

(*d*) where, in pursuance of a duty imposed on or a power granted to the body by any statutory provision or Royal Charter, he has been appointed by or on the nomination of the body to be a member of any such other body as may be prescribed, not being a body to which this Part of this Act applies, the doing of anything as a member of that other body for the purpose of the discharge of the functions of that other body:

Provided that paragraph (*d*) of this section shall not apply where—

(i) the person who is the subject of the appointment is a member of a committee or sub-committee of the body to which this Part of this Act applies by or on whose nomination he was appointed; and

(ii) it is by reason only of his being a member of such a committee or sub-committee that he is deemed for the purposes of this Part of this Act to be a member of that body. [900]

Member.—This term includes a member of a committee or sub-committee (sec s. 111 (2), *ante*).

Bodies to which this Part applies.—See s. 111 (1), *ante*.

Statutory provision.—For definition of this term, see s. 144 (1), *post*.

Appointed.—It would seem that the statutory provision must impose a duty or grant a power to the body to appoint the member or to nominate him for appointment. It may be doubted whether a member of a local valuation court constituted under ss. 44 and 46, title RATES AND RATING, *post*, can be said to be appointed or nominated for appointment to the court by the local valuation panel.

116. Allowance to chairman of district council for expenses of office.—A district council in England and Wales may pay to the chairman of the council for the purpose of enabling him to meet the expenses of his office such allowance as the council may think reasonable. [901]

General note.—This provision may be compared with, but must be distinguished from, s. 18 (4) of the Local Government Act, 1933 (26 Halsbury's Statutes 314), which authorises the payment of remuneration to the mayor of a borough. See also the similar provision for the chairman of a county council made by s. 3 (4) of that Act, and for the chairman of the London County Council and the metropolitan borough councils respectively by the London Government Act, 1939, ss. 3 (4) and 18 (4) (32 Halsbury's Statutes 268, 272). In each of those cases the mayor or chairman may be paid remuneration, whereas the present provision is only for an allowance in respect of expenses of office.

District council.—An urban or rural district council constituted under the Local Government Act, 1933, ss. 1, 31, 32 (26 Halsbury's Statutes 300, 320). As to the chairman of the council, see s. 33 of that Act.

117. Regulations for the purposes of Part VI.—(1) The Minister may make regulations as to the manner in which the provisions of this Part of this Act are to be administered, and in particular, and without prejudice to the generality of the preceding provision, may make regulations—

(*a*) providing for the avoidance of duplication in payments under this Part of this Act, or between payments under this Part of this Act and under any other Act, where, in any one period of twenty-four

hours, a person performs approved duties as a member of more than one body to which this Part of this Act applies, or, as the case may be, becomes entitled to payments both under this Part of this Act and under any other Act, and for the determination of the body or bodies by whom any payments to which that person is entitled are to be made, and, where such payments are to be made by more than one body, for the apportionment between those bodies of the sums payable;

(*b*) prescribing anything which under this Part of this Act is to be prescribed;

(*c*) specifying the forms to be used and the particulars to be provided for the purpose of claiming payments under this Part of this Act;

(*d*) providing for the publication by a body to which this Part of this Act applies, in the minutes of that body or otherwise, of details of payments made under this Part of this Act. [902]

(2) The power to make regulations conferred by this section shall be exercisable by statutory instrument, and any statutory instrument under this section shall be laid before Parliament after it is made. [903]

The Minister.—The Minister of Health (s. 144 (1), *post*).

Regulations.—See the Local Government (Allowances to Members) (Prescribed Bodies) Regulations, 1948 (S.I. 1948 No. 1643), *post*, and also the Local Government (Members' Allowances) Regulations, 1948 (S.I. 1948 No. 1784, as amended by S.I. 1949 No. 457), *post*.

Approved duty.—For definition of this expression, see s. 115, *ante*.

Body to which this Part applies.—See s. 111 (1), *ante*.

Statutory instrument.—As to statutory instruments generally, see the Statutory Instruments Act, 1946 (39 Halsbury's Statutes 783) which was brought fully into force on January 1, 1948, by S.I. 1948 No. 3. As to the laying of instruments before Parliament as required by sub-s. (2), *supra*, see s. 4 (1) of that Act. Special provisions as to statutory instruments under this Act are made by s. 142, *post*.

118. Application of preceding provisions to Scotland. [904]

119. Expenses incurred by members of councils in Scotland in attending conferences, etc. [905]

PART VII

Miscellaneous

* * * * *

125. Transfer of stock issued by certain authorities.—(1) The Minister may, by regulations, provide that stock issued, whether before or after the passing of this Act, by any authority to which this section applies, other than—

(*a*) stock which by virtue of any statutory provision contained in or made under a private or local Act and passed or made after the passing of the Government and other Stocks (Emergency Provisions) Act, 1939, and before the making of the regulations, is transferable by deed and in no other manner; and

(*b*) stock in respect of which a stock certificate to bearer is for the time being outstanding, or any other bearer security,

shall be transferable in law by instrument in writing and in no other manner. [906]

(2) Regulations made under this section may contain any incidental, supplementary or transitional provisions, and in particular—

(*a*) provisions as to the keeping of the registers relating to the holders of the stock and as to the matters to be entered therein, and provisions enabling those registers to be closed for such periods and in such circumstances as may be prescribed by the regulations;

(*b*) provision for striking the balance for a dividend on the stock;

(*c*) provisions as to the issue of documents of title relating to the stock and as to evidence of title thereto, and as to the manner in which a transfer of stock is to be completed;

(*d*) provisions varying, revoking or repealing any statutory provision passed or made before the making of the regulations and inconsistent therewith, being a statutory provision which is contained in or made under a local or private Act or made under section thirty of the Local Loans Act, 1875 (which enables a local authority to make rules as to securities issued by them under that Act) or section two hundred and four of the Local Government Act, 1933 (which relates to stock issued under that Act); and

(*e*) provision enabling the Minister by order to exempt from the operation of all or any of the provisions of the regulations such stock as may be specified in the order. [907]

(3) Regulations made under this section varying or revoking any regulations made under the said section two hundred and four may, so far as they relate to stock to which that section applies, be varied or revoked by further regulations made under that section. [908]

(4) The power to make regulations under this section shall be exercisable by statutory instrument, and a draft of any such instrument shall be laid before Parliament. [909]

(5) This section applies to any authority who—

(*a*) are, within the meaning of the Local Loans Act, 1875, an authority having power to levy a rate; or

(*b*) are a body which, under any enactment relating to harbours, are entitled to levy tolls or dues, being a body who are neither statutory undertakers carrying on business for profit nor a company within the meaning of the Companies Act, 1929. [910]

(6) For the purposes of this section, the expression "stock" includes debenture stock and annuity certificates. [911]

(7) In the application of this section to Scotland—

(*a*) for any reference to the Minister there shall be substituted a reference to the Secretary of State; and

(*b*) for any reference to section two hundred and four of the Local Government Act, 1933, there shall be substituted a reference to section two hundred and seventy-one of the Local Government (Scotland) Act, 1947. [912]

General note.—This section empowers the Minister to make regulations providing that, with certain specified exceptions, stock issued by an authority shall be transferable in law only by instrument in writing. "Authority" means an authority with power to levy a rate within the meaning of the Local Loans Act, 1875 (12 Halsbury's Statutes 242), or a body entitled to levy tolls or dues under an enactment relating to harbours (excluding statutory undertakers and limited companies).

The Minister.—The Minister of Health (s. 144 (1), *post*).

Regulations.—See, generally, s. 142, *post*. Up to the time of going to press, no regulations under this section had been made.

Government and other Stocks (Emergency Provisions) Act, 1939.—32 Halsbury's Statutes 1142. The Act was passed on September 7, 1939.

Local Loans Act, 1875, *s.* 30.—12 Halsbury's Statutes 252.

Local Government Act, 1933, *s.* 204.—26 Halsbury's Statutes 416.

Companies Act, 1929.—This Act has been repealed and replaced by the Companies Act, 1948 (11 & 12 Geo. 6, c. 38), s. 455 (1) of which broadly reproduces the definition of "company" contained in s. 380 of the Act of 1929.

Definitions.—For definitions of "rate" and "statutory provision", see s. 144 (1), *post*.

126. Contributions by county councils to expenses of county district councils.—(1) Without prejudice to any power conferred, or duty imposed, upon the council of a county by any other Act, if in the case of any county district in England or Wales it appears to the council of the county in which that district lies that it is reasonable so to do, having regard to the resources

of the district and to the other circumstances of the case, the council of the county may, with the consent of the Minister given either generally or specially, agree to contribute a sum equal to the whole or any part of any expenses incurred by the council of that district. [913]

(2) For the purposes of the preceding subsection, contributions by the council of a county district towards the expenses of a joint board shall be deemed to be expenses incurred by the contributing council. [914]

(3) Where an amount equal to the expenses towards which any contribution is made under this section falls to be debited to the Housing Revenue Account of the council of the county district, the council of the county district shall carry to the credit of the account, in addition to the amounts which they are required to carry to the credit of that account under section one hundred and twenty-nine of the Housing Act, 1936, amounts equal to the contribution payable under this section, and any contribution in respect of those expenses by the council of the district required by paragraph (*e*) of subsection (1) of the said section one hundred and twenty-nine to be carried to the credit of that account shall be correspondingly reduced. [915]

(4) After the coming into operation of this section,—

(*a*) no undertaking shall be given under subsection (2) of section eight of the Housing (Financial and Miscellaneous Provisions) Act, 1946 (which relates to the power of county councils to make contributions in respect of houses provided by county district councils); and

(*b*) any undertaking given under the said subsection (2) or under subsection (4) of section one hundred and fifteen of the Housing Act, 1936 (which relates to the power of county councils to make contributions in respect of houses provided by rural district councils) shall be treated in respect of any period falling after the passing of this Act as if it were an agreement made with the consent of the Minister in pursuance of the power conferred by this section. [916]

General note.—By this section a county council is enabled, with the consent of the Minister, to contribute to a county district council in its area a sum up to the total of the expenses incurred by that council. Expenses of a district council for this purpose include contributions towards the expenses of a joint board. Contributions towards expenses debited to the Housing Revenue Account must be credited to that account, contributions credited by the district council being correspondingly reduced. The powers of county councils to contribute under two earlier Acts are repealed, contributions under them being deemed to be made under the present Act.

The Minister.—The Minister of Health (s. 144 (1), *post*).

Housing Revenue Account.—A Housing Revenue Account is required to be kept by every local authority for the purposes of Part V of the Housing Act, 1936 (see s. 128 thereof; 29 Halsbury's Statutes 654).

Housing Act, 1936, *ss.* 115, 129.—29 Halsbury's Statutes 648, 654.

Housing (Financial and Miscellaneous Provisions) Act, 1946, *s.* 8 (2).—39 Halsbury's Statutes 647. This subsection is repealed by s. 147 and Sched. II, Part V, *post*.

* * * * *

128. Provisions as to finance committees.—In subsection (2) of section eighty-six of the Local Government Act, 1933 (which provides, subject as there stated, that no costs, debt or liability exceeding fifty pounds shall be incurred by a county council except upon a resolution of the council passed on an estimate submitted by the finance committee), and in subsection (3) of section sixty of the London Government Act, 1939 (which makes similar provision in relation to county and borough councils in London) for the word "fifty" there shall be substituted the words "one hundred". [917]

General note.—This section increases from £50 to £100 the maximum sum of any "costs, debt or liability" which a county council may incur without the submission of an estimate by the finance committee.

Local Government Act, 1933, *s.* 86 (2).—26 Halsbury's Statutes 353.

London Government Act, 1939, *s.* 60 (3).—32 Halsbury's Statutes 200.

129. Subscriptions to local government associations.—The council of a county, county borough, metropolitan borough, county district or rural parish may pay reasonable subscriptions, whether annually or otherwise, to the funds—

(*a*) of any association of local authorities formed for the purpose of consultation as to the common interests of those authorities and the discussion of matters relating to local government, or

(*b*) of such associations of officers of local authorities, being associations formed for the purposes aforesaid, as may be approved by the Minister. [918]

General note.—This section empowers local authorities to pay subscriptions to associations of local authorities and, where approved by the Minister, to associations of their officers.
The Minister.—The Minister of Health (s. 144 (1), *post*).
Local authority.—For definition of this expression, see s. 144 (1), *post*.

130. Insurance by local authorities against accidents to members.—(1) A local authority may enter into a contract with any person whereby, in consideration of payments by the authority by way of premium or otherwise, that person undertakes to pay to the authority such sums as may be provided in the contract in the event of any member of the authority meeting with a personal accident, whether fatal or not, while he is engaged on the business of the authority. [919]

(2) Any sum received by the authority under any such contract shall, after deduction of any expenses incurred in the recovery thereof, be paid by them to, or to the personal representatives of, the member of the authority in respect of an accident to whom that sum is received. [920]

(3) The provisions of the Life Assurance Act, 1774, shall not apply to any such contract, but any such contract shall be deemed for the purposes of the Assurance Companies Acts, 1909 to 1946, to be a policy of insurance upon the happening of personal accidents. [921]

(4) In the application of this section to Scotland, the expression "local authority" means a county, town or district council. [922]

General note.—This section authorises local authorities to take out policies of insurance against personal accidents, fatal or otherwise, to members of the authority while engaged on its business. Any sums received under a policy after deduction of the expenses of recovery are to be paid to the member or his personal representatives.
Local authority.—For definition of this expression, see s. 144 (1), *post*.
Life Assurance Act, 1774, *ss.* 2, 3.—9 Halsbury's Statutes 846.
Assurance Companies Acts, 1909 *to* 1946.—These comprise the Assurance Companies Act, 1909 (2 Halsbury's Statutes 724), the Assurance Companies (Winding Up) Acts, 1933 and 1935 (26 Halsbury's Statutes 63; 28 Halsbury's Statutes 25), and the Assurance Companies Act, 1946 (30 Halsbury's Statutes 37).

131. Disability of members of local authorities for voting on account of interest in contracts, etc.—(1) The following amendments shall be made in section seventy-six of the Local Government Act, 1933 (which relates to the disability of members of local authorities who have a pecuniary interest, direct or indirect, in any contract or proposed contract or other matter, for voting on any question with respect thereto). [923]

(2) After subsection (2) of the said section seventy-six there shall be inserted the following subsection—

"(2A) Where a member of a local authority has indirectly a pecuniary interest in a contract or other matter and would not fall to be treated as having such an interest but for the fact that he has a beneficial interest in shares of a company or other body, then, if the total nominal value of those shares does not exceed two hundred pounds or one hundredth of the total nominal value of the issued share capital of the company or body, whichever is the less, so much of subsection (1) of this section as prohibits him from taking part in the consideration or discussion of, and

from voting on any question with respect to, the contract or other matter shall not apply to him, without prejudice, however, to the duty of disclosure imposed by the said subsection (1):

Provided that where the share capital of the company or other body is of more than one class, this subsection shall not apply if the total nominal value of all the shares of any one class in which he has a beneficial interest exceeds one hundredth part of the total issued share capital of that class of the company or other body." [924]

(3) In the proviso to subsection (2) of section seventy-six the words "or stock" shall be omitted, and at the end of the said section there shall be inserted the following subsection—

"(10) In this section, the expression 'shares' includes stock and the expression 'share capital' shall be construed accordingly." [925]

(4) In the said section seventy-six and in section one hundred and twenty-three of the said Act of 1933 (which relates to the disclosure by officers of local authorities of interest in contracts), references to a local authority shall be construed as including references to a divisional executive constituted under the Education Acts, 1944 and 1946, or the National Health Service Act, 1946, and, for the purposes of the said section one hundred and twenty-three, an officer of a local authority who carries out any duties under the control of such an executive shall be deemed, in relation to those duties, to be an officer of that executive. [926]

(5) The preceding provisions of this section shall apply in relation to London as if for references to section seventy-six of the Local Government Act, 1933, there were substituted references to section fifty-two of the London Government Act, 1939. [927]

(6) The provisions of subsections (1) to (3) of this section shall apply to Scotland with the substitution for references to section seventy-six of the Local Government Act, 1933, of references to section seventy-three of the Local Government (Scotland) Act, 1947. [928]

General note.—This section modifies the disability of members of local authorities to vote on any matter in which they have a pecuniary interest. A member must still make disclosure, but he will not be debarred from taking part in the discussion and voting on a matter by reason only of an indirect pecuniary interest therein provided it does not exceed a certain amount. The section also covers divisional executives under the Education Acts, 1944 and 1946, and the National Health Service Act, 1946.

Local Government Act, 1933, *ss.* 76, 123.—26 Halsbury's Statutes 346, 371.

Local authority.—For the definition of this expression as used in the present section, see the Local Government Act, 1933, s. 305 (26 Halsbury's Statutes 465).

Education Acts, 1944 *and* 1946.—37 Halsbury's Statutes 123; 39 Halsbury's Statutes 122. Divisional executives are constituted under s. 6 (2) of, and Sched. I, Part III to, the Act of 1944 (37 Halsbury's Statutes 130, 225).

National Health Service Act, 1946.—39 Halsbury's Statutes 515. Divisional executives may be constituted by regulations made under s. 20 (4) of this Act (39 Halsbury's Statutes 539).

London Government Act, 1939, *s.* 52.—32 Halsbury's Statutes 285.

* * * * *

136. Assistance by local authorities to other bodies.—A local authority in England or Wales may with the consent of the Minister given either generally or specially, contribute towards the expenses of any body carrying on activities within the area of that authority, being activities for the purpose of furthering the development of trade, industry or commerce therein or of giving advice, information or other assistance to persons resident therein, or otherwise for the benefit of that area or those persons. [929]

Local authority.—For definition of this expression, see s. 144 (1), *post.*

The Minister.—The Minister of Health (s. 144 (1), *post*).

Furthering the development.—A chamber of commerce, a chamber of trade and an association of manufacturers would apparently come within this provision, but not individual shopkeepers, wholesalers or manufacturers.

* * * * *

PART VIII

GENERAL

140. Compensation to officers.—(1) The Minister shall by regulations provide for the payment by the appropriate authority, subject to such exceptions or conditions as may be specified in the regulations, of compensation to persons who are, or who, but for any war service in which they have been engaged, would be, officers or servants of any rating authority, any joint committee of rating authorities, any assessment committee, any county valuation committee, any council of a county, the quarter sessions for the County of London, the Central Valuation Committee, the Railway Assessment Authority or the Anglo-Scottish Railways Assessment Authority, who suffer loss of employment or loss or diminution of emoluments which is attributable to the coming into force of any Part of this Act. [930]

(2) Any such regulations may include provision as to the manner in which and the persons to whom any claim for compensation under this section is to be made, and for the determination of all questions arising under the regulations. [931]

(3) The appropriate authority referred to in subsection (1) of this section is—

(*a*) in the case of officers or servants of a rating authority, the rating authority;

(*b*) in the case of officers or servants of a joint committee of rating authorities, all the rating authorities represented on that committee in proportion to the rateable values of their rating areas on the thirty-first day of March, nineteen hundred and forty-eight;

(*c*) in the case of officers or servants of an assessment committee, the rating authority for the assessment area of that committee, or, where the assessment area consists of more than one rating area, all the rating authorities in that assessment area in proportion to the rateable values of their rating areas on the thirty-first day of March, nineteen hundred and forty-eight;

(*d*) in the case of officers or servants of a council of a county or of a county valuation committee, the council of the county;

(*e*) in the case of officers or servants of the quarter sessions for the County of London, the London County Council; and

(*f*) in the case of officers or servants of the Central Valuation Committee, the Railway Assessment Authority and the Anglo-Scottish Railways Assessment Authority, the Minister. [932]

(4) In this section, the expression "war service" means service in any of His Majesty's forces and such other employment as may be prescribed by regulations of the Minister. [933]

The Minister.—The Minister of Health (s. 144 (1), *post*).

Regulations.—See the Local Government (Compensation) Regulations, 1948 (S.I. 1948 No. 1458, as amended by S.I. 1949 No. 489; title RATES AND RATING, *post*). As to regulations generally, see s. 142, *post*.

Assessment committees; county valuation committees; Central Valuation Committee.—These committees will cease to exist on February 1, 1950 (see ss. 33 (1), 72 (1), title RATES AND RATING, *post*, and S.I. 1949 No. 484).

Railway Assessment Authority.—The Authority ceased to exist on April 1, 1948 (see ss. 88 (1), 89 (1), title RATES AND RATING, *post*).

Rating area.—For definition of this expression, see s. 144 (1), *post*.

141. Payments to councils to be for general expenditure.—(1) Any sums received under Part I or Part V of this Act,—

(*a*) by the council of a county in England or Wales, shall be receipts for general county purposes;

(*b*) by the council of a county borough, of any other borough (including a

metropolitan borough) or of an urban district, shall be receipts for the benefit of the whole of the borough or district ;

(*c*) by the council of a rural district, shall be receipts in respect of general expenses ; and

(*d*) by the council of a rural parish or of a group of rural parishes, or by a parish meeting or the representative body of a parish, shall be receipts in respect of expenses in relation to which a precept is issuable in respect of the whole of the parish or group of parishes. [934]

(2) The reference in subsection (1) of this section to sums received by any council includes a reference to sums the payment whereof is effected by making a deduction from the amount due under a precept. [935]

Part V of this Act.—For Part V of this Act, see title RATES AND RATING, *post*.

142. Provisions as to statutory instruments under this Act.—(1) Any power to make regulations conferred by this Act shall be exercisable by statutory instrument, and any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament :

Provided that this subsection shall not apply where, under any of the preceding provisions of this Act, a power to make regulations is expressed to be exercisable by statutory instrument and either—

(*a*) the instrument is required to be laid before Parliament after it is made ; or

(*b*) a draft of the instrument is required to be laid before Parliament. [936]

(2) Any power to make orders conferred by this Act shall be exercisable by statutory instrument. [937]

Statutory instrument.—As to statutory instruments generally, see the Statutory Instruments Act, 1946 (30 Halsbury's Statutes 783), which was brought fully into force on January 1, 1948, by S.I. 1948 No. 3.

143. Expenses.—(1) There shall be paid out of moneys provided by Parliament—

(*a*) the remuneration of, and any expenses incurred by, valuation officers in carrying out their functions under Part III of this Act, including the remuneration and expenses of persons, whether in the service of the Crown or not, employed to assist valuation officers in the exercise of their said functions ;

(*b*) any administrative expenses incurred by the Minister or the Secretary of State under this Act and any compensation payable by the Minister thereunder in the case of officers or servants of the Central Valuation Committee ;

(*c*) any expenses incurred by the Minister of Works as a consequence of the passing of this Act, including, in particular, any expenses incurred by him under or by reason of any provision of this Act relating to the acquisition of premises. [938]

(2) Any expenses incurred under this Act by the common council of the City of London shall be defrayed out of the general rate authorised to be levied by the council. [939]

Valuation officer.—For definition of this expression, see s. 33 (1), title RATES AND RATING, *post*.
Part III of this Act.—For Part III of this Act, see title RATES AND RATING, *post*.
The Minister.—The Minister of Health (s. 144 (1), *infra*).
Compensation.—See s. 140 (1), *ante*.

144. Interpretation.—(1) In this Act, except so far as the contrary is expressly provided or the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

"Minister" means the Minister of Health;

"local authority" means the council of a county, county borough, metropolitan borough or county district, or the Common Council of the City of London;

"year" means a period of twelve months beginning with the first day of April;

"rating area", "rate", "owner", "hereditament" and "clerk" have (in relation to London as well as the remainder of England and Wales) the meanings assigned to them by section sixty-eight of the Rating and Valuation Act, 1925;

"garden" includes a park;

"railway" includes a light railway and a tramway authorised to be constructed by any special Act, other than a light railway or tramway laid wholly or mainly along a public highway and used wholly or mainly for the carriage of passengers;

"inland waterway" includes any such waterway, whether natural or artificial;

"statutory provision" means a provision, whether of a general or special nature, contained in, or in any document made or issued under, any Act, whether of a general or special nature. [940]

(2) Any reference in this Act to the rateable value for an area for a year shall be construed as a reference to the total of rateable values shown on the first day of that year in the valuation list in force on that day for that area, or, where there is more than one rating area in that area, to the aggregate of the totals of rateable values shown as aforesaid in the valuation lists for all the rating areas within the area:

Provided that—

(*a*) where any alteration required to be made under Part V of this Act in the said lists is made after the date as from which, under the said Part V, it has effect, account shall be taken thereof for the purposes of this subsection as if it had been made in the lists as in force on that date;

(*b*) as respects any rating area in London, the references in this subsection to the first day of the year shall, in relation to the first year in which the first new valuation list made under Part III of this Act is in force, and previous years, be construed as references to the sixth day of April in that year. [941]

(3) Any reference in this Act to the product of a rate of a specified sum in the pound for any area shall be construed as a reference to the aggregate of the product of a rate of one penny in the pound for all the rating areas within the area multiplied by the number of pence in the said sum. [942]

(4) The product of a rate of one penny in the pound for a rating area shall, for the purposes of this Act, be taken to be the product of a penny rate for that area as ascertained or estimated for the purpose of subsection (2) of section nine of the Rating and Valuation Act, 1925:

Provided that—

(*a*) in the case of an area in London, the product of a penny rate for the area shall, as respects years as respects which the said subsection (2) does not extend to London, be taken to be the product of a penny rate for the area as ascertained or estimated by the district auditor in accordance with the principles for the time being applicable outside London to the ascertainment and estimation of the product of a penny rate for the purposes of the said section nine;

(*b*) nothing in this subsection detracts from the provisions of this Act enabling the Minister to make regulations as respects the way in which payments for the benefit of local authorities under Part V of this Act are to be treated. [943]

(5) Any reference in this Act to the aggregate gross charge to rates for any year for any area shall be construed as a reference to the total of the amounts required to be paid by virtue of all the rates made by all the authorities in the area for the year or any part thereof, calculated as if, in the case of each hereditament, the amount payable were that ascertained by applying the poundage of the rate to the rateable value of the hereditament, without any allowance or deduction. [944]

(6) In this Act, the expression 1947–48 means the year ending on the thirty-first day of March, nineteen hundred and forty-eight, and any corresponding expression in which two years are similarly mentioned means the year ending on the thirty-first day of March in the second mentioned of those two years. [945]

(7) In this Act, the expression " the North of Scotland District " means, as respects any period up to and including the vesting date within the meaning of the Electricity Act, 1947, the North of Scotland District as existing on that date for the purposes of that Act, and, as respects any subsequent period, means that District as for the time being existing for the purposes of that Act. [946]

(8) Any references in this Act to a local authority in a county shall be construed as including only local authorities whose areas form part of the county. [947]

(9) Any reference in this Act to the alteration of a valuation list or draft valuation list includes a reference to the insertion in the list or draft list, or the omission from the list or draft list, of any hereditament, and references to the alteration of the valuation list with respect to a hereditament shall be construed accordingly. [948]

(10) Except so far as the context otherwise requires, any reference in this Act to any other enactment shall be construed as a reference to that enactment as amended, extended or applied by or under any other enactment, including this Act. [949]

Rating and Valuation Act, 1925, *ss.* 9 (2), 68.—14 Halsbury's Statutes 627, 686.

Parts III and V of this Act.—For Parts III and V of this Act, see title RATES AND RATING, *post*.

145. Application to Scotland. [950]

146. Application to Isles of Scilly.—The provisions of this Act shall, in relation to the Isles of Scilly, have effect subject to such modifications as the Minister may by order direct, and any order under this section may be revoked or varied by any subsequent order. [951]

The Minister.—The Minister of Health (s. 144 (1), *ante*).

Order.—See the Isles of Scilly (Local Government) Order, 1948 (S.I. 1948 No. 2733). As to orders generally, see s. 142 (2).

147. Repeals.—(1) Subject to the provisions of this section, the enactments specified in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule. [952]

(2) The repeal of the enactments specified in Part I of the said Schedule shall apply only as respects the year 1948–49 and subsequent years, and, in the case of the repeal in section one hundred and fifty-two of the Local Government Act, 1933, and the repeal of section one hundred and forty-two of the Local Government (Scotland) Act, 1947, shall not affect any adjustments to which those sections respectively apply made in respect of any increase of burden due to an alteration of boundaries or other change taking place before the beginning of the year 1948–49. [953]

(3) The repeal of the enactments specified in Part II of the said Schedule shall have effect as from such day or days as the Minister may by order appoint and different days may be appointed for different enactments, and different purposes of the same enactment, and for different rating areas. [954]

(4) The repeal of the enactments specified in Part III of the said Schedule shall have effect as from the first day of April, nineteen hundred and forty-eight. [955]

(5) The repeal of the enactments specified in Part IV of the said Schedule shall have effect as from the first day of April, nineteen hundred and forty-eight, but shall not apply in relation to any warrant issued by the Commissioner of Police of the Metropolis under any of the said enactments in respect of any period ending before the said day. [956]

(6) The repeal of the enactments specified in Part V of the said Schedule shall have effect as from the passing of this Act:

Provided that—

(*a*) the repeal of such of the said enactments as relate to expenses of members of local authorities and other bodies shall not affect any expenses incurred before the date of the passing of this Act; and

(*b*) the repeal of subsection (4) of section one hundred and seventeen of the London Government Act, 1939, shall not affect any precept of the London County Council in respect of any period beginning before the first day of April, nineteen hundred and forty-eight. [957]

Local Government Act, 1933, *s.* 152.—26 Halsbury's Statutes 390.
Increase of burden.—As to the discontinuance of burden payments on changes of boundary taking place after March 31, 1948, see s. 11, *ante*.
Year.—This means the period of twelve months beginning with April 1 (s. 144 (1), *ante*).
Passing of this Act.—March 24, 1948.
Local Government Act, 1939, *s.* 117 (4).—32 Halsbury's Statutes 314.

148. Short title and extent.—(1) This Act may be cited as the Local Government Act, 1948. [958]

(2) This Act shall not extend to Northern Ireland. [959]

SCHEDULES

* * * * *

Section 147

SECOND SCHEDULE

ENACTMENTS REPEALED

PART I

Repeals consequential upon Parts I and II of this Act

Session and Chapter	Enactment Repealed	Extent of Repeal
19 & 20 Geo. 5, c. 17.	The Local Government Act, 1929.	Sections eighty-six to ninety-two, ninety-four to one hundred, one hundred and three and one hundred and four; in section one hundred and five the words "Subject to the provisions of this Part of this Act" and the words "of General or Additional Exchequer Grant or"; sections one hundred and six to one hundred and twelve; proviso (*a*) to subsection (2) of section

Session and Chapter	Short Title	Extent of Repeal
19 & 20 Geo. 5, c. 17—*cont.*	The Local Government Act, 1929—*cont.*	one hundred and thirty-one; section one hundred and thirty-five; and the Fourth and Fifth Schedules.
*	* *	* *
23 & 24 Geo. 5, c. 8.	The Local Government (General Exchequer Contributions) Act, 1933.	The whole Act.
23 & 24 Geo. 5, c. 51.	The Local Government Act, 1933.	Paragraph (*b*) of subsection (1) of section one hundred and fifty-two and the Fifth Schedule.
1 Edw. 8, and 1 Geo. 6, c. 22.	The Local Government (Financial Provisions) Act, 1937.	The whole Act.
*	* *	* *
3 & 4 Geo. 6, c. 13.	The Old Age and Widows' Pensions Act, 1940.	Section sixteen.
4 & 5 Geo. 6, c. 33.	The Local Government (Financial Provisions) Act, 1941.	The whole Act.
*	* *	* *
9 & 10 Geo. 6, c. 24.	The Local Government (Financial Provisions) Act, 1946.	The whole Act.
*	* *	* *
9 & 10 Geo. 6, c. 81.	The National Health Service Act, 1946.	In section fifty-three, in subsection (1), the words from "and the grant shall be payable" to the end of the subsection, and the whole of subsections (3) and (4). [960]
*	* *	* *

Local Government Act, 1929.—10 Halsbury's Statutes 883.
Local Government (General Exchequer Contributions) Act, 1933.—26 Halsbury's Statutes 289.
Local Government Act, 1933, *s.* 152 (1) (*b*), *Sched. V.*—26 Halsbury's Statutes 390.
Local Government (Financial Provisions) Act, 1937.—30 Halsbury's Statutes 377.
Old Age and Widows' Pensions Act, 1940, *s.* 16.—33 Halsbury's Statutes 519.
Local Government (Financial Provisions) Act, 1941.—34 Halsbury's Statutes 175.
Local Government (Financial Provisions) Act, 1946.—39 Halsbury's Statutes 239.
National Health Service Act, 1946, *s.* 53.—39 Halsbury's Statutes 559.
Scotland.—Part II of the Act relates to Scotland and the enactments omitted from this Part of the Schedule relate to Scotland.

* * * * *

PART V

Repeals consequential upon other provisions of this Act

Session and Chapter	Short title	Extent of Repeal
*	* *	* *
20 & 21 Geo. 5, c. 44.	The Land Drainage Act, 1930.	In Part II of the First Schedule, sub-paragraph (*b*) of paragraph 12.
23 & 24 Geo. 5, c. 51.	The Local Government Act, 1933.	In section two hundred and sixty-seven the words "other than a parish council", and section two hundred and ninety-four.
*	* *	* *

Session and Chapter	Short Title	Extent of Repeal
1 Edw. 8, and 1 Geo. 6, c. 36.	The Local Government (Members' Travelling Expenses) Act, 1937.	The whole Act.
*	* *	* *
2 & 3 Geo. 6, c. c.	The London County Council (General Powers) Act, 1939.	Section seventy-three.
2 & 3 Geo. 6, c. 40.	The London Government Act, 1939.	Subsection (4) of section one hundred and seventeen and section one hundred and sixty-three.
6 & 7 Geo. 6, c. 16.	The Agriculture (Miscellaneous Provisions) Act, 1943.	In section seven the words "Subparagraph (*b*) of paragraph 12 of Part II of the First Schedule to the Land Drainage Act, 1930 and", the words "of a Catchment Board", the word "respectively" and the word "each".
*	* *	* *
9 & 10 Geo. 6, c. 50.	The Education Act, 1946.	Section eleven.
*	* *	* * [961]

Land Drainage Act, 1930, *Sched. I, Part II, para.* 12 (*b*).—23 Halsbury's Statutes 586.
Local Government Act, 1933, *ss.* 267, 294.—26 Halsbury's Statutes 448, 462.
Local Government (Members' Travelling Expenses) Act, 1937.—30 Halsbury's Statutes 384.
London County Council (General Powers) Act, 1939, *s.* 73.—32 Halsbury's Statutes 496.
London Government Act, 1939, *ss.* 117 (4), 163.—32 Halsbury's Statutes 314, 334.
Agriculture (Miscellaneous Provisions) Act, 1943, *s.* 7.—36 Halsbury's Statutes 8.
Education Act, 1946, *s.* 11.—39 Halsbury's Statutes 126.

PUBLIC WORKS LOANS ACT, 1948

(11 & 12 Geo. 6, c. 48)

PRELIMINARY NOTE

This Act which came into operation on receiving the Royal Assent on July 13, 1948, follows the lines of previous Public Works Loans Acts, with the omission of the provision usually made for writing off the principal and interest of specified loans. S. 1 of the Act provides for the issuing to the Public Works Loan Commissioners of sums up to £500 million for the purpose of local loans until the next Act for this purpose. S. 2 limits the aggregate of loans made during the period together with outstanding commitments as to future advances, which the Commissioners are empowered to make under the Public Works Loans (No. 2) Act, 1946, s. 2 (39 Halsbury's Statutes 320), to £680 million.

The Act is generally comparable with the Public Works Loans Act, 1947, *ante*. [962]

An Act to grant money for the purpose of certain local loans out of the Local Loans Fund, and for other purposes relating to local loans. [963]

[13th July, 1948.]

1. Grants for public works.—(1) There may be issued by the National Debt Commissioners for the purposes of local loans by the Public Works Loan Commissioners any sum or sums not exceeding in the whole the sum of five hundred million pounds. [964]

(2) The sums so issued shall be issued during a period beginning with the passing of this Act and ending on the day on which a further Act granting money for the purposes of those loans comes into operation, and in accordance with the provisions of the National Debt and Local Loans Act, 1887. [965]

General note.—See the Preliminary Note, *ante*. This section, except for the amount specified therein, is in almost identical terms with s. 1 of the Public Works Loan Acts, 1947, *ante*.

National Debt Commissioners.—For the constitution of the National Debt Commissioners, see s. 14 of the National Debt Reduction Act, 1786 (16 Halsbury's Statutes 27).

Public Works Loan Commissioners.—For the constitution of the Public Works Loan Commissioners, see the Public Works Loans Act, 1875, s. 4 (12 Halsbury's Statutes 255), as amended by the Public Works Loans Act, 1946, s. 5 (2), Sched. II (39 Halsbury's Statutes 313). As to their appointment, see s. 1 of the latter Act.

National Debt and Local Loans Act, 1887.—12 Halsbury's Statutes 282.

2. Limit on commitments by Public Works Loan Commissioners.—The period aforesaid shall be an issue period within the meaning of section two of the Public Works Loans (No. 2) Act, 1946 (which enables the Public Works Loan Commissioners to undertake to grant loans, including loans falling to be advanced after the expiration of the current issue period), and the aggregate of—

(*a*) the commitments of the said Commissioners outstanding at any time during the said issue period in respect of undertakings entered into by them (whether during or before the beginning of that period) to grant local loans, and

(*b*) the advances in respect of local loans made by the said Commissioners during that period up to that time,

shall not exceed six hundred and eighty million pounds. [966]

General note.—As to the effect of this section, see the Preliminary Note, *ante*, and compare s. 2 of the Public Works Loans Act, 1948, *ante*.

Public Works Loans (No. 2) Act, 1946, s. 2.—39 Halsbury's Statutes 320. "Issue period" is defined by that section to mean a period beginning with the coming into operation of that Act and ending on the day on which a further Act granting money for the purposes of local loans comes into operation, and that section further provides that in any such further Act that expression shall have a corresponding meaning unless the contrary intention appears.

3. Short title.—This Act may be cited as the Public Works Loans Act, 1948. [967]

FINANCE ACT, 1948

(11 & 12 Geo. 6, c. 49)

GENERAL NOTE

Part IV comprising ss. 38 to 46, of this Act, which received the Royal Assent on July 30, 1948, relates to expenses allowances for purposes of income tax. The principal provision is that of s. 38, which enacts that sums paid in respect of expenses by bodies corporate to their directors or to any of their employees specified are to be treated for purposes of income tax as perquisites of their office or employment and accordingly are to be included in the emoluments assessable to tax, without prejudice, however, to the making of claims for deductions for "money expended wholly, exclusively and necessarily in performing the duties of the office or employment."

Sections 39 and 40 relate to the taking into account of expenditure in the providing for such directors or employees of living or other accommodation, entertainment, domestic or other services, or other benefits or facilities, and the mode of valuation of such benefits in kind. Provision is made for exemption in certain cases where no additional tax would be payable if the provisions of Part IV of the Act were applied (s. 42).

Nevertheless, it is provided by s. 44 of the Act that the provisions of Part IV are not to apply, *inter alia*, to any local authority as defined for the purposes of s. 21 of the Finance (No. 2) Act, 1945 (38 Halsbury's Statutes 236), except in relation to " persons employed by it in an employment to which this Part of this Act applies wholly or mainly for the purposes of a trade carried on by it." In general, the authorities comprised in the definition referred to are bodies being, within the meaning of the Local Loans Act, 1875 (12 Halsbury's Statutes 242), authorities having power to levy a rate, and any joint board or joint committee all the constituent members of which are such authorities. In view of this exception it has not been thought necessary to include the text of Part IV in this volume. [968]

ORDERS, CIRCULARS AND MEMORANDA

TREASURY MINUTE FIXING RATES OF INTEREST ON LOCAL LOANS

S.I. 1948 *No.* 15

January 2, 1948

My Lords read Section 1 of the Public Works Loans Act, 1897 (60 & 61 Vict. c. 51) which empowers the Treasury from time to time to fix the rates of interest at which loans may be made out of the Local Loans Fund on the security of local rates, and provides that the Treasury, in fixing the rates, shall have regard to the duration of the loans, and also that the rates shall be such as, in the opinion of the Treasury, are sufficient to enable the loans to be made without loss to the Fund.

They also read the Local Authorities Loans Act, 1945 (8 & 9 Geo. 6, c. 18) which prohibits, with certain exceptions, all borrowing by a local authority otherwise than from the Public Works Loan Commissioners and also abolishes the statutory provisions which made it necessary to charge on certain loans for housing, small holdings and allotments, the minimum rate of interest allowed for the time being for loans out of the Local Loans Fund whatever the period.

The rates of interest on loans to Local Authorities as defined in Section 10 of the last mentioned Act which were fixed by the Treasury Minute of the 30th May, 1946, have been reviewed in the light of present monetary conditions.

The Chancellor of the Exchequer now recommends, and My Lords approve, the following scale to come into operation on the Third day of January, 1948, and to apply to all loans advanced to local authorities, as defined in Section 10 of the Local Authorities Loans Act, 1945 from the Local Loans Fund on or after that date :—

	Per cent.
Loans for not more than five years	2
Loans for more than five years but not more than fifteen years	$2\frac{1}{2}$
Loans for more than fifteen years	3

[969]

TREASURY MINUTE FIXING RATES OF INTEREST ON LOCAL LOANS (OTHER THAN LOANS TO LOCAL AUTHORITIES)

S.I. 1948 *No.* 16

January 2, 1948

My Lords read Section 4 of the Public Works Loans Act, 1918 (8 & 9 Geo. 5, c. 27), by which it is declared that the power of the Treasury under Section 1 of the Public Works Loans Act, 1897 (60 & 61 Vict. c. 51), as amended by Section 4 of the Public Works Loans Act, 1917 (7 & 8 Geo. 5, c. 32) to fix rates of interest on loans made out of the Local Loans Fund otherwise than on the security of local rates includes (subject always to the provisions of the said Sections) a power to fix rates of interest differing from the rates fixed for loans made out of that Fund on the security of local rates, and a power to fix different rates of interest in respect of different loans and that in fixing the rate of interest the Treasury may take into account the nature and value of the security for the loan.

They also read Section 92 of the Housing Act, 1936 (26 Geo. 5 & 1 Edw. 8, c. 51) and Section 73 of the Housing (Scotland) Act, 1925 (15 & 16 Geo. 5, c. 15) as amended by Sections 25 and 28 of the Housing (Scotland) Act, 1935 (25 & 26 Geo. 5, c. 41) which provide that loans may be granted to companies, societies, associations and persons as defined in those Sections in connection with the provision of houses for the working classes.

They further read Section 3 of the Public Works Loans (No. 2) Act, 1946 (9 & 10 Geo. 6, c. 75) which repeals the statutory minimum rate of interest of three pounds two shillings and sixpence per cent. per annum on loans advanced to borrowers other than local authorities, under the Housing Acts, from the Local Loans Fund.

The rates of interest on loans advanced otherwise than on the security of local rates which were fixed by Treasury Minute of 19th November, 1946, have been reviewed in the light of present monetary conditions.

The Chancellor of the Exchequer now recommends, and My Lords approve, the following rates to come into operation as from the Third day of January, 1948 and to apply to loans advanced otherwise than on the security of local rates from the Local Loans Fund, on or after that date :— [970]

	Per cent.
I	
Loans to housing associations as defined by the Housing Act, 1936, *and the Housing (Scotland) Act,* 1935 :	
For any period up to 50 years	3
II	
Loans under the Housing Acts to companies and private persons limiting their profits to the rate for the time being prescribed :	
For any period up to 40 years	3
III	
Loans under the Housing Acts to companies and private persons not limiting their profits as aforesaid :	
For any period up to 40 years	3¼

		Per cent.
IV		
Loans under the Harbours and Passing Tolls, etc., Act, 1861, *with collateral security:*		
	For any period up to 50 years	3
V		
Loans under the Harbours and Passing Tolls, etc., Act, 1861, *without collateral security:*		
	For any period up to 50 years	3¼
VI		
All other Loans:		
	For any period	3¼

[971]

LOCAL GOVERNMENT (SPECIAL AND PARISH RATES) (THIRD FIXED GRANT PERIOD) REGULATIONS, 1948

S.I. 1948 *No.* 613

March 24, 1948

The Minister of Health, in exercise of the powers conferred upon him by subsection (2) of section 92 of the Local Government Act, 1929, hereby makes the following regulations :—

1. These regulations may be cited as the Local Government (Special and Parish Rates) (Third Fixed Grant Period) Regulations, 1948, and shall come into operation on the 25th day of March, 1948. [972]

2.—(1) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

(2) In these regulations, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them :—

" The appointed day " means the thirty-first day of March, 1948 ;

" The 1937 Regulations " means the Local Government (Special and Parish Rates) (Third Fixed Grant Period) Regulations, 1937 ;

" special rate compensation " and " parish rate compensation " mean, in relation to any rural district, the total of the sums receivable under section 92 of the Local Government Act, 1929, as amended by section 5 of the Local Government (Financial Provisions) Act, 1937, in respect of losses on account of special rates and losses on account of parish rates respectively. [973]

3. In so far as the special rate compensation and parish rate compensation for the year ending on the appointed day for any rural district, and any amounts which under the provisions of the provisos to articles 3 and 4 of the 1937 Regulations are deemed to form part of such special rate compensation or parish rate compensation, have, by the appointed day, not been applied in accordance with the 1937 Regulations, they shall be applied to the credit of the general district account for the year ending on the appointed day. [974]

4. The said provisos to articles 3 and 4 of the 1937 Regulations shall not have effect in relation to the compensation and amounts as regards which provision is made by article 3 of these regulations. [975]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

The necessity for these Regulations arises from the termination of the Third Fixed Grant Period of the Local Government Acts, 1929 to 1946, by the Local Government Act, 1948.

The compensation received by the rural district councils under section 92 of the Local Government Act, 1929, for losses on account of special and parish rates is applied by such councils in accordance with regulations. The current regulations are the Local Government (Special and Parish Rates) (Third Fixed Grant Period) Regulations, 1937 (S. R. & O., 1937, No. 751). These have effect only in relation to the years of the Third Fixed Grant Period. The present Regulations make provision for the application in aid of rates, before the accounts of a rural district council for the year ending on March 31, 1948, are closed, of the compensation not already applied under the 1937 Regulations.

LOCAL GOVERNMENT (ALLOWANCES TO MEMBERS) (PRESCRIBED BODIES) REGULATIONS, 1948

S.I. 1948 *No.* 1643

July 14, 1948

Whereas by paragraph (*h*) of subsection (1) of section 111 of the Local Government Act, 1948, it is enacted that Part VI of that Act (which relates to allowances to members of local authorities and other bodies) shall apply (*inter alia*) to such bodies as may be prescribed, being bodies established in pursuance of any statutory provision upon which any such body, as is mentioned in paragraphs (*a*) to (*g*) of the said subsection is represented :

Now, therefore, the Minister of Health, in exercise of the powers conferred on him by sections 111 and 117 of the Local Government Act, 1948, hereby makes the following regulations :—

1.—(1) These regulations may be cited as the Local Government (Allowances to Members) (Prescribed Bodies) Regulations, 1948 and shall come into operation on the first day of August, 1948.

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [976]

2. The following bodies are hereby prescribed as bodies to which Part VI of the Local Government Act, 1948, shall apply, that is to say :—

(*a*) Standing joint committees of quarter sessions and county councils appointed under section 30 of the Local Government Act, 1888 ;

(*b*) Combined police authorities constituted in accordance with the provisions of an amalgamation scheme under the Police Act, 1946 ;

(*c*) Local fisheries committees constituted under the Sea Fisheries Regulation Act, 1888, as amended by the Sea Fish Industry Act, 1938 ; and

(*d*) the Metropolitan Water Board. [977]

* * * * *

EXPLANATORY NOTE

(This note is not part of the Regulations, but is intended to indicate their general purport.)

The Regulations, include standing joint committees, combined police

authorities, local fisheries committees and the Metropolitan Water Board, among the bodies the members of which are entitled, under the Local Government Act, 1948, to financial loss, travelling and subsistence allowances in respect of the performance of their duties.

LOCAL GOVERNMENT (MEMBERS' ALLOWANCES) REGULATIONS, 1948

S.I. 1948 *No.* 1784

July 29, 1948

General note.—These regulations have been amended by S.I. 1949 No. 457, and the amendments have been incorporated in the text: they took effect on April 1, 1949.

The Minister of Health, in exercise of the powers conferred on him by sections 113 and 117 of the Local Government Act, 1948, hereby makes the following regulations :—

1. These regulations may be cited as the Local Government (Members' Allowances) Regulations, 1948, and shall come into operation on the 16th day of August, 1948. [978]

2.—(1) In these regulations, unless the context otherwise requires—

" the Act " means the Local Government Act, 1948 ;

" body " means any body to which Part VI of the Act applies for the time being ; and

" public service " means any service provided for travel by the public by railway, ship, vessel, omnibus, trolley vehicle or tramway.

(2) The Interpretation Act, 1889 applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [979]

3. The rates to be determined by bodies for the payment of travelling allowances and subsistence allowances shall not exceed the maximum rates mentioned, and shall be subject to the provisions contained, in the First and Second Schedules hereto respectively. [980]

4. Every member of a body who desires to claim any payment by way of financial loss allowance, travelling allowance or subsistence allowance shall complete and submit to that body an application in the appropriate form set out in the Third Schedule hereto or in a form substantially to the like effect. [981]

5. Every body shall, so far as is in its opinion practicable, make arrangements for the issue to its members of tickets, or of vouchers, warrants or similar documents for exchange by such members for tickets, to cover journeys in respect of which payments by way of travelling allowance would otherwise fall to be made. [982]

6.—(1) Every body shall keep records of all payments to members made by it under Part VI of the Act, indicating the amounts paid to each member and the heads under which they were paid, and such records shall be open to inspection at all reasonable hours by any local government elector for the area of the body.

(2) For the purposes of this regulation expenditure incurred in the issue to a member of any ticket or other document under regulation 5 shall be deemed to have been paid to that member. [983]

7.—(1) Where a person necessarily suffers or incurs any loss or expense to which section 112 of the Act applies, or necessarily incurs expenditure on

travelling or subsistence in respect of the performance by him in any one period of twenty-four hours of approved duties as a member of more than one body, he shall be entitled to receive, and there shall be payable by the bodies concerned, in respect of the performance of those duties, such payments by way of financial loss allowance, travelling allowance and subsistence allowance, as will not exceed in the aggregate the payment to which he would have been entitled had all the said duties been performed by him as a member of one only of those bodies.

(2) Where in any one period of twenty-four hours a person becomes entitled in respect of the performance of any duties to receive payments by way of, or in the nature of, financial loss allowance, travelling allowance or subsistence allowance both under Part VI of the Act and under any other enactment, the amount which he shall be entitled to receive under either of those enactments in respect of any of the heads aforementioned shall be reduced by any amount received by him in respect of that head under the other of those enactments, and any claim for any such payment as aforesaid shall contain particulars of any amount so received. [984]

SCHEDULES

FIRST SCHEDULE

Maximum rates of payments by way of travelling allowance, and provisions relating thereto

1. The rate for travel by public service shall not exceed the amount of the ordinary, or any available cheap, fare, and where more than one class of fare is available the rate shall be determined, in the case of travel by ship, by reference to first class fares, and in any other case by reference to third class fares, unless the body determine, either generally or specially, that first class fares shall be substituted :

Provided that the said rate may be increased by supplementary allowances not exceeding expenditure actually incurred—

(*a*) on Pullman Car or similar supplements, reservation of seats, and deposit or porterage of luggage, and

(*b*) on sleeping accommodation engaged by the member for an over-night journey, subject, however, to reduction by one-third of any subsistence allowance payable to him for that night.

2. The rate for travel by taxi-cab or cab—

(*a*) in cases of urgency or where no public service is reasonably available, shall not exceed the amount of the actual fare and any reasonable gratuity paid, and

(*b*) in any other case, shall not exceed the amount of the fare for travel by an appropriate public service.

3. The rate for travel by a member's own private motor vehicle in circumstances which involve a substantial saving in his time or are otherwise reasonable, or where it is in the interests of the body that he should so travel rather than by public service, shall not exceed—

(*a*) in the case of a motor car, 6d. a mile for the first 2,880 miles in any year and thereafter 3d. a mile ;

(*b*) in the case of a tri-car, 3d. a mile ;

(*c*) in the case of a motor cycle (with or without a side-car), 2¼d. a mile ; and

(*d*) in the case of a motor-assisted pedal-cycle or any vehicle of a similar type, 1½d. a mile.

For such travel in circumstances other than those mentioned above the rate shall not exceed 1½d. a mile, irrespective of the type of vehicle :

Provided that the above rates may be increased by—

(i) not more than ½d. a mile for the carriage of each additional person to whom an allowance for travelling would otherwise be payable, and

(ii) not more than the amount of any expenditure incurred on tolls, ferries or parking fees, and

(iii) in the case of an absence over-night, from the usual place of residence, not more than 2s. 6d. a night for garaging a car, or 1s. 6d. a night for garaging a motor vehicle of any other type.

4. The rate for travel by a hired motor vehicle other than a taxi-cab or cab shall not exceed the rate which would have been applicable had the vehicle belonged to the member who hired it :

Provided that where the body so approves, the rate may be increased to an amount not exceeding the actual cost of the hiring.

5. The rate for travel by air shall not exceed the rate applicable to travel by appropriate alternative means of transport together with an allowance equivalent to the amount of any saving in financial loss allowance and subsistence allowance consequent on travel by air :

Provided that, where the body resolves either generally or specially, that the saving in time is so substantial as to justify payment of the fare for travel by air, there may be paid an amount not exceeding

(*a*) the ordinary, or any available cheap, fare for travel by regular air service, or

(*b*) where no such service is available or in case of urgency, the fare actually paid by the member. [985]

SECOND SCHEDULE

Maximum rates of payments by way of subsistence allowance, and provisions relating thereto

1. For an absence, not involving an absence over-night, from the usual place of residence—

(*a*) of more than four hours but not more than eight hours, the rate shall not exceed 5s. 0d.

(*b*) of more than eight hours but not more than twelve hours, the rate shall not exceed 10s. 0d. ; and

(*c*) of more than twelve hours, the rate shall not exceed 15s. 0d.

2. The rate for an absence over-night from the usual place of residence shall not exceed the sum of 32s. 6d. :

Provided that for such an absence in London, or for the purpose of attendance at an annual conference of the County Councils' Association, the Association of Municipal Corporations, the Urban District Councils' Association or the Rural [District] Councils' Association [or such other associations or bodies to which Part VI of the Act applies as the Minister may for the time being approve for the purpose], the rate may be increased by a supplementary allowance not exceeding 9s. 6d.

The rate determined under this paragraph shall be deemed to cover a continuous period of absence of twenty-four hours.

3. An amount payable by any body by way of subsistence allowance shall be reduced by an appropriate sum in respect of any meal provided for the claimant by that body, free of charge, during the period to which the allowance relates. [986]

General note.—In the proviso to para. 2 the word " District " in square brackets was substituted for " Districts " and the words in square brackets following the word " Association " where it last occurs were added by the Local Government (Members' Allowances) Amendment Regulations, 1949 (S.I. 1949 No. 457).

THIRD SCHEDULE

FORM OF APPLICATION FOR TRAVELLING AND SUBSISTENCE ALLOWANCES

Date	Place and time of departure	Place and time of return	Description of approved duties	Mode and class of travel	No. of miles travelled by private motor vehicle, other than taxi-cab or cab and rate applicable	Fares and other authorised payments	Travelling allowance claimed	Subsistence allowance claimed
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
						Totals		
Particulars of amounts received or claimed by way of travelling or subsistence allowance from other authorities or bodies								
						Amounts now claimed		

I declare that I have actually and necessarily incurred expenditure on travelling and subsistence for the purpose of enabling me to perform approved duties as a member of....., that I have actually paid the fares and made the other payments shown above and that the amounts claimed are strictly in accordance with the rates determined by.....

I declare that the statements above are correct. Except as shown above I have not made, and will not make, any claim under any enactment for travelling or subsistence expenses or allowances in connection with the duties indicated above.

Date..... Signature of Member.....

FORM OF APPLICATION FOR FINANCIAL LOSS ALLOWANCE

Date (1)	Place and time of departure (2)	Place and time of return (3)	Description of approved duties (4)	Amount claimed (5)

Particulars of amounts received or claimed by way of financial loss allowance from other authorities or bodies.

Amount now claimed .. ..

I declare that I have actually and necessarily—

*(*a*) suffered loss of earnings which I should otherwise have made,

*(*b*) incurred additional expense other than expense on account of travelling or subsistence,

for the purpose of enabling me to perform approved duties as a member of ..... and that the amount of such loss and expense is not less than the sum claimed.

I declare that the statements above are correct. Except as shown above I have not made, and will not make, any claim under any enactment for financial loss allowance in connection with the duties indicated above.

Date..... Signature of Member.....

* Delete as appropriate. [987]

* * * * *

LOCAL GOVERNMENT (CONFERENCES) REGULATIONS, 1948

S.I. 1948 *No.* 1932

August 20, 1948

The Minister of Health, in pursuance of the powers conferred on him by section 267 of the Local Government Act, 1933, as amended by subsection (3) of section 113 of the Local Government Act, 1948, hereby makes the following regulations :—

1.—(1) These Regulations may be cited as the Local Government (Conferences) Regulations, 1948, and shall come into operation on the 1st day of September, 1948.

(2) The Local Government (Conferences) Regulations, 1934, are hereby revoked. [988]

2. The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [989]

3. The power conferred by section 267 of the Local Government Act, 1933, as amended as aforesaid, on local authorities to pay any reasonable expenses incurred by members or officers of the authority or of any committee thereof in attending a conference or meeting convened by one or more local authorities or by any association of local authorities shall extend—

(*a*) in the case of local authorities other than parish councils, to the following conferences or meetings :—

(i) the annual conferences of the Association of Municipal Corporations, the Urban District Councils' Association, and the Rural District Councils' Association, and any meeting of the council or any committee of any of the said associations ; and

(ii) any other conference or meeting convened as aforesaid to discuss any matter connected with the discharge of their functions ; and

(*b*) in the case of parish councils, to any meeting of a county association of parish councils of which the parish council concerned is a member, and to any meeting of any committee of such an association, but not exceeding in all two meetings in any one year. [990]

4. The said power shall be exercised subject to the following conditions :—

(i) the expenses of a member or officer shall not be paid by the local authority unless his attendance at the meeting or conference is authorised by them ;

(ii) the local authority shall not pay the expenses of more than three members in respect of their attendance at a conference or meeting referred to in regulation 3 (*a*) (i) of these regulations, in addition to any member who is chairman of the association concerned or of one of its committees ; and

(iii) the local authority shall not pay the expenses of more than two members in respect of their attendance at any other conference or meeting referred to in regulation 3 of these regulations. [991]

5. A local authority may in any case in which they consider it desirable to do so incur any reasonable expense in purchasing reports of the proceedings of any conference or meeting the expenses of attending which may be defrayed under these regulations. [992]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These regulations repeat with some amendments the existing regulations under section 267 of the Local Government Act, 1933, with regard to expenses in connection with conferences or meetings of local authorities or associations of local authorities. That section has been amended by section 113 (3) of the Local Government Act, 1948, so as to cover parish Councils and the present regulations make limited provision for expenses of those bodies.

Circular 7/48

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.
12th January, 1948.

To : Local Authorities, England and Wales.

SIR,

I. RATES OF INTEREST ON LOANS TO LOCAL AUTHORITIES OUT OF THE LOCAL LOANS FUND

I am directed by the Minister of Health to refer to Circular 125/46, dated 21st June, 1946, and to inform you that the Lords Commissioners of His Majesty's Treasury have now directed that the following rates of interest shall apply to all loans advanced to local authorities, as defined in section 10 of the Local Authorities Loans Act, 1945, from the Local Loans Fund on and after the 3rd January, 1948 :—

	Per cent.
Loans for not more than 5 years	2
Loans for more than 5 years but not more than 15 years ..	2½
Loans for more than 15 years	3

II. RATES OF INTEREST ON LOANS MADE BY LOCAL AUTHORITIES UNDER THE SMALL DWELLINGS ACQUISITION ACTS, 1899–1923.

I am to remind you that by virtue of section 92 (2) of the Housing Act, 1935, the rate of interest on advances made by local authorities under the provisions of the Small Dwellings Acquisition Acts is fixed at a rate ¼ per cent. in excess of the rate of interest which, one month before the date on which the terms of the loan or advance are settled, was the rate fixed by the Treasury in respect of loans from the Local Loans Fund to local authorities for housing purposes.

An additional copy of this circular is enclosed for the use of the Financial Officer of the Authority. [993]

I am, Sir, etc.

* * * * *

The Clerk of the Local Authority.

To the Clerk or Treasurer of all
Local Authorities
Joint Boards
Joint Committees
Joint Electricity Authorities
Port Health Authorities
Catchment Boards
Drainage Boards
in England and Wales,

and County, Town and
District Councils
Joint Boards
Joint Committees
in Scotland.

TREASURY CHAMBERS,
GREAT GEORGE STREET,
LONDON, S.W.1.

15th March, 1948.

CONTROL OF BORROWING ORDER, 1947

SIR,

CAPITAL ISSUES CONTROL: BORROWING BY LOCAL AUTHORITIES

1. I am directed by the Lord Commissioners of His Majesty's Treasury to refer to Treasury Circular of 3rd July, 1947, and to inform you that this circular supersedes paragraph 2 thereof.

RENEWAL AND REPLACEMENT OF MORTGAGES

2. Consent for the purpose of the Control of Borrowing Order, 1947 is hereby given, with effect until 31st March, 1949 in the case of Local Authorities in England and Wales, and until 15th May, 1949 in the case of Local Authorities in Scotland, and subject to the conditions set out in paragraph 3 of Treasury Circular of 3rd July, 1947, to the renewal, replacement or other amendment of mortgages without application for specific Treasury consent.

I am, Sir, etc.

* * * * *

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[994]

To the Clerk or Treasurer of all
Local Authorities
Joint Boards
Joint Committees
Joint Electricity Authorities
Port Health Authorities
Catchment Boards
Drainage Boards
in England and Wales,

and County, Town, and
District Councils
Joint Boards
Joint Committees
in Scotland.

TREASURY CHAMBERS,
GREAT GEORGE STREET,
LONDON, S.W.1.

31*st March*, 1948.

SIR,

I am directed by the Lords Commissioners of His Majesty's Treasury to inform you that they have been in consultation with the Public Works Loan Board and with representatives of the Standing Committees of Local Authorities with a view to ensuring that the forward commitments of the Board should be put on as realistic a basis as possible.

It was an integral feature of the arrangements for the operation of the Local Authorities Loans Act that the approval of the Public Works Loan Board should be obtained for any proposed local authority borrowing concurrently with the sanction of the appropriate Government Department and the consent of the Treasury. This arrangement has resulted in the position that at any given time the Board stands committed to lend very substantial amounts to local authorities, as and when they may be requested to do so.

As a result of legal rulings, specific provision is now made in successive Public Works Loans Acts to limit the extent to which, during the currency of the Act, the Board may enter into commitments to make future loans. Having regard to this limitation, it is, in the view of the Board and of Their Lordships, essential that outstanding approvals given by the Board should only remain valid to the extent that the loans in question are in fact likely to be required from the Board. For example, a local authority may have exercised a loan sanction without recourse to the Board, either by the use of internal funds or by borrowing under the Local Authorities Loans (Exemptions) Regulations. Again, a particular project for which a loan has been approved may have been postponed indefinitely. In such circumstances it is clearly desirable that the commitments represented by the Board's approval should be cancelled. It can of course be assumed that, if the local authority subsequently finds that it is after all necessary to apply to the Board for a loan, the Board will, unless in the meantime there has been a substantial change in circumstances, be prepared to reinstate their earlier approval.

I am to enclose herewith a form of return (in duplicate), one copy of which you are asked to complete and return to the P.W.L.B. not later than 30th April, 1948.

I am, Sir, etc.

* * * * *

Name of Local Authority.....

Return at 31st March, 1948, of Public Works Loan Board Approvals given on or after 1st August, 1945 in respect of which Loans are no longer required or are not fully required,

(as a result of finance from other sources, reduced expenditure, works abandoned or indefinitely postponed, etc.)

(*Note* 1.—Outstanding approvals of loans for electricity undertakings are being cancelled as from 1st April, 1948, and should not be included in this return.
2. Details of Loans no longer required or not fully required which have already been notified to the Public Works Loan Board should similarly not be included in this return.)

Purpose of loan	Loan Sanction		If no Loan Sanction, Title and Section of Local Act or other borrowing Authorisation	P.W.L.B. Approval			Extent to which P.W.L.B. approval may now be reduced. (A " nil " return should be made, if appropriate.)
	Date	Amount (£)		Loan reference number	Loan Period (years)	Amount (£)	

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CASES

Local Government—Audit—Surcharge—Powers of district auditor—Fraud by company—Surcharge on managing director—Local Government Act, 1933 (*c.* 51), *s.* 228 (1) (*d*).

A company overstated the time it had spent on work for a local authority, and, as a result, large overpayments were made by the authority. The district auditor estimated the amount of loss to the authority and purported to surcharge therewith, under the Local Government Act, 1933, s. 228 (1) (*d*), the company's managing director owing to whose misconduct the overstatement was alleged to have been made :—

Held : on the true construction of s. 228 (1) (*d*) the district auditor had no power to surcharge anyone who was not a member, officer, or servant of the authority whose accounts were being audited.

Decision of the Divisional Court, sub nom. Re a Decision of a District Auditor, [1947] 2 All E. R. 47, *affirmed.—Re* DICKSON, *Re* Local Government Act, 1933, [1948] 2 K. B. 95 ; [1948] 1 All E. R. 713 ; [1948] L. J. R. 1119 ; 205 L. J. Jo. 216 ; 112 J. P. 232 ; 64 T. L. R. 233 ; 92 Sol. Jo. 244 ; 46 L. G. R. 175, C. A. [996]

FIRE PROTECTION

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ORDERS, CIRCULARS AND MEMORANDA

FIRE SERVICES (AUTHORISATION) REGULATIONS, 1947

S. R. & O., 1947, *No.* 2781

December 23, 1947

In pursuance of the power conferred on me by paragraphs 3 and 17 of the Fifth Schedule to the Fire Services Act, 1947, I [*i.e.*, the Secretary of State] hereby make the following Regulations :—

1. The council of a county, the council of a county borough and any other authority which on the appointed day will become a fire authority under the Fire Services Act, 1947, may before the said day take any step which it will on and after the said day be empowered to take as a fire authority under the said Act and which is requisite for the purpose of enabling it to perform its

functions as such a fire authority on and after the said day in relation to the following matters, that is to say :—

(*a*) the acquisition, whether by way of purchase, lease or exchange, of land whether situated within or without the area of the authority ;
(*b*) the carrying out of work on land ;
(*c*) the acquisition of any commodity or thing and the making of any contract or agreement ;
(*d*) the appointment of a chief officer of the fire brigade. [997]

2. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [998]

3.—(1) These Regulations may be cited as the Fire Services (Authorisation) Regulations, 1947, and shall come into operation on the first day of January, 1948.
(2) These Regulations shall not extend to Scotland. [999]

* * * * *

FIRE SERVICES (APPOINTED DAY) ORDER, 1948

S.I. 1948 *No.* 325

February 23, 1948

In pursuance of the power conferred on me by subsection (1) of section thirty-eight of the Fire Services Act, 1947, I [*i.e.*, the Secretary of State] hereby order as follows :—

1. The appointed day for the purposes of the Fire Services Act, 1947, shall be the first day of April, 1948. [1000]

2. This Order shall not extend to Scotland. [1001]

3. This Order may be cited as the Fire Services (Appointed Day) Order, 1948. [1002]

* * * * *

FIRE SERVICES (TRANSFER OF PERSONS) REGULATIONS, 1948

S.I. 1948 *No.* 382

February 23, 1948

In pursuance of the powers conferred on me by paragraphs three and four of the Fifth Schedule to the Fire Services Act, 1947, I [*i.e.*, the Secretary of State] hereby make the following Regulations :—

1. Where there is in force immediately before the appointed day an agreement between a whole-time permanent fireman and an authority which will on the said day become a fire authority by virtue of which the said fireman is with effect from the said day, or will be on the said day, appointed to any rank in the fire brigade to be maintained under the Fire Services Act, 1947, by that authority, the said fireman shall on the appointed day by virtue of this Regulation and without more be transferred to, and become a whole-time member of, the said fire brigade in that rank. [1003]

2. A whole-time permanent fireman, not being a person transferred to a fire brigade by virtue of the foregoing Regulation, who—

(*a*) is a person who has been a whole-time member of a fire brigade maintained in pursuance of the Fire Brigades Act, 1938, or of the London Fire Brigade, and

(*b*) not later than the twenty-fifth day of March, 1948, notifies the authority which will on the appointed day become the fire authority for the area comprising the area of his former fire authority that he wishes to be transferred to the fire brigade to be maintained by them under the Fire Services Act, 1947,

shall on the appointed day by virtue of this Regulation and without more be transferred to, and become a whole-time member of, the said last-mentioned fire brigade in the rank of fireman. [1004]

3.—(1) A permanent fireman, not being a person transferred to a fire brigade by virtue of either of the last two foregoing Regulations, shall on the appointed day by virtue of this Regulation and without more be transferred to, and become a member of, the fire brigade to be maintained under the Fire Services Act, 1947, by the fire authority for the area in which is situated the place where he is stationed as a member of the National Fire Service immediately before the said day—

(*a*) in the case of a whole-time fireman, in the rank of fireman, and

(*b*) in the case of a part-time fireman, in such rank as the said authority may assign to him.

(2) For the purposes of this Regulation a whole-time member of the National Fire Service not stationed as such a member at an operational fire station immediately before the appointed day shall be deemed to be then stationed at the operational fire station at which he was last stationed as a member of the National Fire Service before that day.

(3) If any question arises under this Regulation as to the operational fire station at which a person is stationed immediately before the appointed day or was last stationed before that day, it shall be referred to, and determined by, the Secretary of State.

(4) Persons transferred by virtue of this Regulation to a fire brigade shall become whole or part-time members thereof according as, immediately before their transfer, they were whole or part-time members of the National Fire Service. [1005]

4. A person who immediately before the appointed day is serving in the National Fire Service as a member thereof not holding a rank therein and who—

(*a*) was, immediately before the eighteenth day of August, 1941, employed by a former fire authority wholly on duties in connection with the construction, repair or maintenance of fire engines, or of vehicles, appliances or equipment used for fire brigade purposes, and

(*b*) was transferred to the National Fire Service by virtue of the National Fire Service (General) Regulations, 1941,

shall on the appointed day by virtue of this Regulation and without more be transferred to service for such duties as are described in paragraph (*a*) of this Regulation, or the like duties, under—

(i) if on the appointed day that former fire authority becomes a fire authority, that fire authority, or

(ii) if on the appointed day that former fire authority does not become a fire authority, the fire authority for the area including the area of that former fire authority. [1006]

5.—(1) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

(2) In these Regulations—

(*a*) " former fire authority " in relation to any person means the local authority which maintained in pursuance of the Fire Brigades Act, 1938, the fire brigade in which that person last served before the eighteenth day of August, 1941, or in connection with the purposes of which he was employed, or, if the last fire brigade in which he served before the said date, or in connection with the purposes of which he was employed, was the London Fire Brigade, means the London County Council;

(*b*) " operational fire station " means a fire station wherein are accommodated mobile fire-fighting appliances which are constantly available to attend fires; and

(*c*) " permanent fireman " means a person who immediately before the appointed day is serving in the National Fire Service as a member thereof holding a rank therein, not being a person to whom a notice, taking effect immediately before the said day, has been given discharging him from the said Service. [1007]

6.—(1) These Regulations may be cited as the Fire Services (Transfer of Persons) Regulations, 1948, and shall come into operation on the fifteenth day of March, 1948.

(2) These Regulations shall not extend to Scotland. [1008]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Regulations, but is intended to indicate their general purport.*)

Under these Regulations every member of the National Fire Service holding a rank whose service has not been terminated by notice will on the appointed day be transferred to a fire brigade, maintained under the Fire Services Act, 1947, by a new fire authority; members not holding a rank who were formerly employed by a local authority on duties connected with a fire brigade will on that day be transferred to similar employment under a new fire authority.

FIRE SERVICES (TRANSFER OF PROPERTY) REGULATIONS, 1948

S.I. 1948 *No.* 465

March 8, 1948

In pursuance of the powers conferred on me by paragraphs 3, 7, 8 and 9 of the Fifth Schedule to the Fire Services Act, 1947, I [*i.e.*, the Secretary of State] hereby make the following Regulations :—

1. Subject to the provisions of Regulation 6 of these Regulations, all land vested immediately before the appointed day on behalf of His Majesty for the purposes of the National Fire Service, and all rights and liabilities in relation to land enjoyed or incurred on behalf of His Majesty for the said purposes and existing immediately before the said day shall, on the said day, by virtue of this Regulation and without more, be transferred to the fire authority for the area in which is situated the land vested as aforesaid, or, as the case may be, in relation to which the said rights or liabilities exist:

Provided that nothing in this Regulation shall operate to transfer any land, or any rights or liabilities in relation to any land, as respects which notification has been given before the appointed day on behalf of the Secretary of State to the authority which will on the said day become the fire authority for the area in which the land is situated that the land, or, as the case may be, the rights or liabilities, shall not be transferred to that authority. [1009]

2.—(1) Subject to the provisions of this Regulation, all land and other property which, immediately before the appointed day, is used on behalf of His Majesty for the purposes of the National Fire Service, being property vested in an authority for the purposes of the Act of 1938 which does not on the said day become a fire authority shall, by virtue of this Regulation and without more, be vested in the appropriate fire authority :

Provided that nothing in this Regulation shall operate to vest in the appropriate fire authority any land or other property as respects which that authority has, before the appointed day, notified the authority for the purposes of the Act of 1938 in which the land or property is vested that it should remain vested in the said last-mentioned authority.

(2) Notwithstanding anything in paragraph (1) of this Regulation, where before the appointed day it is agreed between an authority for the purposes of the Act of 1938 and the authority which will on the said day become the appropriate authority in relation to any property used on behalf of His Majesty for the purposes of the National Fire Service but vested in the said authority for the purposes of the Act of 1938 either—

(*a*) that the property cannot conveniently be severed from other property, whether or not forming part of the same building, and that, having regard to the nature of the whole premises and the uses to which they are put, it is expedient that the said property should remain vested in the authority for the purposes of the Act of 1938, or

(*b*) that immediately before the property was first used on behalf of His Majesty as aforesaid it was not intended by the authority for the purposes of the Act of 1938 that it should permanently be appropriated for the purposes of their functions under the Act of 1938 and that by reason thereof it is expedient that the said property should remain vested as aforesaid,

the said property shall not on the appointed day vest in the fire authority, but may from the said day be used by that authority for the purposes of their functions under the Act of 1947 on such terms (including terms as to payments) as may be agreed between the two said authorities.

(3) Where under paragraph (2) of this Regulation a question has arisen between an authority for the purposes of the Act of 1938 and an authority which will on the appointed day become a fire authority whether it is expedient that any property should remain vested in the authority for the purposes of the Act of 1938, and the matter has not been agreed between the authorities before the appointed day, the said property shall not on the said day vest in the fire authority, but may be used by that authority as if it had been so agreed between the two authorities under the said paragraph (2) ; and, in such a case, if—

(*a*) it is afterwards agreed as aforesaid that the property should remain vested in the authority for the purposes of the Act of 1938, the said paragraph (2) shall apply as if it had been so agreed before the appointed day ;

(*b*) it is afterwards agreed as aforesaid that the property should become vested in the fire authority, the property shall accordingly be vested by virtue of this Regulation and without more in the said fire authority on the date of such agreement.

(4) In default of agreement on any matter arising under paragraph (2) or (3) of this Regulation between an authority for the purposes of the Act of 1938 and a fire authority, or, as the case may be, an authority which will on the appointed day become a fire authority, the question shall be referred to, and determined by, the Secretary of State; and in the said paragraphs references to any matter being agreed between any two such authorities, and to an agreement between any two such authorities, shall be construed respectively as including references to that matter being determined by the Secretary of State and to a determination by him. [1010]

3. Where any property other than property to which Regulation 1 of these Regulations relates is immediately before the appointed day vested on behalf of His Majesty for the purposes of the National Fire Service and is then used, appropriated or intended for use on, or in connection with,—

(*a*) land to be transferred to a fire authority under either of the two foregoing Regulations,
(*b*) land the right to occupy which is to be transferred as aforesaid, or
(*c*) land which, but for the operation of paragraph (2) or (3) of Regulation 2 of these Regulations, would be transferred to a fire authority under paragraph (1) of the said Regulation 2,

the said property, and all rights and liabilities enjoyed or incurred on behalf of His Majesty for the purposes of the National Fire Service in relation to the said property and existing immediately before the appointed day, shall, on the said day, by virtue of this Regulation and without more, be transferred to the fire authority for the area in which the said land is situated:

Provided that nothing in this Regulation shall operate to transfer any property, or any rights or liabilities in relation to property, as respects which notification has been given before the appointed day on behalf of the Secretary of State to the authority which will on the said day become the fire authority for the area in which is situated the land on which, or in connection with which, the property is used, appropriated or intended for use, that the property or, as the case may be, the rights or liabilities, shall not be transferred to that authority. [1011]

4. Any property other than property to which any of the foregoing Regulations relates which is immediately before the appointed day vested on behalf of His Majesty for the purposes of the National Fire Service and in respect of which notification has been given before the said day on behalf of the Secretary of State to an authority which will on the said day become a fire authority that on the said day it will be transferred to that authority, shall, on the said day, by virtue of this Regulation and without more, be transferred to the said authority. [1012]

5. Subject to the provisions of Regulation 6 of these Regulations, all rights and liabilities, other than rights and liabilities transferred to a fire authority by virtue of any of the foregoing Regulations, enjoyed or incurred on behalf of His Majesty for the purposes of the National Fire Service in connection with the performance of the functions of the said Service within an area which will on the appointed day become the area of a fire authority and existing immediately before the said day, shall, on the said day, by virtue of this Regulation and without more, be transferred to that fire authority. [1013]

6. Nothing in these Regulations shall operate to transfer any right or liability arising out of anything done on behalf of His Majesty in the exercise of emergency powers for the purposes of the Compensation (Defence) Act, 1939, as subsequently amended. [1014]

7. In the case of any transfer under these Regulations to a fire authority of a right or liability, being a right or liability to receive or pay—

(*a*) any sum in respect of goods supplied or work done, there shall be transferred a right to receive or a liability to pay only so much of the sum as represents goods supplied or work done on or after the date of the transfer, whenever the sum falls due or is paid,

(*b*) any sum in respect of rent, rates, insurance premiums, or other periodical payments (not being payments in respect of goods supplied or work done), the sum shall be deemed to accrue due from day to day, and there shall be transferred a right to receive or a liability to pay only so much of the sum as accrues due accordingly on or after the date of the transfer. [1015]

8. Where immediately before the appointed day there are in existence arrangements entered into on behalf of the Crown for the purposes of the National Fire Service whereunder payments are made by or on behalf of the Crown to an authority for the purposes of the Act of 1938 which does not on the said day become a fire authority, being payments in respect of something done by that authority in pursuance of a direction given to them under the Fire Services (Emergency Provisions) Act, 1941, the arrangements shall, on and after the said day, instead of being carried on by the Crown, be carried on by the appropriate fire authority on the same terms, and for the same period, as provided for in the arrangements before the said day, unless it is at any time otherwise agreed between the two said authorities, and the said fire authority shall make the payments under the arrangements accordingly. [1016]

9.—(1) Where an authority for the purposes of the Act of 1938 which does not on the appointed day become a fire authority is on or after the said day liable to make payments in respect of interest or redemption charges on moneys borrowed for fire-fighting purposes or in connection with property which by virtue of sub-paragraph (2) of paragraph 8 of the Fifth Schedule to the Act of 1947 becomes vested in the appropriate fire authority, the said fire authority shall reimburse to the said authority for the purposes of the Act of 1938 the amount of the payments :

Provided that nothing in this Regulation shall apply in relation to moneys borrowed by an authority for the purposes of the Act of 1938 in connection with property which by virtue of paragraph (2) or (3) of Regulation 2 of these Regulations does not become vested in a fire authority.

(2) For the purposes of this Regulation a liability to make payments in respect of interest and redemption charges shall be deemed to accrue from day to day. [1017]

10.—(1) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

(2) In these Regulations—

the expression " authority for the purposes of the Act of 1938 " means an authority which is a fire authority within the meaning of the said Act ;

the expression " the Act of 1938 " means the Fire Brigades Act, 1938 ;

the expression " the Act of 1947 " means the Fire Services Act, 1947 ; and

the expression " the appropriate fire authority " in relation to an authority for the purposes of the Act of 1938 means the fire authority for the area including the area of that authority. [1018]

11.—(1) These Regulations may be cited as the Fire Services (Transfer of Property) Regulations, 1948, and shall come into operation on the fifteenth day of March, 1948.

(2) These Regulations shall not extend to Scotland. [1019]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Regulations, but is intended to indicate their general purport.*)

These Regulations provide for the transfer to the appropriate new fire authorities of land and other property used for National Fire Service purposes and of rights and liabilities incurred on behalf of His Majesty for those purposes, unless, in any case, notice to the contrary is given before the appointed day. Where property used for those purposes is vested in a former fire authority which will not become a new fire authority on that day, that authority is given a right to retain it by agreement in certain cases subject to user by the appropriate new fire authority. The Regulations further provide for the carrying on by new fire authorities of certain arrangements whereunder payments have been made on behalf of the Crown to former fire authorities, and for new fire authorities to reimburse to such former authorities the amount of payments in respect of interest and redemption charges on moneys borrowed for fire-fighting purposes.

FIRE SERVICES (DISCIPLINE) REGULATIONS, 1948

S.I. 1948 *No.* 545

March 18, 1948

In pursuance of the powers conferred on me by paragraphs (*c*) and (*d*) of subsection (1) of section seventeen of the Fire Services Act, 1947, I [*i.e.*, the Secretary of State] hereby make the following Regulations :—

PART I

Discipline

1. A member of a fire brigade commits an offence against discipline (hereafter in these Regulations referred to as an " offence ") if he commits one or more of the offences set out in the Schedule hereto. [1020]

2.—(1) The chief officer, if he decides that a member of the fire brigade shall be charged with an offence, shall as soon as possible cause him to be informed in writing of the charge together with such particulars as will leave the accused under no misapprehension as to the precise nature of the allegations on which the charge is based.

(2) The accused shall also be given as soon as possible copies of any report, complaint, or other written allegation on which the charge may be founded and any reports thereon, notwithstanding that they may be confidential. [1021]

3.—(1) The accused shall be ordered to state in writing whether he admits or denies the charge and shall be allowed to give to the chief officer any explanation he may wish.

(2) The accused shall be allowed to state the names and addresses of any witness to relevant facts whom he may desire to give evidence at the hearing of the case.

(3) Any such witness who is a member of the fire brigade shall be ordered to attend at the hearing of the case and any other witness shall be given due notice that his attendance is desired and of the time and place of the hearing. [1022]

4.—(1) If the accused denies the charge, he shall, unless the chief officer is satisfied with any explanation which he has offered, be ordered to appear at the hearing of the case.

(2) The accused shall be entitled at the hearing to hear the evidence against him and have an opportunity of cross-examining the witnesses and of calling witnesses, giving evidence and making representations in his defence. [1023]

5.—(1) The fire authority may direct that any class or description of case shall be heard by them, but subject to any such direction the chief officer may decide either to hear the case himself or order the case to be heard by a tribunal consisting of one or more officers not being below the rank of Divisional Officer, Grade III.

(2) If the chief officer decides to hear the case himself, he may order an officer or officers of the fire brigade to assist him to hear the case as assessors.

(3) The chief officer or the officer or officers ordered by him to hear the case are hereafter in these Regulations referred to as the disciplinary tribunal.

(4) The disciplinary tribunal may at any time before the hearing is concluded refer the case for hearing, if the disciplinary tribunal is the chief officer, to the fire authority and, if the disciplinary tribunal is not the chief officer, to the chief officer.

(5) Where any case is referred for hearing under paragraph (4) of this Regulation the hearing shall be recommenced. [1024]

6. The disciplinary tribunal or, if the case is heard by the fire authority, the fire authority shall as soon as possible after the hearing of the case cause its decision to be notified in writing to the accused. [1025]

7. If the disciplinary tribunal is not the chief officer it shall only have power to impose a punishment of stoppage of pay, reprimand or caution. [1026]

8.—(1) If the disciplinary tribunal is not the chief officer and its decision is to impose a punishment of stoppage of pay or reprimand, its decision shall have no effect unless it is confirmed by the chief officer.

(2) If the disciplinary tribunal is the chief officer and his decision is to impose a punishment of dismissal, requirement to resign as an alternative to dismissal or reduction in rank, his decision shall have no effect unless it is confirmed by the fire authority.

(3) Any decision which requires confirmation may be confirmed with a reduction in the punishment.

(4) Where a decision is confirmed under the preceding paragraphs of this Regulation, it shall have effect from the date of the confirmation.

(5) The accused may within three days of the notification to him of a decision of the disciplinary tribunal to impose a punishment other than a caution, appeal to the fire authority by giving notice in writing to that effect to the chief officer, and, where the decision is one which under paragraph (1) or (2) of this Regulation would have required confirmation, it shall, subject to such appeal, have effect without confirmation. [1027]

9.—(1) An appeal under paragraph (5) of Regulation 8 of these Regulations shall be heard by the fire authority.

(2) Any such appeal shall be by way of re-hearing, and paragraph (2) of Regulation 4 of these Regulations shall apply as it applies to the hearing of the case.

(3) After hearing an appeal the fire authority may either allow the appeal or dismiss the appeal with or without an increase or reduction in the punishment.

(4) If the fire authority increase the punishment, they may direct that the punishment shall take effect from a date later than that on which it took effect under the decision of the disciplinary tribunal and, if they do so, may give such directions as they think fit with respect to the period between those dates. [1028]

10. The fire authority shall as soon as possible after they have heard an appeal cause their decision to be notified in writing to the accused. [1029]

11. If the accused refuses or without sufficient cause fails to attend at the time and place appointed for hearing the case or, as the case may be, for hearing an appeal or is in legal custody, the hearing of the case or the appeal may be proceeded with and concluded in his absence. [1030]

12.—(1) At the hearing of a case the accused shall be entitled to have the assistance in presenting his defence of a person selected by himself who shall be a member of the fire brigade or, if the fire authority so permit, a member of another fire brigade :

Provided that if the disciplinary tribunal is not the chief officer the person so selected by the accused shall not be of a rank equal or superior to that of any member of the tribunal.

(2) At any appeal under the preceding provisions of these Regulations the accused shall be entitled to the assistance in presenting his appeal of a person selected by himself who need not be a member of a fire brigade. [1031]

PART II

Punishments

13. An offence may be punished by—

(*a*) dismissal ;
(*b*) being required to resign as an alternative to dismissal forthwith or at such later date as may be specified ;
(*c*) reduction in rank ;
(*d*) stoppage of pay ;
(*e*) reprimand ;
(*f*) caution :

Provided that a stoppage of pay in respect of any one offence shall not continue after the expiration of three months from the date on which the imposition of the punishment takes effect and the amount of any stoppages (whether in respect of one or more offences) shall not exceed in the aggregate in any week one-seventh of the weekly pay of the offender. [1032]

PART III

Appeals to the Secretary of State

14.—(1) Where the punishment imposed is dismissal, requirement to resign as an alternative to dismissal or reduction to a rank other than the rank in the brigade immediately below the one from which he was reduced, the accused shall, if he gives notice in writing to the fire authority within seven days of their decision being notified to him, be entitled to appeal to the Secretary of State against the decision.

(2) The Secretary of State shall, unless it appears to him that the case is of such a nature that it can properly be determined without taking oral evidence, and may, in any case, appoint one or more persons to hold an

inquiry and report to him and shall after considering, where an inquiry has been held, the report of the person or persons who held the inquiry, either allow the appeal or dismiss the appeal with or without an increase or reduction in the punishment:

Provided that the Secretary of State may at any time remit a case for further consideration by the fire authority or, if an inquiry has been held, for further investigation by the person or persons who held the inquiry.

(3) Any inquiry held under this Regulation shall be by way of re-hearing and the procedure thereat shall, subject to the provisions of these Regulations and to any directions given by the Secretary of State, be such as the person holding the inquiry, or if there are two or more persons holding the inquiry the person presiding at the inquiry, may determine, and in particular any such inquiry may be held in private. [1033]

15. If the accused having been given not less than seven days' notice of the time and place fixed for the holding of an inquiry under the preceding Regulation does not appear at the time and place appointed or is in legal custody, the inquiry may proceed and be concluded in his absence. [1034]

16. At an inquiry held under this Part of these Regulations the accused shall be entitled to have the assistance in presenting his appeal of a person selected by himself who need not be a member of a fire brigade. [1035]

17. If the Secretary of State dismisses the appeal with an increase in the punishment, he may direct that the punishment shall take effect from a date later than that on which it took effect under the decision of the fire authority and, if he does so, may give such directions as he thinks fit with respect to the period between those dates. [1036]

PART IV

General

18.—(1) The fire authority may direct that their functions under the preceding provisions of these Regulations shall be exercised by a committee and, if they so direct, any reference in those provisions to the fire authority shall be construed as a reference to the committee.

(2) The fire authority may from time to time revoke any such directions and issue fresh directions. [1037]

19.—(1) Any reference in these Regulations to a chief officer shall be taken to include a reference to the deputy chief officer when exercising the functions of the chief officer.

(2) In these Regulations words importing the masculine gender shall include the feminine gender. [1038]

20.—(1) These Regulations may be cited as the Fire Services (Discipline) Regulations, 1948, and shall come into operation on the first day of April, 1948.

(2) These Regulations shall not apply to a fire brigade maintained by a Scottish fire authority. [1039]

* * * * *

SCHEDULE

CODE OF OFFENCES AGAINST DISCIPLINE

A member of a fire brigade commits an offence against discipline if he is guilty of—

(1) Disobedience to orders, that is to say, if he disobeys, or without sufficient cause fails to carry out, any lawful order, whether in writing or not;

(2) Insubordination, that is to say, if he is insubordinate by word, act or demeanour ;

(3) Abuse of authority, that is to say, if he abuses his authority by oppressive conduct ;

(4) Neglect of duty, that is to say, if he—

(*a*) without sufficient cause fails to attend to, or carry out, his duty promptly and diligently ; or

(*b*) by carelessness or neglect suffers any loss, damage or injury to occur to any person or property ; or

(*c*) without permission or sufficient cause leaves his station or place of duty ; or

(*d*) fails to report any matter which it is his duty to report ; or

(*e*) fails to make an entry, which it is his duty to make, in any book or document ;

(5) Falsehood, that is to say, if he—

(*a*) knowingly makes any false or misleading statement, whether in writing or not, in the course of his functions as a member of the fire brigade ; or

(*b*) without sufficient cause, destroys or mutilates any official book or document or alters or erases any entry therein ;

(6) Breach of confidence, that is to say, if he divulges any matter which it is his duty to keep secret ;

(7) Corrupt practice, that is to say, if he—

(*a*) improperly uses his position as a member of the fire brigade for his private advantage ; or

(*b*) fails to account for, or to make a prompt and true return of, any money or property which comes into his possession in the course of his duties ;

(8) Absence from duty, that is to say, if he, without reasonable excuse, is absent from duty or is late for any parade, drill or other attendance ;

(9) Damage to clothing or personal equipment, that is to say, if he—

(*a*) wilfully or negligently damages any article of clothing or personal equipment with which he has been provided or entrusted or fails to take proper care thereof ; or

(*b*) fails to report any damage to or loss of any article of clothing or personal equipment, however caused ;

(10) Drunkenness, that is to say, if, when on duty or liable to be called upon for duty, he is unfit for duty through drink ; or

(11) Discreditable or disorderly conduct, that is to say, if he—

(*a*) acts in a disorderly manner or in any manner prejudicial to discipline ; or

(*b*) while on duty or while off duty in uniform in a public place, is without reasonable excuse dirty or untidy in his person, clothing or personal equipment ; or

(*c*) acts in a manner likely to bring discredit on the reputation of the fire brigade. [1040]

FIRE SERVICES (RANKS AND CONDITIONS OF SERVICE) REGULATIONS, 1948

S.I. 1948 *No.* 546

March 18, 1948

General note.—These regulations have been amended by the Fire Services (Ranks and Conditions of Service) (Nos. 2–4) Regulations, 1948 (S.I. 1948 Nos. 605, 1500 and 1782), *post*, and the Fire Services (Ranks and Conditions of Service) (No. 5) Regulations, 1948 (S.I. 1948 No. 2570).

In pursuance of the powers conferred on me by paragraphs (*a*) and (*b*) of subsection (1) of section seventeen of the Fire Services Act, 1947, I [*i.e.*, the Secretary of State] hereby make the following Regulations :—

1. Ranks.—(1) Every fire authority shall organise the members of the brigade under the chief officer in ranks.

(2) The ranks of members of a brigade shall be such of those set out below in order of superiority for male and female members respectively as the fire authority consider necessary in the circumstances of the brigade.

For male members of a brigade—

Assistant Chief Officer
Divisional Officer (Grade I)
Divisional Officer (Grade II)
Divisional Officer (Grade III)
Assistant Divisional Officer
Station Officer
Sub-Officer
Leading Fireman
Fireman.

For female members of a brigade—

Group Officer
Assistant Group Officer
Senior Leading Firewoman
Leading Firewoman
Firewoman. [1041]

2. Deputy chief officer.—The fire authority may appoint a member of the brigade holding a rank not lower than that of station officer to be deputy chief officer and a member so appointed shall, during the absence or incapacity of the chief officer or during any vacancy in that office, have all the functions of a holder of that office other than those excepted by resolution of the fire authority. [1042]

3. Age of compulsory retirement.—(1) Retirement shall be compulsory for male whole-time members of a brigade—

(*a*) of the rank of assistant divisional officer or any higher rank on attaining the age of sixty, and

(*b*) of the rank of station officer or any lower rank on attaining the age of fifty-five,

except that in special cases the fire authority may extend any such member's service for a further period on being satisfied that such extension would be in the interests of efficiency :

Provided that nothing in this paragraph shall apply to a member in whose case any Regulations made for the purposes set out in paragraph 7 of the Schedule to the Fire Services (Emergency Provisions) Act, 1941, had effect immediately before the first day of April, 1948, until he is entitled without a medical certificate to retire and receive a pension at the rate of two-thirds of his pensionable pay.

(2) Retirement shall also be compulsory for any male whole-time member of a brigade who has completed twenty-five years' pensionable service if he is required to retire by the fire authority on the grounds that his retention in the brigade would not be in the general interests of its efficiency :

Provided that nothing in this paragraph shall apply to a member of the brigade in whose case the National Fire Service (Preservation of Pensions) (Police Firemen) Regulations, 1941, the National Fire Service (Preservation of Pensions) (Birmingham and Leicester) Regulations, 1941, or the National Fire Service (Preservation of Pensions) (Bolton and Derby) Regulations, 1941, had effect immediately before the first day of April, 1948, or to a member who immediately before the eighteenth day of August, 1941, was a professional fireman within the meaning of the Fire Brigade Pensions Act, 1925, as amended by the Fire Brigades Act, 1938, and in whose case the National Fire Service (Preservation of Pensions) (General Pension Funds)

Regulations, 1941, had effect immediately before the first day of April, 1948.

(3) In this Regulation the expressions "pensionable pay" and "pensionable service" have the same meanings as in the Firemen's Pension Scheme.

(4) Nothing in this Regulation shall apply to a member of a brigade employed on a contract under which his duties do not include fire-fighting. [1043]

4. Prohibition of outside employment.—(1) A whole-time member of a brigade who—

(*a*) is of the rank of station officer, assistant group officer or any higher rank,

(*b*) is wholly or mainly engaged in control-room duties, or

(*c*) is engaged in duties subject to the normal duty system described in the First Schedule to these Regulations,

shall not hold any other office or employment for hire or gain or carry on any trade or business :

Provided that the fire authority on the recommendation of the chief officer and in consideration of the circumstances may, in their absolute discretion, permit such a member to hold such an office or employment or to carry on a trade or business on such conditions and subject to such restrictions as they think fit.

(2) A whole-time member of a brigade not being such a member as is described in sub-paragraph (*a*), (*b*) or (*c*) of paragraph (1) of this Regulation shall not hold any other office or employment for hire or gain or carry on any trade or business without the approval of the fire authority, which shall not be withheld unless the holding of such other office or employment or the carrying on of the trade or business would, in their opinion, interfere with his efficiency.

The approval of the fire authority under this paragraph may be given either generally or in relation to particular individuals or classes or descriptions of individuals and on such conditions and subject to such restrictions as they think fit. [1044]

5. Periods of duty of whole-time members.—The plan of regular periods of operational duties and control-room duties for whole-time members of a brigade of a rank below that of station officer or assistant group officer shall be in accordance with the provisions of the First Schedule to these Regulations. [1045]

6. Annual leave of whole-time members.—The annual leave of a whole-time member of a brigade shall be in accordance with the provisions of the Second Schedule to these Regulations. [1046]

7. Sick leave of whole-time members and medical attendance.—The sick leave to be allowed to a whole-time member of a brigade and the medical attendance and treatment to which he is entitled shall be in accordance with the provisions of the Third Schedule to these Regulations. [1047]

8. Emoluments of whole-time members.—Subject to the provisions of Regulation 10 of these Regulations, the emoluments of a whole-time member of a brigade shall be in accordance with the provisions of the Fourth Schedule to these Regulations. [1048]

9. Emoluments of part-time members.—Subject to the provisions of Regulation 10 of these Regulations, the emoluments of a part-time member of a brigade shall be in accordance with the provisions of the Fifth Schedule to these Regulations. [1049]

10. Exceptional emoluments.—Emoluments not in accordance with the provisions of the Fourth and Fifth Schedules to these Regulations shall not be paid to a member of a brigade unless on application by the fire authority in consideration of individual circumstances of a temporary nature the Secretary of State has approved them :

Provided that this Regulation shall not prevent a fire authority providing members of a brigade while on duty at a fire or other occurrence with such lodging, meals or refreshments as are necessary in the interests of efficiency. [1050]

11.—(1) The chief officer, if it appears to him that a member of a brigade has committed an offence against discipline or a criminal offence, may suspend him from duty, and any member of a brigade who is in legal custody shall be deemed to have been so suspended.

(2) The period of any suspension under this Regulation and the rights to emoluments during that period of a member of a brigade who is suspended shall be in accordance with the provisions of the Sixth Schedule to these Regulations. [1051]

12. Interpretation.—(1) In these Regulations the following expressions have the meanings hereby respectively assigned to them, that is to say :—

" the Act " means the Fire Services Act, 1947 ;

" brigade " means fire brigade maintained under the provisions of the Act ;

" Firemen's Pension Scheme " means the scheme made under section twenty-six of the Act.

" retained member " in relation to a brigade has the meaning assigned to it by paragraph 12 of the Fifth Schedule to these Regulations.

(2) A reference to an officer of a higher rank includes a reference to the chief officer.

(3) Except where the context otherwise requires, words importing the masculine gender shall include females. [1052]

13. Citation and commencement.—(1) These Regulations may be cited as the Fire Services (Ranks and Conditions of Service) Regulations, 1948, and shall come into operation on the first day of April, 1948.

(2) These Regulations shall not apply to Scotland. [1053]

* * * * *

SCHEDULES

Regulation 5

FIRST SCHEDULE

PLAN OF DUTY OF WHOLE-TIME MEMBERS OF A BRIGADE BELOW THE RANK OF STATION OFFICER

PART I

Operational duty

1.—(1) Wherever circumstances permit, the fire authority shall introduce or, as the case may be, maintain at a fire station which it is necessary should continuously be manned, the system of operational duties, hereafter in this Part of this Schedule described as the normal duty system.

(2) The normal duty system shall be a system based on a rota of duties designed to secure the following :—

(*a*) that the periods of duty shall be calculated with reference to a cycle of a number of weeks ;

(*b*) that during the cycle the average period of duty in each week shall be sixty hours ;

(*c*) that each period of twenty-four hours shall be divided into a day shift and a night shift of which the latter shall be not less than twelve hours ;
(*d*) that during the cycle no person's successive periods of duty on the night shift shall amount to more than ten ;
(*e*) that during the cycle a person shall on an average be free from any duty for two complete periods of twenty-four hours each in each week.

2. At a station which it is necessary should be manned for operational duties for some part only of each day the system of operational duties shall be designed to secure that the average of the periods of duty of each member stationed there shall not (subject to paragraph 4 of this Part of this Schedule) exceed sixty hours a week.

3. As long as owing to shortage of manpower it is impracticable to introduce at a station either of the systems described in paragraphs 1 and 2 above the fire authority may maintain at that station the system of operational duties which was in force thereat immediately before the first day of April, 1948.

4.—(1) A member of a brigade whose usual place of duty is at a station to which this paragraph applies may volunteer to accept, in respect of periods when he would otherwise be off duty, obligations similar to those of a retained member of the brigade which are set out in sub-paragraph (1) (*b*) and (*c*) of paragraph 8 of the Fifth Schedule to these Regulations.

(2) This paragraph applies to a station at which the system of operational duties described in paragraph 2 of this Part of this Schedule either has been in force since before the first day of April, 1948, or has on or after that date, after consultation with the accredited representatives of the members of the brigade whose usual place of duty is at the station, been introduced by the fire authority.

5. In this Part of this Schedule " operational duties " means duties which include fire-fighting. [1054]

PART II

Control-room duties

The system of duty for a whole-time member of a brigade employed on control-room duties shall be designed to secure that the average of the periods of duty of each such member shall not exceed forty-eight hours a week. [1055]

Regulation 6 SECOND SCHEDULE

ANNUAL LEAVE OF WHOLE-TIME MEMBERS OF A BRIGADE

Every member of a brigade shall, in each calendar year, so far as the exigencies of duty permit, be granted that number of days paid leave of absence set opposite in the subjoined Table to the rank which he holds :—

TABLE

Men

Divisional Officer (Grade I) or officer of higher rank	35 days
Divisional Officer (Grade II)	28 ,,
Divisional Officer (Grade III)	26 ,,
Assistant Divisional Officer	26 ,,
Station Officer	24 ,,
Sub-Officer	21 ,,
Leading Fireman	21 ,,
Fireman	21 ,,

Women

Group Officer	26 days
Assistant Group Officer	24 ,,
Senior Leading Firewoman	21 ,,
Leading Firewoman	21 ,,
Firewoman	21 ,,

[1056]

Regulation 7

THIRD SCHEDULE

SICK LEAVE AND MEDICAL ATTENDANCE AND TREATMENT

1. Subject to the provisions of paragraphs 3 and 4 of this Schedule, a whole-time pensionable member of a brigade shall be entitled—

(*a*) to such periods of sick leave on full pay as the fire authority may consider necessary in his case in addition to the annual leave provided for in the Second Schedule to these Regulations, and

(*b*) to free medical attendance and treatment, including hospital treatment, dental treatment, the provision of dentures and spectacles and any special treatment :

Provided that a fire authority shall not be under any obligation to provide any medical attendance or treatment to which the member concerned may be otherwise entitled.

2. Subject to the provisions of the subsequent paragraphs of this Schedule, a whole-time member of a brigade other than a pensionable member may be granted any paid sick leave that would be granted in a corresponding case to employees of the council who are the fire authority or, where the fire authority is constituted by a combination scheme, to any of the employees of any of the constituent authorities.

3. While a member of a brigade is on sick leave on full pay, his pay shall be reduced by the amount of any weekly payments he receives under the Workmen's Compensation Acts, 1925 to 1943, by way of compensation for the injury or sickness causing the infirmity, and in the case of a member who is insured or treated as insured under the National Health Insurance Acts, 1936 to 1941, otherwise than as a voluntary contributor, less any sums he receives or is entitled to claim under the last-mentioned Acts in respect of the incapacity caused by the infirmity.

General Note.—A new paragraph has been substituted for paragraph 3, *supra*, by the Fire Services (Ranks and Conditions of Service) (No. 3) Regulations, 1948 (S.I. 1948 No. 1500), *post.*

4. If a member of a brigade refuses or neglects to submit himself to any medical examination required by the fire authority or if, in the opinion of the fire authority acting on medical advice, a member of a brigade has—

(*a*) caused or substantially aggravated any infirmity by neglect or default, or

(*b*) has refused or neglected fully to co-operate in any medical treatment which the fire authority consider necessary in his case,

his rights to paid sick leave and medical attendance and treatment shall forthwith cease unless and until the fire authority determine to restore them or any of them.

5. In this Schedule a reference to a pensionable member of a brigade is a reference to a member of a brigade who, under the Firemen's Pension Scheme, is or is to be treated as a " fireman " for the purposes of that Scheme. [1057]

Regulation 8

FOURTH SCHEDULE

EMOLUMENTS OF WHOLE-TIME MEMBERS

PART I

Pay

1. The pay of a chief officer and an assistant chief officer shall be such as is determined in each case by the fire authority with the approval of the Secretary of State.

2.—(1) The rate of pay of an officer holding one of the ranks set out in the subjoined Table shall be the amount set opposite in the Table to the rank he holds :—

TABLE

Divisional Officer (Grade I)	£845 a year
Divisional Officer (Grade II)	£740 ,,
Divisional Officer (Grade III)	£635 ,,
Assistant Divisional Officer	£575 ,,
Station Officer	£475 ,,

(2) The rate of pay of a group officer shall be £370 a year and the rate of pay of an assistant group officer shall be £300 a year.

General note.—A new sub-paragraph (1) was substituted by the Fire Services (Ranks and Conditions of Service) (No. 4) Regulations, 1948 (S.I. 1948 No. 1782), *post*, and a new paragraph was subsequently substituted by the Fire Services (Ranks and Conditions of Service) (No. 5) Regulations, 1948 (S.I. 1948 No. 2570), a proviso was added at the end of sub-paragraph (1), *supra*, and a new sub-paragraph was substituted for sub-paragraph (2), *supra*, by the Fire Services (Ranks and Conditions of Service) Regulations, 1949 (S.I. 1949 No. 624).

3.—(1) The scale of pay for a sub-officer shall be as follows :—

	s.	d.	
During the 1st year of service after promotion	150	0	weekly
After 1 year of promotion	153	0	,,
,, 2 years of promotion	156	0	,,
,, 3 ,, ,, ,,	159	0	,,
,, 4 ,, ,, ,,	162	0	,,
,, 5 ,, ,, ,,	165	0	,,

(2) The rate of pay of a senior leading firewoman shall be 110s. weekly.

4.—(1) The scale of pay for a leading fireman shall be as follows :—

	s.	d.	
During the 1st year of service after promotion	127	0	weekly
After 1 year of promotion	130	0	,,
,, 2 years of promotion	133	0	,,
,, 3 ,, ,, ,,	136	0	,,
,, 4 ,, ,, ,,	139	0	,,
,, 5 ,, ,, ,,	142	0	,,
,, 6 ,, ,, ,,	145	0	,,

Provided that where a fireman immediately before his promotion to leading fireman was in receipt of pay at a rate of 126s. weekly or any higher rate in the scale set out in paragraph 6 of this Part of this Schedule, he shall immediately on promotion be entitled to pay at the rate in the scale in this paragraph next above the rate of which he was so in receipt and shall thereafter receive an increment in the last-mentioned scale on each anniversary of the date on which he last received an increment in the first-mentioned scale.

(2) The rate of pay of a leading firewoman shall be 95s. weekly.

General note.—A new proviso has been substituted for the proviso to sub-paragraph (1), *supra*, by the Fire Services (Ranks and Conditions of Service) (No. 4) Regulations, 1948, *supra*.

5.—(1) For the purpose of reckoning the period of service after promotion under the scales in paragraphs 3 and 4 of this Part of this Schedule of a member of a brigade who—

(*a*) on the first day of April, 1948, holds the rank of sub-officer or leading fireman,

(*b*) either has been transferred to the brigade from the National Fire Service or, having been discharged from that Service on the thirty-first day of March, 1948, has joined the brigade on the first day of April, 1948, and

(*c*) held a rank in the National Fire Service equivalent to or higher than the rank he holds on the first day of April, 1948, and continued to hold such equivalent or higher rank either up to the thirty-first day of March, 1948, or till he was reduced to a lower rank otherwise than as a punishment,

the said period of service after promotion shall be deemed to include the period during which he held such an equivalent or higher rank in the National Fire Service.

(2) For the purpose of this paragraph, the rank of section leader in the National Fire Service shall be regarded as equivalent to the rank of sub-officer.

General note.—A new paragraph has been substituted for this paragraph, and a new paragraph 5A has been added, by the Fire Services (Ranks and Conditions of Service) Regulations, 1949 (S.I. 1949 No. 624).

6.—(1) The pay of a fireman who has attained the age of twenty years shall be according to the following scale, but in applying that scale any service before attaining that age shall be disregarded :—

	s.	d.	
During the 1st and 2nd years of service after appointment	105	0	weekly
After 2 years from appointment	108	0	,,
,, 3 ,, ,, ,, ...	111	0	,,
,, 4 ,, ,, ,, ...	114	0	,,
,, 5 ,, ,, ,, ...	117	0	,,
,, 6 ,, ,, ,, ...	120	0	,,
,, 7 ,, ,, ,, ...	123	0	,,
,, 8 ,, ,, ,, ...	126	0	,,
,, 9 ,, ,, ,, ...	129	0	,,
,, 10 ,, ,, ,, ...	132	0	,,

(2) The pay of a firewoman who has attained the age of twenty years shall be according to the following scale :—

	s.	d.	
During the 1st year of service after appointment ..	72	6	weekly
After 1 year from appointment	75	0	,,
,, 2 years from appointment	77	6	,,
,, 3 ,, ,, ,, ...	80	0	,,
,, 4 ,, ,, ,, ...	82	6	,,
,, 5 ,, ,, ,, ...	85	0	,,
,, 6 ,, ,, ,, ...	87	6	,,
,, 7 ,, ,, ,, ...	90	0	,,

7.—(1) Subject to the provisions of sub-paragraph (5) of this paragraph, a fireman who has performed seventeen years of service may be granted a long service increment of 4s. a week in his pay if the chief officer is satisfied that he has shown zeal and proficiency in the performance of his duties and is well conducted.

(2) Subject as aforesaid, a fireman who has performed twenty-two years of service may be granted in lieu of the long service increment (if any) granted to him under sub-paragraph (1) of this paragraph a long service increment of 8s. a week in his pay if the chief officer is satisfied as aforesaid.

(3) As soon as a fireman has performed seventeen or, as the case may be, twenty-two years of service, the chief officer shall consider whether a long service increment shall be granted to him under sub-paragraph (1) or, as the case may be, sub-paragraph (2) of this paragraph.

(4) If the chief officer is of opinion that a fireman in receipt of a long service increment under this paragraph is not showing zeal or proficiency in the performance of his duties or that he is not well conducted, the fireman shall be given a written warning of the opinion of the chief officer, and if at the end of a period of two months from the date of the warning or of such longer period as may be specified in the warning the chief officer is of the same opinion, the increment shall be withdrawn :

Provided that if after the last grant of an increment under this paragraph to a fireman—

(*a*) the fireman is guilty of an offence against discipline for which he is punished by a stoppage of pay amounting in the aggregate to 10s. or any greater punishment,

(*b*) the fireman is guilty during any period of twelve months of two offences against discipline for which he is punished, or

(*c*) the fireman is guilty of more than three offences against discipline for which he is punished,

the increment may be withdrawn without notice.

(5) No long service increment shall be granted under this paragraph to a fireman from whom a long service increment has been withdrawn under sub-paragraph (4) of this paragraph until a period of one year has elapsed from the date of withdrawal.

(6) The withholding or withdrawal of any increment under this paragraph shall be subject to confirmation by the fire authority.

8. In reckoning service in the brigade of a fireman or firewoman who either was transferred thereto from the National Fire Service or having been discharged from the National Fire Service joins the brigade before the first day of May, 1948, for the purposes of paragraphs 6 and 7 of this Part of this Schedule there shall be included—

(*a*) service of one or more of the following descriptions :—

(i) service as a member of a fire brigade being either the London Fire Brigade or a brigade maintained under the Fire Brigades Act, 1938, by a local authority ;

(ii) service as a member of the Auxiliary Fire Service or any Women's Auxiliary Fire Service, membership of which did not involve membership of the Auxiliary Fire Service ;

(iii) service as a fireman in the National Fire Service ;

(iv) service with the Auxiliary Fire Service in the service of the Crown, by virtue of the National Service Act, 1941,

but in calculating such service there shall be disregarded any period of service which was not whole-time paid service and also for the purpose only of applying the scale set out in sub-paragraph (1) of paragraph 6 of this Part of this Schedule in relation to members of the London Fire Brigade or the West Ham Fire Brigade in whose case the Firemen's Pension Scheme has effect under the provisions of subsection (2) of section twenty-seven of the Act, subject to the modifications referred to in that subsection, any period of service in either of those brigades (other than service in the London Fire Brigade as a member entitled to benefit from the superannuation and provident fund established by virtue of the London County Council (General Powers) Act, 1891) in excess of ten years ; and

(*b*) in relation to any person who ceased to perform service within the meaning of sub-paragraph (*a*) of this paragraph and within four weeks of so ceasing began a period of war service within the meaning of the Reinstatement in Civil Employment Act, 1944, and within five weeks of the end of such service or any longer period which the Secretary of State may have in any particular case allowed, applied to join or re-join the National Fire Service, also any period of such war service after the thirty-first day of August, 1939.

General note.—A new sub-paragraph (2) has been added at this point by the Fire Services (Ranks and Conditions of Service) Regulations, 1949 (S.I. 1949 No. 624).

9.—(1) Notwithstanding anything in paragraph 6 of this Part of this Schedule, the rate of pay for a fireman who has not attained the age of twenty years shall be as set out in the subjoined Table :—

TABLE

	s.	d.	
During the 19th year of age	60	0	weekly
,, ,, 20th ,, ,, ...	80	0	,,

(2) Notwithstanding anything in paragraph 6 of this Part of this Schedule, the rate of pay for a firewoman who has not attained the age of twenty years shall be as set out in the subjoined Table :—

TABLE

	s.	d.	
Before attaining the age of 17 years	40	0	weekly
During the 18th year of age	47	6	,,
,, ,, 19th ,, ,, ...	55	0	,,
,, ,, 20th ,, ,, ...	61	0	,,

10.—(1) A member of a brigade who has transferred thereto from another brigade shall, for any purpose for which service is to be reckoned under the preceding provisions of this Schedule, be entitled to count, in addition to his service in the brigade of which he is now a member, any service which he was entitled to count immediately before he so transferred.

(2) Where a member of a brigade who has before joining the brigade retired from another brigade, the fire authority may, if they think fit, allow the whole or any part of the service which he was entitled to reckon immediately before so

retiring to count for any purpose for which service is to be reckoned under the preceding provisions of this Schedule.

General note.—A new sub-paragraph (3) has been added at this point by the Fire Services (Ranks and Conditions of Service) Regulations, 1949 (S.I. 1949 No. 624).

11. The rate of pay of a member of a brigade who is required, in addition to his ordinary duties, to act as assistant to an officer of higher rank may be increased by an amount determined, with the approval of the Secretary of State, by the fire authority. [1058]

PART II

Allowances

1. A fire authority shall provide the chief officer with a house or quarters free of rent and rates or shall pay him a rent allowance of an amount determined with the approval of the Secretary of State by the fire authority.

2.—(1) Subject to sub-paragraph (4) of this paragraph, a fire authority shall pay a male member of the brigade other than the chief officer a supplementary allowance in accordance with the provisions of this paragraph.

(2) The supplementary allowance shall be—

(*a*) a " flat rate allowance " for married men above the rank of sub-officer and for single men of any rank ; and

(*b*) a " maximum limit allowance " for married men of the rank of sub-officer, leading fireman or fireman equal to the actual amount paid in rent and rates in each case if the accommodation is unfurnished and, if it is furnished, whatever amount the fire authority consider would be paid for similar unfurnished accommodation, subject to a limit equal to that fixed for the purposes of rent allowance under the Police Regulations, 1947, for married men in the corresponding ranks of the police force in the police area in which the member of the brigade is serving :

Provided that if a member of the brigade—

(i) is not living with his family, and

(ii) satisfies the chief officer that the only reason why he is not living with his family is that he is unable to find suitable accommodation for his family at a reasonable cost within a distance from his usual place of duty such that he can reasonably travel to his home for his off-duty periods,

the maximum limit shall be that fixed in the police area in which his family resides.

For the purpose of this sub-paragraph the corresponding rank in a police force to that of fireman and leading fireman shall be the rank of constable and the corresponding rank to that of sub-officer shall be that of sergeant.

(3) The flat rate allowance shall be that set opposite in the subjoined Table to the rank the member in question holds :—

TABLE

Rank	Married	Single
Assistant Chief Officer	£75 a year	£37 10s. 0d. a year
Divisional Officer (Grade I)	£75 ,,	£37 10s. 0d. ,,
Divisional Officer (Grade II)	£75 ,,	£37 10s. od. ,,
Divisional Officer (Grade III)	£60 ,,	£30 ,,
Assistant Divisional Officer	£55 ,,	£27 10s. 0d. ,,
Station Officer	£50 ,,	£25 ,,
Sub-Officer		7s. 6d. weekly
Leading Fireman		5s. 0d. ,,
Fireman		5s. 0d. ,,

(4) Nothing in this paragraph shall entitle any member of a brigade to a supplementary allowance in respect of any period during which he is provided by the fire authority with free residential accommodation.

(5) For the purposes of this paragraph a member of a brigade shall be treated—

(*a*) as a married man, although he is divorced, if he is contributing regularly to the support of his former wife or that of a child of the marriage or, although he is a widower, if he has a dependent child ;

(*b*) as a single man, although married, if he is legally separated or living apart from his wife and not contributing regularly to the support of his wife or that of a child of the marriage.

General note.—New sub-paragraphs have been substituted for sub-paragraphs (2) and (3), *supra*, by the Fire Services (Ranks and Conditions of Service) (No. 4) Regulations, 1948 (S.I. 1948 No. 1782), *post*. By the same regulations a new paragraph 2A has been inserted at the end of paragraph 2, *supra*.

3.—(1) Subject to the provisions of this paragraph, a lodging allowance shall be paid to a member of a brigade to whom this paragraph applies, that is to say, who—

(*a*) is— (i) a married man, or

(ii) a single man or single woman with a dependent child, parent, brother or sister, or

(iii) a married woman with a husband, child, parent, brother or sister wholly or mainly dependent on her ;

(*b*) is living apart from his family in lodgings or in sleeping accommodation on brigade premises ; and

(*c*) satisfies the chief officer that the only reason why he is living apart from his family is that he is unable to find suitable accommodation for his family at a reasonable cost within a distance from his usual place of duty such that he can reasonably travel there for his off-duty periods.

(2) Subject to the provisions of sub-paragraph (4) of this paragraph, the amount of the lodging allowance to be paid to a member holding the rank of leading fireman, fireman, leading firewoman or firewoman is 24s. 6d. weekly unless the member in question is provided with sleeping accommodation by the fire authority, in which case the amount of the lodging allowance shall be 17s. 6d. weekly.

(3) Subject to the provisions of sub-paragraph (4) of this paragraph, the amount of the lodging allowance to be paid to a member holding a rank higher than that of leading fireman or leading firewoman is to be equal to the actual cost incurred by the member in question on board and lodging less a deduction of 1s. a day if his pay is £4 10s. a week or less, 1s. 6d. a day if his pay is greater than £4 10s. a week but not more than £375 per annum, and 2s. a day if his pay is more than £375 per annum, subject to a maximum and a minimum (varying according to whether he is or is not provided with free sleeping accommodation by the fire authority) of the amounts set opposite in the subjoined Table to the rank he holds :—

TABLE

Rank	If not provided with free sleeping accommodation by the fire authority		If provided with free sleeping accommodation by the fire authority	
	Maximum	Minimum	Maximum	Minimum
	s. d.	s. d.	s. d.	s. d.
Divisional Officer (Grade II) or officer of higher rank	47 0 wkly.	24 6 wkly.	33 0 wkly.	17 6 wkly.
Divisional Officer (Grade III) Assistant Divisional Officer	45 6 ,,	24 6 ,,	32 0 ,,	17 6 ,,
Station Officer Group Officer Assistant Group Officer	38 6 ,,	24 6 ,,	27 6 ,,	17 6 ,,
Sub-Officer Senior Leading Firewoman	31 6 ,,	24 6 ,,	22 6 ,,	17 6 ,,

(4) A fire authority may reduce or abrogate the lodging allowance of a member of a brigade who is temporarily absent from his lodgings.

(5) Where a member of a brigade who is not subject to a duty system involving off-duty periods of less than twenty-four hours satisfies the chief officer that he would, if he were subject to such a system, be unable to live with his family and in that event would be a person to whom this paragraph applies, the fire authority may, in their discretion, pay him the travelling expenses incurred in travelling to and from his family.

General note.—A new paragraph 3A has been added at this point by the Fire Services (Ranks and Conditions of Service) (No. 2) Regulations, 1948 (S.I. 1948 No. 605), *post*, and a new paragraph 3B has similarly been added by the Fire Services (Ranks and Conditions of Service) (No. 4) Regulations, 1948 (S.I. 1948 No. 1782), *post*.

4.—(1) A member of a brigade who is absent on duty from his home and his usual place of duty for seven hours or more and necessarily incurs additional expense in obtaining food or lodging or both shall be paid a subsistence allowance in accordance with the provisions of this paragraph.

(2) The subsistence allowance shall be—

(*a*) at the night rate in respect of each time during such an absence it is necessary for him to procure sleeping accommodation ;

(*b*) at the day rate in respect of—

(i) an absence of less than twenty-four hours if during such absence it is not necessary for him to procure sleeping accommodation ;

(ii) any part of an absence of more than twenty-four hours which is left over after deducting from the total period of absence as many complete consecutive periods of twenty-four hours as possible if the part so left over is seven hours or more and during that part it is not necessary for him to procure sleeping accommodation ;

and the amounts of the day rate and the night rate and their respective variations in respect of differing periods shall be those set opposite in the subjoined Table to the rank the member in question holds :—

TABLE

Rank	Short Term (Rates per night)		Long Term (Rates per night)		Day Rates	
	11 nights or less in one place		28 nights or less but more than 11 nights in one place			
	First 7 nights	Thereafter	First 5 nights	Next 23 nights	10 hrs. or more	7 hrs. or more
Col. (1)	Col. (2)	Col. (3)	Col. (4)	Col. (5)	Col. (6)	Col. (7)
	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.
Divisional Officer (Grade II) or officer of higher rank	30 0	25 6	30 0	16 6	7 6	3 0
Divisional Officer (Grade III) Assistant Divisional Officer	24 0	18 0	24 0	12 0	6 0	3 0
Station Officer Group Officer Assistant Group Officer	21 0	15 0	21 0	10 6	5 0	2 6
Sub-Officer Senior Leading Firewoman	17 6	12 6	17 6	7 6	4 0	2 3
Leading Fireman Fireman Leading Firewoman Firewoman	15 0	10 0	15 0	7 6	3 6	2 0

(3) If a member of a brigade is so absent for a continuous period exceeding twenty-eight days at one place, he shall, if he is such a person as is described in sub-paragraph (1) (*a*) of paragraph 3 of this Part of this Schedule, be paid a lodging allowance in respect of such excess period of absence of the amount specified in paragraph 3 of this Part of this Schedule.

(4) Where a member of a brigade is originally instructed to be so absent for a period of more than eleven days or, having been absent for less than eleven days, is instructed to prolong his absence for a period of more than eleven days, subsistence allowance will be payable to him at the long term rates set out in the Table subjoined to sub-paragraph (2) of this paragraph, if he was originally instructed to be so absent, from the beginning of his absence or, if he was instructed to prolong his absence, from the third day after he received the instruction or the end of the eleventh day of his absence, whichever is the earlier.

(5) For the purpose of applying the Table subjoined to sub-paragraph (2) of this paragraph absence from the place to which a member of a brigade is originally sent from his usual place of duty for two days or less on duty or for any period on leave shall be disregarded.

(6) If it is necessary for the purpose of duty for a member of a brigade to lodge in the same lodging as another member of his brigade entitled to a higher rate of subsistence allowance, the member first mentioned may, while so lodging, be paid subsistence allowance at the rate next above that to which he would otherwise be entitled.

(7) Where a member of a brigade is required to report to the same place on a series of occasions to which this sub-paragraph applies, subsistence allowance shall be payable to him in respect of the seventh and succeeding of such occasions at half the rate set out in the Table subjoined to sub-paragraph (2) of this paragraph.

This sub-paragraph applies to a series of occasions each of which is separated from the previous one by a period of not more than three days and in respect of each of which the member would be entitled, but for this sub-paragraph, to subsistence allowance at the day rate.

(8) If a member of a brigade is so absent but is provided with free board or free lodging or both out of public funds, the fire authority may reduce the subsistence allowance or abrogate it.

(9) Nothing in this paragraph shall entitle a member of a brigade to subsistence allowance in respect of an absence from his usual place of duty for the purpose of attendance at a fire or other occurrence or at an exercise.

General note.—A new sub-paragraph (10) has been added at this point by the Fire Services (Rank and Conditions of Service) (No. 4) Regulations, 1948 (S.I. 1948 No. 1782), *post.*

5. A fire authority may pay grants in circumstances and of amounts approved by the Secretary of State in respect of expenses incurred by members of brigades in taking up duty in consequence of their transfer to the brigade from the National Fire Service.

General note.—The Fire Services (Ranks and Conditions of Service) (No. 4) Regulations, 1948, *supra*, have added at the end of this paragraph the words " or in moving from one home to another in consequence of an order of the fire authority ".

6. A member of a brigade above the rank of sub-officer or senior leading firewoman who is not supplied with uniform by the fire authority shall be paid in lieu of such uniform an allowance at a rate calculated to cover the cost of supplying and maintaining the necessary uniform.

7. A member of a brigade of a rank below that of station officer or assistant group officer who is employed on a duty system maintained under paragraph 3 of Part I of the First Schedule to these Regulations which comprises duty periods of twelve hours or more may be provided with free meals—

(*a*) if the period of duty is not less than twelve but not more than twenty-four hours, to a value of 1s. ;

(*b*) if the period of duty exceeds twenty-four hours, in respect of each complete period of twenty-four hours after the first, to a value of 1s. 6d.

8. Where a member of a brigade of the rank of station officer or assistant group officer or any higher rank was immediately before the first day of April, 1948, in receipt of free meals in accordance with the scale in paragraph 7 of this Part of

this Schedule, he shall be entitled to the provision of free meals on that scale as long as the duty system which governed his hours of duty immediately before the first day of April, 1948, continues to govern his hours of duty.

9.—(1) A member of a brigade whose usual place of duty is a station which it is necessary should be manned for operational duties for some part only of each day who undertakes the obligations of a retained member of the brigade set out in sub-paragraph (1) (*b*) and (*c*) of paragraph 8 of the Fifth Schedule to these Regulations in respect of periods when he would otherwise be off duty shall be paid in respect of the performance of those obligations—

(*a*) annual "*retaining fees*",
(*b*) "turn-out fees", and
(*c*) "attendance fees",

in accordance with the provisions of this paragraph.

(2) The annual "retaining fee" shall be that set opposite in the subjoined Table to the rank he holds :—

TABLE

Sub-Officer	£12
Leading Fireman	£10
Fireman	£8

(3) The "turn-out fee" shall be payable if while he is on retained duty an appliance leaves the station in consequence of a fire or other occurrence and he is required either to attend the fire or other occurrence, to stand by at another station or to do telephone duties, and shall be that set opposite in the subjoined Table to the rank he holds :—

TABLE

Sub-Officer	14s.
Leading Fireman	12s.
Fireman	10s.

(4) The "attendance fee" shall be payable if, in pursuance of retained duty, he attends at his station in response to a call within what the officer in charge considers to be a reasonable time and is not entitled in respect of that attendance to a "turn-out fee", and shall be that set opposite in the subjoined Table to the rank he holds :—

TABLE

Sub-Officer	7s.
Leading Fireman	6s.
Fireman	5s.

(5) Where the member has become entitled to a "turn-out fee" or to an "attendance fee" and remains on retained duty on that occasion for more than two hours from the time he first attended at the station in response to the call, he shall be paid in respect of each hour of retained duty after the first two hours of retained duty the amount set opposite in the subjoined Table to the rank he holds :—

TABLE

Sub-Officer	4s.
Leading Fireman	3s.
Fireman	3s.

Any period over and above a complete number of hours and exceeding fifteen minutes shall for the purposes of this sub-paragraph be reckoned as a complete hour.

(6) In this paragraph "retained duty" means duty solely due to the obligations which he has undertaken in accordance with sub-paragraph (1) of this paragraph, and in computing for the purposes of this paragraph any period of retained duty any period during which he would have been on duty if he had not undertaken the said obligations shall be ignored.

General note.—This paragraph has been substantially modified by the Fire Services (Ranks and Conditions of Service) (No. 4) Regulations, 1948 (S.I. 1948 No. 1782), *post*.

10. A fire authority may, if they think fit, provide a member of a brigade with residential accommodation or a sleeping or living-place, whether freely or otherwise, and may, where any such provision is made, provide the occupants of any such accommodation or place with free fuel and light.

General note.—A new paragraph 10A has been added at this point by the Fire Services (Ranks and Conditions of Service) (No. 4) Regulations, 1948, *supra*.

11. In this Part of this Schedule the expression " child or children " shall only refer to a child or children who are under sixteen years of age or receiving full time education. [1059]

Regulation 9

FIFTH SCHEDULE

EMOLUMENTS OF PART-TIME MEMBERS

1. A retained member of a brigade shall be paid the following remuneration :—

(*a*) annual " retaining fees ",
(*b*) " turn-out fees ", and
(*c*) " attendance fees ",

in accordance with the provisions of this Schedule :

Provided that a female retained member shall not be entitled to " turn-out fees ".

General note.—A new paragraph has been substituted for paragraph 1, *supra*, by the Fire Services (Ranks and Conditions of Service) (No. 4) Regulations, 1948 (S.I. 1948 No. 1782), *post*.

2.—(1) The payment of a " retaining fee " shall be subject to the satisfactory fulfilment of the obligations set out in paragraph 8 of this Schedule and the satisfactory performance of the duties to which those obligations relate.

(2) The annual " retaining fee " shall—

(*a*) in the case of a male retained member of a brigade, be that set opposite in the subjoined Table to the rank he holds :—

TABLE

Station Officer or officer of higher rank	£45
Sub-Officer	£24
Leading Fireman	£18
Fireman	£15 ; and

(*b*) in the case of a female retained member of a brigade, be £10 :

Provided that—

(i) the annual " retaining fee " for a sub-officer in charge of a station shall be £36 ;

(ii) if a retained member has enrolled on conditions requiring his attendance only during limited periods the " retaining fee " shall be proportionately reduced.

3.—(1) A " turn-out fee " shall be paid to a retained member if, while he is on duty, whether in response to a call or otherwise, an appliance leaves the station in consequence of a fire or other occurrence and he is required either to attend the fire or other occurrence, to stand by at another station or to do telephone duties.

For the purpose of this sub-paragraph the expression " fire or other occurrence " includes a training incident.

(2) The " turn-out fee " shall be that set opposite in the subjoined Table to the rank held by the retained member in question :—

TABLE

Station Officer or officer of higher rank	16s.
Sub-Officer	14s.
Leading Fireman	12s.
Fireman	10s.

General note.—A new paragraph has been substituted for paragraph 3, *supra*, by the Fire Services (Ranks and Conditions of Service) (No. 4) Regulations, 1948, *supra*.

4.—(1) An " attendance fee " shall be paid to a male retained member of a brigade who attends at his station in response to a call within what the officer in charge considers to be a reasonable time and is not entitled in respect of that attendance to a " turn-out fee ".

(2) An " attendance fee " shall be paid to a female retained member of a brigade who attends at her station in response to a call within what the officer in charge considers to be a reasonable time and performs watch-room duties.

(3) The " attendance fee " shall—

(*a*) in the case of a male retained member of a brigade, be the amount set opposite in the subjoined Table to the rank he holds :—

TABLE

Station Officer or officer of higher rank	8s.
Sub-Officer	7s.
Leading Fireman	6s.
Fireman	5s. ; and

(*b*) in the case of a female retained member of a brigade, be 5s.

5. Where a retained member of a brigade has become entitled to a " turn-out fee " or to an " attendance fee " and remains on duty on that occasion for more than two hours from the time, if he attended in response to a call, of his first attendance at the station, or from the time, if he was already on duty at the station when the fire or other occurrence was notified at the station, of such notification, he shall be paid in respect of each hour after the first two hours—

(*a*) in the case of a male retained member, the amount set opposite in the subjoined Table to the rank he holds :—

TABLE

Station Officer or officer of higher rank	4s.
Sub-Officer	4s.
Leading Fireman	3s.
Fireman	3s. ; and

(*b*) in the case of a female retained member, 2s.

Any period of such retention over and above a complete number of hours and exceeding fifteen minutes shall for the purposes of this paragraph be reckoned as a complete hour.

General note.—This paragraph has been modified by the Fire Services (Ranks and Conditions of Service) (No. 4) Regulations, 1948 (S.I. 1948 No. 1782), *post.*

6. Where a retained member of a brigade undertakes in addition to his obligations as such to perform work in connection with the functions of the fire authority he may be paid at a rate of 3s. an hour while engaged on such work.

Any period of time exceeding fifteen minutes over and above any continuous period of complete hours shall for the purposes of this paragraph be reckoned as a complete hour.

General note.—This paragraph has been modified by the Fire Services (Ranks and Conditions of Service) (No. 4) Regulations, 1948, *supra.*

7. Nothing in this Schedule shall prevent a fire authority, with the consent of the Secretary of State, arranging to make special payments to a retained member of a brigade in compensation for wages lost where by reason of the peculiar circumstances of the member's ordinary occupation his retention on duty beyond a certain time involves a loss of remuneration disproportionate to the time during which he is so retained on duty.

8.—(1) The obligations of a male retained member of a brigade shall include an obligation—

(*a*) to attend at the station to which he is attached for training and maintenance duties for an average of two hours each week or such less time

as the officer in charge of the station subject to any orders of the chief officer considers necessary ;

(*b*) to attend promptly at the said station in response to a call at any time ;

(*c*) to attend at any fire or other occurrence or to attend any other station for reserve or stand-by duties in accordance with the orders he receives :

Provided that the said obligations may be limited either by pre-arrangement or with the sanction of any superior officer so as to provide that during specified periods he is not required to be available.

(2) The obligations of a female retained member of a brigade shall include an obligation—

(*a*) to attend at the station to which she is attached for maintenance and clerical duties for an average of two hours each month ;

(*b*) to attend promptly at the said station in response to a call at any time and perform watch-room duties :

Provided that the said obligations may be limited either by pre-arrangement or with the sanction of any superior officer so as to provide that during specified periods she is not required to be available.

9.—(1) A volunteer member of a brigade shall be entitled to compensation for remuneration lost in his private employment by reason of the performance of the duties he may have undertaken to perform.

(2) The said compensation shall be equal to whichever is the lesser of the two following amounts, namely, the amount of the said loss or the amount of the pay in respect of the period for which the loss is incurred appropriate to a whole-time member of a brigade holding the same rank as himself and, if that pay is prescribed by a scale, the minimum of that scale.

10. A volunteer member of a brigade who attends at his station or at a fire or other occurrence in response to a call, or attends at his station in pursuance of any obligation he has undertaken to attend thereat at regular stated times for duties other than training, shall be entitled in respect of the tour of duty performed on each such attendance to a subsistence allowance of an amount in accordance with the subjoined Table :—

TABLE

Length of authorised tour of duty performed	Provision authorised
A tour of duty of less than 4 hours	9d.
A tour of duty of 4 hours or more but of less than 8 hours	1s. 6d.
A tour of duty of 8 hours or more but not exceeding 12 hours	3s. 0d.
A tour of duty exceeding 12 hours but not exceeding 18 hours	4s. 6d.
A tour of duty exceeding 18 hours but not exceeding 24 hours	6s. 0d.

Where a tour of duty exceeds twenty-four hours the subsistence allowance in respect of the excess period shall be of the amount appropriate if the tour had begun at the end of the first twenty-four hours :

Provided that the fire authority may instead of paying a subsistence allowance provide food and drink to a value of two-thirds of the appropriate subsistence allowance.

General note.—A new paragraph 10A has been added at this point by the Fire Services (Ranks and Conditions of Service) (No. 4) Regulations, 1948 (S.I. 1948 No. 1782), *post*.

11.—(1) Where any part-time member of a brigade in consequence of injury or disease without his own default caused by or arising out of the performance of his duty as such loses remuneration in his private employment he shall be paid

for so long as he continues to lose such remuneration or for a period of thirteen weeks, whichever is the less, compensation for such loss of remuneration at a rate equal to the loss or the pay appropriate to a whole-time member of a brigade holding the same rank as himself and, if that pay is prescribed by a scale, the minimum of that scale, whichever is the less.

(2) In the case of a part-time member who is transferred from the National Fire Service to a brigade and, at the time of transfer, is in receipt of payments in respect of injury or disease caused by or arising out of the performance of his duty as a member of the National Fire Service the reference in sub-paragraph (1) of this paragraph to the performance of his duty as a member of the brigade shall include a reference to the performance of his duty as a member of the National Fire Service and in computing the period of thirteen weeks mentioned in the said sub-paragraph (1) there shall be included the period during which he was in receipt of the payments above-mentioned while a member of the National Fire Service.

(3) In computing loss of remuneration for the purposes of this paragraph there shall be deducted from such loss—

(*a*) any weekly payments he receives under the Workmen's Compensation Acts, 1925 to 1943, by way of compensation for the injury or sickness causing the infirmity ;

(*b*) in the case of a member who is insured or treated as insured under the National Health Insurance Acts, 1936 to 1941, otherwise than as a voluntary contributor, any sums he receives or is entitled to claim under those Acts in respect of the incapacity caused by the infirmity, and

(*c*) any payments he receives or is entitled to claim under any scheme made under the Personal Injuries (Emergency Provisions) Act, 1939.

(4) Any payment under this paragraph shall cease at the date on which the member is discharged from the brigade with a pension under the Firemen's Pension Scheme.

General note.—A new sub-paragraph has been substituted for sub-paragraph (3), *supra*, by the Fire Services (Ranks and Conditions of Service) (No. 3) Regulations, 1948 (S.I. 1948 No. 1500), *post*.

12. In this Schedule the expression " retained member " in relation to a brigade means a part-time member of the brigade who has undertaken the obligations set out in paragraph 8 of this Schedule in return for the emoluments specified in paragraphs 1 to 7 of this Schedule, and the expression " volunteer member " in relation to a brigade means a part-time member of the brigade who has undertaken obligations as such a part-time member otherwise than as a retained member of the brigade. [1060]

General note.—A new sub-paragraph (2) has been added to this paragraph by the Fire Services (Ranks and Conditions of Service) (No. 4) Regulations, 1948 (S.I. 1948 No. 1782), *post*. Consequentially the paragraph as it stands, *supra*, becomes sub-paragraph (1).

Regulation 11 SIXTH SCHEDULE

SUSPENSION

1. Where a member of a brigade is suspended on the ground of absence from duty, the period of suspension shall, if the chief officer so directs, begin with the date which appears to him to be the date on which the absence commenced.

2. The period of suspension of a member of a brigade shall continue until either it is terminated by the chief officer or terminated by discharge from the brigade or until any disciplinary proceedings against the member of the brigade concerned have been concluded, whichever first happens ;

Provided that where disciplinary proceedings have been contemplated but it has been decided that no such proceedings shall be taken, the chief officer shall forthwith terminate the suspension.

3. A member of a brigade who has been suspended shall not be entitled in respect of the period of suspension to any pay, but shall be paid—

(*a*) if he has been suspended on the ground of absence from duty, such suspension allowance, if any, as may from time to time be directed by the chief officer ;

(*b*) in any other case such suspension allowance not being less than half his pay as may from time to time be so directed :

Provided that—

(i) if the suspension of a member of a brigade terminates without his having been found guilty of an offence against discipline or a criminal offence, he shall receive in respect of the period of suspension the pay which he would, but for the suspension, have received less the amount of any suspension allowance paid to him ;

(ii) where a member of a brigade is found guilty of an offence against discipline, the award in respect of the offence may contain a direction that the member shall be treated as having been suspended only for a specified part of the period of his suspension, and where a member is found guilty of a criminal offence the chief officer may give a similar direction, and where such a direction is given the member shall receive in respect of the remainder of that period of suspension the sum which he would have received in respect thereof if he had not been found guilty ;

(iii) no suspension allowance shall be paid in respect of any period during which a member of a brigade is in legal custody otherwise than on remand or while awaiting trial. [1061]

FIRE SERVICES (COMPENSATION) REGULATIONS, 1948

S.I. 1948 *No.* 555

March 19, 1948

In pursuance of the powers conferred on me by paragraphs 3 and 14 of the Fifth Schedule to the Fire Services Act, 1947, I [*i.e.*, the Secretary of State] hereby, with the approval of the Treasury, make the following Regulations :—

1.—(1) This Regulation applies to any person who—

(*a*) on the appointed day is a member of a police force or a person employed by a local authority, not being in either case a person transferred by virtue of the National Fire Service (General) Regulations, 1941, to the National Fire Service,

(*b*) being a person who by reason of the said Regulations suffered a loss of emoluments, is, in respect of the period ending immediately before the appointed day, receiving periodical payments under Regulation 16 of the National Fire Service (General) Regulations, 1944 (which makes provision for compensation in respect of the said loss), and

(*c*) had before the eighteenth day of August, 1941, performed not less than eight years' service in the aggregate.

(2) (*a*) A person to whom this Regulation applies shall be deemed to have suffered a reduction of emoluments in respect of which he is entitled to an award of compensation under these Regulations if on the appointed day the rate of emoluments, determined subject to the provisions of sub-paragraph (*b*) of this paragraph, which he is entitled as a member of a police force, or, as the case may be, in respect of his employment by a local authority, to receive is lower by not less than five per cent. than the rate of emoluments, determined subject to the provisions of sub-paragraph (*c*) of this paragraph, which he was entitled to receive immediately before the relevant date, and in such a case the difference between the two said rates determined as aforesaid is hereafter in these Regulations referred to as the " loss for award purposes ".

(*b*) In determining for the purposes of this Regulation the rate of emoluments which a person is entitled to receive on the appointed day there shal be left out of account so much of that rate as is equal to the amount by which the rate of emoluments which he was entitled to receive immediately before the relevant date has or would have increased by the appointed day by reason of any periodical increments under the scale of pay applicable to him at the said relevant date, and if after the said relevant date and before the appointed day there was any reduction in the rate of his emoluments not attributable to the National Fire Service (General) Regulations, 1941, the amount of that reduction shall be disregarded.

(*c*) In determining for the purposes of this Regulation the rate of emoluments which a person was entitled to receive immediately before the relevant date, if the rate of any part of those emoluments fluctuated from time to time the rate of that part immediately before the said date shall be deemed to be the average rate of that part during the three years immediately preceding the said date. [1062]

2.—(1) This Regulation applies to any person who—

(*a*) having been a member of a police force or a person employed by a local authority, not being in either case a person transferred by virtue of the National Fire Service (General) Regulations, 1941, to the National Fire Service, has before the appointed day retired from the police force, or, as the case may be, from employment under the local authority, in such circumstances that he became entitled to a pension under the provisions applicable in his case,

(*b*) being a person who by reason of the said Regulations suffered a loss of emoluments, is, in respect of the period ending immediately before the appointed day, receiving periodical payments under Regulation 16 of the National Fire Service (General) Regulations, 1944 (which makes provision for compensation in respect of the said loss), and

(*c*) had before the eighteenth day of August, 1941, performed not less than eight years' service in the aggregate.

(2) In determining whether a person to whom this Regulation applies shall be deemed to have suffered a reduction of pensionable emoluments in respect of which he is entitled to an award of compensation under these Regulations, paragraph (2) of the last foregoing Regulation shall apply, so, however, that any reference to emoluments shall be construed as a reference to pensionable emoluments, any reference to the appointed day shall be construed as a reference to the day immediately preceding the day on which he retired from the police force, or, as the case may be, from employment under a local authority, and any reference to the rate of emoluments to which he is entitled on the appointed day shall be construed as a reference to the rate of pensionable emoluments to which he was entitled on the day immediately preceding his said day of retirement, and for the words " loss for award purposes " there shall be substituted the words " reduction of pensionable emoluments ". [1063]

3.—(1) This Regulation applies to any person—

(*a*) who is immediately before the appointed day a member of the National Fire Service,

(*b*) in whose case any Regulations made for the purposes set out in paragraph 7 of the Schedule to the Fire Services (Emergency Provisions) Act, 1941 (which Regulations provide for the preservation of the rights of former members of fire brigades maintained under the Fire Brigades Act, 1938, and of the London

Fire Brigade as respects pensions and gratuities), have effect immediately before the appointed day,

(*c*) who had before the appointed day performed not less than eight years' service in the aggregate, and

(*d*) who is on the appointed day by virtue of Regulations made under the Fifth Schedule to the Fire Services Act, 1947, transferred to a fire brigade maintained in pursuance of that Act.

(2) (*a*) A person to whom this Regulation applies shall be deemed to have suffered a reduction of emoluments in respect of which he is entitled to an award of compensation under these Regulations if the rate of emoluments which he is entitled to receive in the rank which, by virtue of Regulations made under the Fifth Schedule to the Fire Services Act, 1947, he holds on the appointed day in a fire brigade maintained in pursuance of the said Act is lower by not less than five per cent. than the rate of emoluments which he was entitled to receive immediately before the appointed day as a member of the National Fire Service calculated in accordance with sub-paragraph (*b*) of this paragraph, and in such a case the difference between the two said rates determined as aforesaid is hereafter in these Regulations referred to as the " loss for award purposes ".

(*b*) For the purposes of this Regulation the rate of emoluments which a person is entitled to receive as a member of the National Fire Service immediately before the appointed day shall be deemed to be the rate of emoluments which he is then entitled to receive under the provisions of the Third Schedule to the National Fire Service (General) Regulations, 1944, as subsequently amended, so, however, that the amount of any excess in the rate of pay which he is entitled to receive as aforesaid over twice the rate of his former local brigade pay shall be disregarded.

In this sub-paragraph " rate of former local brigade pay ", in relation to any person, means the rate of pay computed as for the purposes of the said Schedule to which he would have been entitled immediately before the appointed day if he had remained a member of the fire brigade or police force of which he was last a member before he became a member of the National Fire Service. [1064]

4.—(1) This Regulation applies to any person who—

(*a*) immediately before the eighteenth day of August, 1941, was employed by a fire authority for the purposes of the Fire Brigades Act, 1938, or by the London County Council, upon duties connected with the fire brigade maintained by them, or

(*b*) having been employed as aforesaid upon such said duties, had left such employment in order to undertake war service within the meaning of the Local Government Staffs (War Service) Act, 1939, and was immediately before the said day engaged on such war service,

and who in either case—

(i) is immediately before the appointed day employed for the purposes of the Fire Services (Emergency Provisions) Act, 1941, otherwise than as a member of the National Fire Service,

(ii) is a person who had before the appointed day performed not less than eight years' service in the aggregate, and

(iii) becomes employed on the appointed day by a local authority.

(2) A person to whom this Regulation applies shall be deemed to have suffered a reduction of emoluments in respect of which he is entitled to an award of compensation under these Regulations if the rate of emoluments which he is entitled to receive in the post in which he becomes employed

under a local authority on the appointed day is lower by not less than five per cent. than the rate of emoluments which he was entitled to receive immediately before the said day in respect of his employment for the purposes of the Fire Services (Emergency Provisions) Act, 1941, and in such a case the difference between the two said rates is hereafter in these Regulations referred to as the " loss for award purposes ". [1065]

5.—(1) A claim for compensation under these Regulations shall be made in writing signed by the person making the claim and shall state full particulars of the grounds on which the claim is made, and shall be delivered to the administering authority not later than three months after the appointed day.

(2) Where a claim for compensation under these Regulations is delivered to the administering authority within the period required by the last foregoing paragraph, it shall not be regarded as out of time for the purposes of these Regulations, notwithstanding that it does not contain sufficient particulars, if within such time, not less than fourteen days after the expiry of the said period, as the administering authority may allow, the claimant furnishes such further particulars as are reasonably required by that authority. [1066]

6.—(1) On receipt of a claim for compensation from a person who claims that, being a person to whom Regulation 1, 3 or 4 of these Regulations applies, he has suffered a reduction of emoluments or that, being a person to whom Regulation 2 of these Regulations applies, he has suffered a reduction of pensionable emoluments, in respect of which in either case he is entitled to an award of compensation under these Regulations, the administering authority shall, within a period of three months after the receipt of the claim, decide whether the claimant is a person to whom one of the said Regulations applies and whether he has suffered a reduction of emoluments or, as the case may be, of pensionable emoluments, in respect of which he is entitled to an award of compensation under these Regulations, and if they are satisfied that the claimant is not such a person or has not suffered such a reduction as aforesaid they shall reject the claim and forthwith notify the claimant in writing accordingly.

(2) Where the administering authority decide that any such claimant as aforesaid is a person entitled to an award of compensation under these Regulations, they shall forthwith make an award of compensation to him, and, in the case of a person to whom Regulation 1, 3 or 4 of these Regulations applies, shall also decide, in accordance with paragraph (3) of this Regulation, whether he suffered a reduction of pensionable emoluments of which account is to be taken for the purposes of the Regulations, and, if so, the amount of such reduction.

(3) For the purposes of deciding whether a person to whom Regulation 1, 3 or 4 of these Regulations applies has suffered a reduction of pensionable emoluments of which account is to be taken for the purposes of these Regulations and, if so, the amount of that reduction, the following provisions of this paragraph shall have effect, that is to say :—

(*a*) in the case of a person to whom the said Regulation 1 applies, paragraph (2) of the said Regulation 1 shall apply as if—

(i) for the words " a reduction of emoluments in respect of which he is entitled to an award of compensation under these Regulations " there were substituted the words " a reduction of pensionable emoluments ",

(ii) for the word " emoluments ", wherever it occurs, there were substituted the words " pensionable emoluments ",

(iii) the words " by not less than five per cent." were omitted, and

(iv) for the words " is hereafter in these Regulations " to the end of sub-paragraph (*a*), there were substituted the words " shall be taken as the reduction of pensionable emoluments of which account is to be taken for the purposes of these Regulations " ;

(*b*) in the case of a person to whom the said Regulation 3 applies, the said person shall be deemed to have suffered such a reduction as aforesaid if the rate of emoluments (excluding therefrom any emoluments of which account would not be taken in reckoning any pension or gratuity under the provisions applicable in his case on the appointed day) which he is entitled to receive in the rank which, by virtue of Regulations made under the Fifth Schedule to the Fire Services Act, 1947, he holds on the appointed day in a fire brigade maintained in pursuance of the said Act, is lower than the rate of his pensionable emoluments immediately before the appointed day as a member of the National Fire Service, and in such a case the difference between the two said rates shall be taken as the reduction of pensionable emoluments of which account is to be taken for the purposes of these Regulations ;

(*c*) in the case of a person to whom the said Regulation 4 applies, the said person shall be deemed to have suffered such a reduction as aforesaid if the rate of emoluments which he is entitled to receive in the post in which he becomes employed under a local authority on the appointed day is lower than the rate of emoluments which he was entitled to receive immediately before the said day in respect of his employment for the purposes of the Fire Services (Emergency Provisions) Act, 1941, and in such a case the difference between the two said rates shall be taken as the reduction of pensionable emoluments of which account is to be taken for the purposes of these Regulations.

For the purposes of sub-paragraph (*c*) of this paragraph the expression " emoluments ", in relation to any person, does not include any emoluments of which account would not be taken in reckoning any pension or gratuity under the provisions applicable in the case of that person on, or, as the case may be, immediately before, the appointed day. [1067]

7.—(1) Any compensation awarded to any person under these Regulations shall, subject to the provisions of Regulation 13 thereof, be given by way of periodical payments, and the administering authority shall at the same time that they make the award assess, in accordance with paragraph (3), or, as the case may be, paragraph (4) of this Regulation, the annual rate at which any such payments shall, in respect of the periods or period specified in paragraph (2) thereof, be made to that person, and shall forthwith notify him in writing accordingly.

(2) (*a*) In the case of a person to whom Regulation 1, 3 or 4 of these Regulations applies, payment by way of compensation for the loss for award purposes shall be made in respect of his remaining service period, and, subject to the provisions of Regulation 12 of these Regulations, payment by way of compensation for any reduction of pensionable emoluments of which account is to be taken for the purposes of these Regulations shall be made in respect of the period commencing with the termination of his remaining service period and ending with his death.

(*b*) In the case of a person to whom Regulation 2 of these Regulations applies, payment by way of compensation for the reduction of pensionable emoluments shall be made in respect of the period commencing with the appointed day and ending with his death.

(3) (*a*) In the case of a person to whom Regulation 1, 3 or 4 of these Regulations applies, the annual rate at which the periodical payments by way of compensation for the loss for award purposes shall be made shall be assessed by the administering authority in accordance with the provisions of Part I of the Schedule to these Regulations.

(*b*) In the case of any such person as aforesaid, the annual rate at which the periodical payments by way of compensation for any reduction of pensionable emoluments of which account is to be taken for the purposes of these Regulations shall be made shall be assessed by the said authority in accordance with the provisions of Part II of the said Schedule.

(4) In the case of a person to whom Regulation 2 of these Regulations applies, the annual rate at which the periodical payments by way of compensation for the reduction of pensionable emoluments shall be made shall be assessed by the administering authority in accordance with the provisions of Part II of the Schedule to these Regulations. [1068]

8. If a person who has claimed to be entitled to an award of compensation under these Regulations is aggrieved—

(*a*) by the decision of the administering authority not to make an award of compensation to him or by their failure to come to a decision on his claim within three months after the date on which it was received by them,

(*b*) in the case of a person to whom Regulation 1, 3 or 4 of these Regulations applies, by the decision of the said authority that he has not suffered a reduction of pensionable emoluments of which account is to be taken for the purposes of these Regulations, or

(*c*) by the annual rate at which any periodical payments to be made to him have been assessed by the said authority,

he may within three months after the said failure or after the date on which he is notified of any such decision or assessment, as the case may be, appeal to the appropriate tribunal, and that tribunal shall consider the matter in accordance with the provisions of these Regulations and shall—

(i) in a case referred to in paragraph (*a*) of this Regulation, either, if they determine that an award of compensation should be made to that person, allow the appeal, and, in the case of a person to whom Regulation 1, 3 or 4 of these Regulations applies, determine whether he suffered a reduction of pensionable emoluments of which account is to be taken for the purposes of these Regulations, and, if so, the amount of that reduction, and in the case of any person determine at what annual rate any periodical payments to be made to him should be assessed, or dismiss the appeal,

(ii) in a case referred to in paragraph (*b*) of this Regulation, either, if they determine that that person has suffered a reduction of pensionable emoluments as aforesaid, allow the appeal and determine at what annual rate any periodical payments to be made to him by way of compensation for the said reduction should be assessed, or dismiss the appeal,

(iii) in a case referred to in paragraph (*c*) of this Regulation, determine at what rate the periodical payments, if any, to be made to that person should be assessed,

and the administering authority shall, in any case where the said tribunal have allowed the appeal or varied any assessment, give effect to the determination of the tribunal as if their original decision and assessment had been in accordance with the said determination. [1069]

9.—(1) Subject to the provisions of paragraph (4) of this Regulation, where an award of compensation has been made under these Regulations to a person to whom Regulation 1, 3 or 4 of these Regulations applies, the administering authority may, at any time before the retirement of that person, from time to time review the assessment of the annual rate of periodical payments to be made to him by way of compensation for the loss for award purposes and the assessment of the annual rate of periodical payments to be made to him by way of compensation for any reduction of pensionable emoluments.

(2) On any such review as aforesaid in the case of periodical payments to any person by way of compensation for the loss for award purposes, the administering authority shall have regard to any material change in the circumstances of the case, and, in particular, to any increase of emoluments received by that person in his employment since the time of the last assessment, and may, subject to the limits specified in Part I of the Schedule to these Regulations, increase the assessment of the rate of the said payments, or may decrease that assessment to any extent, or decide that no further periodical payment shall be made to him by way of compensation for the aforesaid loss.

(3) On any such review as aforesaid, in the case of periodical payments to any person by way of compensation for any reduction of pensionable emoluments, the administering authority shall have regard to any increase of pensionable emoluments received by that person in his employment since the time of the last assessment, and, notwithstanding the provisions of Part II of the Schedule to these Regulations, may decrease the assessment of the rate of the said payments to any extent, or decide that no periodical payments shall be made to him by way of compensation for the aforesaid reduction.

(4) The administering authority shall not review any assessment of the annual rate of periodical payments in the case of any person until at least six months after their notification to him, in accordance with the provisions of paragraph (1) of Regulation 7 of these Regulations, of the said rate, or, in a case where the annual rate at which the said payments are to be assessed has been considered by a tribunal under the last foregoing Regulation, until at least six months after the date of the determination of the tribunal, and, in any case where they have reviewed any assessment, shall not hold any subsequent review of the said assessment in the case of that person until at least six months after they have, in accordance with paragraph (7) of this Regulation, notified that person of their decision on such review, or, in a case where the annual rate at which the said payment is to be assessed has been considered by a tribunal under the said paragraph (7), after the date of the determination of the tribunal.

(5) A person to whom an award of compensation has been made under these Regulations may at any time when, in accordance with this Regulation, the administering authority could review the assessment of the annual rate of any periodical payments to be made to him, if he considers that there has been any material change in the circumstances of the case, request the said authority to review the said assessment, or, in any case where they have on a review decided that no further, or no, periodical payments should be made, to make a new assessment, and the administering authority shall accordingly review the assessment, or, as the case may be, consider whether a new assessment should be made.

(6) Where an award of compensation has been made under these Regulations to a person to whom Regulation 3 of these Regulations applies, if the retirement on pension of that person occurs within the period of three years commencing with the appointed day, the administering authority may, not

later than two months after the said retirement, review the assessment of the annual rate of the periodical payments to be made to him by way of compensation for any reduction of pensionable emoluments, and on any such review may have regard to the fact that, by reason of the provisions of these Regulations, the reduction of pensionable emoluments of which the assessment of the said annual rate made at the time of the award took account was computed with reference to his actual pensionable emoluments on the appointed day, whereas the pension to which he became entitled on retirement was computed with reference to an average during the three years preceding his retirement, and, notwithstanding the provisions of Part II of the Schedule to these Regulations, may decrease the aforesaid assessment to any extent, or decide that no periodical payments should be made by way of compensation for the aforesaid reduction.

(7) Where the administering authority under this Regulation review any assessment of the annual rate of periodical payments in the case of any person, they shall forthwith notify that person of their decision on such review, and if that person is aggrieved by the decision he may, within three months after the date on which he received the notification, appeal to the appropriate tribunal, and that tribunal shall consider the matter in accordance with the provisions of these Regulations and shall determine at what annual rate the periodical payments, if any, to be made to that person should be assessed, and, if they vary the assessment, the administering authority shall give effect to the determination of the tribunal as if their decision on the review had been in accordance therewith. [1070]

10.—(1) A person claiming compensation under these Regulations and a person receiving periodical payments by way of compensation thereunder, at any time during which the annual rate of such payments is subject to review by the administering authority under the last foregoing Regulation shall, if the administering authority so require, attend at a meeting of the authority, or of any committee appointed by the authority for the purpose, and answer all questions asked by any member of the authority or committee touching the matters set forth in his claim or to which the administering authority are, under these Regulations, required to have regard, and shall produce all books, papers and documents in his possession or under his control relating to the said matters.

(2) A person required in pursuance of this Regulation to attend at a meeting may be required to make a statutory declaration as to the truth of any of the answers given by him to questions asked on the occasion of such attendance touching the aforesaid matters. [1071]

11.—(1) Any notification given by an administering authority under paragraph (1) of Regulation 6, paragraph (1) of Regulation 7 or paragraph (7) of Regulation 9 of these Regulations to any person shall contain a statement directing the attention of that person to his right under Regulation 8 of these Regulations, or, as the case may be, under the said paragraph (7), to appeal to the appropriate tribunal, and to the time within which such appeal must be made, and giving him the address of the tribunal.

(2) The proceedings on any appeal under these Regulations to a tribunal shall not be deemed to be an arbitration to which anything in the Arbitration Acts, 1889 to 1934, has application. [1072]

12. Notwithstanding that a person to whom Regulation 1, 3 or 4 of these Regulations applies has suffered a reduction of pensionable emoluments of which account is to be taken for the purposes of these Regulations, no payment by way of compensation therefor shall be made in respect of any period after the termination of that person's remaining service period unless the reason for the said termination is his retirement on pension. [1073]

13.—(1) Notwithstanding anything in these Regulations, and subject to the provisions of paragraph (3) of this Regulation, where an award of compensation under these Regulations has been made to any person for a reduction of pensionable emoluments—

(*a*) if the annual rate at which any periodical payments in respect of the said compensation has been assessed does not exceed twenty-six pounds, the administering authority may, at their discretion, discharge the future liability of the appropriate authority to that person in respect of the said periodical payments by the payment to him of a lump sum representing the capital value thereof,

(*b*) if the said annual rate exceeds twenty-six pounds, the administering authority may, if so requested by that person, discharge the future liability of the appropriate authority to him in respect of one-quarter of the amount of the said periodical payments by the payment to him of a lump sum representing the capital value of one-quarter thereof, and in such a case, if the remaining three-quarters thereof does not exceed twenty-six pounds, the administering authority may, at their discretion, discharge the future liability of the appropriate authority to him in respect of the whole of the said amount by the payment to him of a lump sum representing the capital value thereof.

(2) Any lump sum payable under this Regulation shall be of such amount as shall be certified by a Fellow of the Institute of Actuaries to be appropriate.

(3) Nothing in this Regulation shall be construed as authorising the discharge of the liability of the appropriate authority to any person to whom Regulation 1, 3 or 4 of these Regulations applies except after the retirement on pension of that person and at a time when no review of the annual rate at which any periodical payments in respect of the compensation aforesaid can be held under Regulation 9 of these Regulations. [1074]

14. Where under any award of compensation under these Regulations any person is entitled to receive any payment, the whole of that payment shall be made to, or in trust for, that person by the administering authority, and shall be so made, in so far as the said authority in relation to that payment are the appropriate authority, on their own behalf, and in so far as the administering authority in relation to that payment are not the appropriate authority, on behalf of the appropriate authority. [1075]

15.—(1) In these Regulations—

the expression " appointed day " means the first day of April, 1948 ;

the expression " administering authority ", in relation to—

(*a*) a person to whom Regulation 1 or 2 applies and who is on the appointed day a member of a police force, or has before that day retired from a police force, means the fire authority under the Fire Services Act, 1947, for the area comprising the area of the police force of which he was last a member before the eighteenth day of August, 1941 ;

(*b*) a person to whom Regulation 1, 2 or 4 applies and who is on the appointed day, or has been before that day, employed by a local authority, means the fire authority under the Fire Services Act, 1947, for the area comprising the area of the local authority by which he was last employed as aforesaid before the said appointed day ;

(*c*) a person to whom Regulation 3 applies, means the fire authority under the Fire Services Act, 1947, for the area comprising the

area served by the fire brigade of which he was last a member before the appointed day;

the expression " appropriate authority ", in relation to any payment to any person, means, in relation to three-quarters of the amount of that payment, the Secretary of State, and in relation to one-quarter thereof, the administering authority;

the expression " appropriate tribunal ", in the case of any person, means such referee or board of referees appointed by the Minister of Labour and National Service, after consultation with the Lord Chancellor, as has jurisdiction in respect of the district in which that person is, or was last, employed;

the expression " emoluments " means pay and allowances, including the value of free quarters and of light and fuel supplied without charge, and allowances towards rent and towards the cost of fuel and light, but does not include allowances to meet occasional expenses on subsistence, nor to meet travelling expenses or expenses on the provision of uniform or boots, nor expenses incurred in lodging away from home;

the expression " pensionable emoluments ", in relation to any person at any time, means emoluments of which account would be taken in reckoning any pension or gratuity payable to him under the provisions applicable in his case at that time;

the expression " the relevant date ", in relation to—

(*a*) a person to whom Regulation 1 or 2 applies, means the date on which he suffered a loss of emoluments by reason of the National Fire Service (General) Regulations, 1941,

(*b*) a person to whom Regulation 3 or 4 applies, means the appointed day;

the expression " remaining service period ", in relation to any person, means the period commencing with the appointed day and ending with the day on which that person ceases to be a member of a police force, or, as the case may be, to be employed by a local authority (whether as a member of a fire brigade or otherwise);

the expression " retirement ", in relation to any person, means retirement from a police force, or, as the case may be, from employment under a local authority (whether as a member of a fire brigade or otherwise), and the expression " retirement on pension " means retirement in such circumstances that that person thereupon becomes entitled to receive a pension or gratuity in respect of his service as such a member or in such employment as aforesaid under the provisions applicable in his case;

the expression " service ", in relation to—

(*a*) a person to whom Regulation 1 or 2 applies, means service performed after attaining the age of eighteen years as a member of a police force, or, as the case may be, in employment under a local authority, and includes any service which that person would, under any provisions applicable in his case immediately before the relevant date, have been entitled to reckon in computing any pension or gratuity,

(*b*) a person to whom Regulation 3 applies, means service performed after attaining the age of eighteen years which that person would, under the provisions applicable in his case immediately before the appointed day, have been entitled to reckon in computing any pension or gratuity,

(*c*) a person to whom Regulation 4 applies, means service performed after attaining the age of eighteen years in employment under a local authority, and service in employment for the purposes

of the Fire Services (Emergency Provisions) Act, 1941, and includes any service which that person would, under any provisions as to pensions applicable in his case, immediately before the appointed day, have been entitled to reckon in computing any pension or gratuity,

and in reckoning the period of service performed by any person before any particular date, if that date occurred at any time other than at the expiration of a complete year of service performed by that person, the portion then expired of that year shall be treated as a complete year if it amounts to six months or more, and if it does not shall be ignored.

(2) In these Regulations any reference in the case of any person to a rate of emoluments (not being a specific reference to a rate of pensionable emoluments or to a rate of emoluments which does not include emoluments of which account would not be taken in reckoning any pension or gratuity) or to a rate of any part of any emoluments at any time shall be construed as a reference to the rate thereof at that time after the deduction therefrom of a percentage the same as that percentage of, as the case may be, those emoluments or that part of those emoluments which he was at that time liable to contribute to any person or fund under the provisions and arrangements relating to pensions applicable in his case.

(3) Where in these Regulations the expression "rate of pensionable emoluments" is used in relation to any person at a particular time, then, if under the provisions applicable in his case at that time any pension or gratuity payable to him would have been computed by reference to an average rate of emoluments (however the said emoluments would have been computed) received by him over a period preceding that time, the said expression shall mean the said average rate.

(4) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [1076]

16.—(1) These Regulations may be cited as the Fire Services (Compensation) Regulations, 1948, and shall come into operation on the first day of April, 1948.

(2) These Regulations shall not extend to Scotland. [1077]

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Regulation 7 SCHEDULE

PART I

Assessment of the annual rate of periodical payments in respect of the period before retirement

1. In assessing in accordance with this Part of this Schedule the annual rate of periodical payments to be made to any person the administering authority shall have regard to all the circumstances of his case, and, in particular, in the case of a person to whom Regulation 3 or 4 of these Regulations applies, to any increase of emoluments received by that person within one year before the appointed day, and to the extent to which he sought to obtain employment on the appointed day which would not involve a reduction of emoluments.

2. The annual rate of the periodical payments to be made to any person in accordance with this Part of this Schedule shall be such rate as the administering authority may, subject to the provisions of these Regulations, in their discretion assess, not exceeding the aggregate of the following, that is to say :—

(*a*) for every year of that person's service before the relevant date, one-sixtieth of the amount of the loss for award purposes in his case, and

(*b*) in the case of a person who had attained the age of forty-five years before the relevant date, for each year of his service since he attained the said age and before the relevant date, a further one-sixtieth of the amount of the said loss for award purposes,

and not in any case exceeding two-thirds of the amount of the said loss for award purposes. [1078]

PART II

Assessment of the annual rate of periodical payments in respect of the period after retirement on pension or with a gratuity

1. The annual rate of the periodical payments to be made to any person in accordance with this Part of this Schedule shall be at a rate assessed as follows, that is to say, the aggregate of—

(*a*) the sum which bears the same proportion to the appropriate pension as the reduction of pensionable emoluments bears to the appropriate rate of pensionable emoluments, and

(*b*) in the case of a person who had attained the age of forty years before the relevant date, a sum equal to the amount of the additional part of the appropriate pension which would have been payable to that person if there were credited to him such additional number of years of service to be reckoned in computing the said pension as the administering authority may, in their discretion, decide, not exceeding one for each complete year by which his age at the said date exceeded the said age, and not in any case exceeding ten years,

so, however, that the said annual rate shall not in any case exceed two-thirds of the said reduction of pensionable emoluments.

2. In exercising their discretion under sub-paragraph (*b*) of the last foregoing paragraph, the administering authority shall have regard to all the circumstances of the case, and, in particular, in the case of a person to whom Regulation 3 or 4 of these Regulations applies, to any increase of pensionable emoluments received by that person within one year before the appointed day, and to the extent to which he sought to obtain employment on the appointed day which would not involve a reduction of pensionable emoluments.

3. In this Part of this Schedule—

the expression " the appropriate pension ", in relation to any person, means the pension to which he would have been entitled under the provisions as to pensions applicable in his case immediately before the relevant date if he had then retired on the ground of ill-health, or, if immediately before the relevant date he had not completed any minimum period of service qualifying him under the said provisions for the grant of a pension, means a sum bearing the same proportion to the pension to which he would have been entitled as aforesaid if immediately before the said relevant date he had completed such said minimum period as the period which he had actually then served bears to the said minimum period ;

the expression " appropriate rate of pensionable emoluments ", in relation to any person, means the annual rate of his pensionable emoluments immediately before the relevant date, so, however, that in the case of a person to whom Regulation 1 or 2 of these Regulations applies, if the rate of any part of his pensionable emoluments fluctuated from time to time, the rate of that part immediately before the said date shall for this purpose be deemed to be the average rate of that part during the three years preceding the said date ;

the expression " reduction of pensionable emoluments ", in the case of a person to whom Regulation 1, 3 or 4 of these Regulations applies, means any reduction of pensionable emoluments suffered by him of which account is to be taken for the purposes of these Regulations, determined in accordance with the provisions of paragraph (3) of Regulation 6 of these Regulations, and, in the case of a person to whom Regulation 2 of these Regulations applies, means the reduction of pensionable emoluments suffered by him, determined in accordance with paragraph (2) of the said Regulation 2. [1079]

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations provide for the payment under certain conditions of compensation (a) to persons who by reason of the formation of the National Fire Service in 1941 *suffered a loss of emoluments, (b) to former professional firemen who have been in the National Fire Service and, by reason of the transfer of the fire service to the new fire authorities, suffer a reduction of emoluments and (c) to certain other persons formerly employed by local authorities who have been employed for the purposes of the National Fire Service otherwise than as members thereof, and who on again becoming employed under a local authority suffer a reduction of emoluments. Compensation will be by way of periodical payments, subject to commutation in certain cases. The annual rate of the payments to be made to a person before retirement will be assessed with regard to the total emoluments lost, and the annual rate of the payments to be made to a person after retirement on pension will be assessed with regard to any loss of pensionable emoluments. Provision is made for appeal to a tribunal and for review of the rate at which periodical payments have been assessed. The appropriate new fire authority receives and considers claims, makes the assessments and pays any person entitled, and the authorities responsible for bearing the cost of payments are, as to three-quarters, the Secretary of State, and as to one-quarter, the appropriate new fire authority.*

FIRE SERVICES (PENSIONABLE EMPLOYMENT) REGULATIONS, 1948

S.I. 1948 *No.* 581

March 19, 1948

General note.—These regulations have been modified by the Fire Services (Pensionable Employment) Regulations, 1949 (S.I. 1949 No. 71).

In pursuance of the powers conferred on me by section twenty-eight of the Fire Services Act, 1947, I [*i.e.*, the Secretary of State] hereby make the following Regulations :—

1.—(1) A former professional fireman subject to the Act of 1925 who—

(*a*) not later than one month after the appointed day, enters upon employment under a local authority otherwise than as a member of a fire brigade, or

(*b*) before the appointed day with the consent of the Secretary of State ceased to be employed in the National Fire Service and entered upon employment under his former fire authority otherwise than as a member of a fire brigade,

shall, if within three months of the appropriate date he so elects by notice in writing served upon the authority under which he becomes, or became, employed as aforesaid, be entitled to reckon all his Act of 1925 approved service as, if that authority are not a local Act authority, contributing service under that authority, or, if that authority are a local Act authority, as local Act scheme service under that authority.

(2) In this Regulation the expression " the appropriate date ", in relation to a person to whom sub-paragraph (*a*) of the foregoing paragraph applies, means the date on which he enters upon the employment aforesaid, and, in relation to a person to whom sub-paragraph (*b*) of the said paragraph applies, means the appointed day. [1080]

2. Where a former professional fireman subject to the Act of 1925, not later than one month after the appointed day, enters upon employment in the civil service of the Crown, all his Act of 1925 approved service shall, if within three months after he enters upon such said employment he so elects by notice in writing served upon the department of the civil service in which he is employed, be treated, for the purposes of the Superannuation Acts, 1834 to 1946, as if it had been continuous service in an established capacity in the civil service of the State, within the meaning of the said Acts, ending immediately before the date upon which he enters upon the said employment. [1081]

3.—(1) Where a former professional fireman subject to the Act of 1925, being a person in whose case Regulation 1 or 2 of these Regulations has effect by reason that he has so elected under that Regulation, would, if he had retired while a member of his former local brigade, by virtue of subsection (2) of section eight of the Act of 1925 have been entitled, if his former authority had so allowed, and if he had paid to his former authority a sum provided for in the said subsection, to reckon any period of service in a fire brigade maintained by another authority, or in a police force, as approved service for the purposes of the said Act, then—

(*a*) in the case of a person who enters upon employment under a local authority—

(i) where that authority are his former authority, if they agree,

(ii) where that authority are not his former authority, if his former authority agree and make to that authority such payment as is provided in paragraph (2) of Regulation 10 of these Regulations, and

(iii) in either case, if he has paid, or pays, to his former authority the sum provided for in the said subsection (2) as aforesaid,

that person shall be entitled to reckon such said period of service as contributing service or, where the authority under which he becomes employed are a local Act authority, as local Act scheme service, under, in either case, the authority under which he becomes employed as aforesaid, and any such period of service is hereafter in these Regulations referred to as an " extra period of service " ;

(*b*) in the case of a person who enters upon employment in the civil service of the Crown—

(i) if his former authority agree and make to the Secretary of State such payment as is provided in the said paragraph (2) of Regulation 10, and

(ii) if he has paid, or pays, to his former authority the sum provided for the said subsection (2) as aforesaid,

the said period of service shall be aggregated with the service treated by virtue of Regulation 2 of these Regulations as continuous service of that person in an established capacity in the civil service of the State, and any period of service so aggregated is hereafter in these Regulations referred to as an " extra period of service ".

(2) Where by virtue of subsection (2) of section twenty-two of the Act of 1925 the pension or gratuity which would have been granted to any such person as aforesaid if he had retired while a member of his former local brigade might, at the discretion of his former authority, if he had paid to that authority such sum as, in accordance with the said subsection, that authority might fix, have been increased to an amount not exceeding the

pension or gratuity to which that person would have been entitled if his past pensionable service within the meaning of the said Act had not been subject to any reduction in reckoning his approved service within the meaning of the said Act, then—

(*a*) in the case of a person who enters upon employment under a local authority—

(i) where that authority are his former authority, if they agree,

(ii) where that authority are not his former authority, if his former authority agree and make to that authority such payment as is provided in paragraph (2) of Regulation 10 of these Regulations, and

(iii) in either case, if he has paid to his former authority a sum fixed by them in accordance with the said subsection, or pays to that authority such sum as they may fix, being such a sum as they might have fixed under the said subsection,

that person shall be entitled to reckon as contributing service, or, where the authority under which he becomes employed as aforesaid are a local Act authority, as local Act scheme service, under, in either case, the authority under which he becomes employed as aforesaid, a period equal to the length of the period of reduction to which his said past pensionable service was subject in reckoning his said approved service, and any such period is hereafter in these Regulations referred to as an " extra period of service " ;

(*b*) in the case of a person who enters upon employment in the civil service of the Crown—

(i) if his former authority agree and make to the Secretary of State such payment as is provided in the said paragraph (2) of Regulation 10, and

(ii) if he has paid to his former authority a sum fixed by them in accordance with the said subsection, or pays to that authority such sum as they may fix, being such a sum as they might have fixed under the said subsection,

a period of service equal to the length of the period of reduction to which his said past pensionable service was subject in reckoning his said approved service shall be aggregated with the service treated by virtue of Regulation 2 of these Regulations as continuous service of that person in an established capacity in the civil service of the State, and any such period is hereafter in these Regulations referred to as an " extra period of service ". [1082]

4.—(1) Where—

(*a*) a former professional fireman not subject to the Act of 1925, not being a person in whose case the National Fire Service (Preservation of Pensions) (General Pension Funds) Regulations, 1941, had effect immediately before he ceased to be a member of the National Fire Service, or

(*b*) a person, not being a former professional fireman, who was employed in the National Fire Service immediately before the appointed day and to whom the Police Pensions Act, 1921, applied immediately before the said day,

not later than one month after the said day enters upon employment under a local authority otherwise than as a member of a fire brigade, he shall, if within three months after he enters upon such said employment he so elects by notice in writing served upon the said authority, be entitled to reckon, in the proportion provided in paragraph (2) of this Regulation, all his approved

service under the relevant pension provisions, or, as the case may be, all his approved service within the meaning of the said Police Pensions Act, 1921, as, if that authority are not a local Act authority, contributing service under that authority, or, if that authority are a local Act authority, as local Act scheme service under that authority.

(2) The proportion in which such approved service as aforesaid shall be reckoned is as follows, that is to say, three years of such approved service shall be reckoned as equivalent to four years of such contributing service as aforesaid, or, as the case may be, to four years of such said local Act scheme service, and any other period of such approved service shall be reckoned in the same proportion. [1083]

5. Where a former professional fireman not subject to the Act of 1925, not later than one month after the appointed day, enters upon employment in the civil service of the Crown, all his approved service under the relevant pension provisions shall, if within three months after he enters upon such said employment he so elects by notice in writing served upon the department of the civil service in which he is employed, be treated, for the purposes of the Superannuation Acts, 1834 to 1946, as if it had been continuous service in an established capacity in the civil service of the State, within the meaning of the said Acts, ending immediately before the date on which he enters upon the said employment, and, in the case of any such former professional fireman as aforesaid other than a person in whose case the National Fire Service (Preservation of Pensions) (General Pension Funds) Regulations, 1941, had effect immediately before he ceased to be employed in the National Fire Service, shall be so treated in the following proportion, that is to say, three years of such approved service shall be treated as equivalent to four years of such service in the civil service of the State, and any other period of such approved service shall be treated in the same proportion. [1084]

6. Where a former professional fireman not subject to the Act of 1925, being a person in whose case the National Fire Service (Preservation of Pensions) (Police Firemen) Regulations, 1941, as amended by the National Fire Service (Preservation of Pensions) (Police Firemen) (No. 2) Regulations, 1945, had effect immediately before he ceased to be employed in the National Fire Service, and being a person in whose case Regulation 4 or 5 of these Regulations has effect by reason that he so elected under that Regulation, would, if he had retired while a member of his former police force, by virtue of subsection (2) of section nine of the Police Pensions Act, 1921, have been entitled, if his former authority had so allowed, and if he had paid to his former authority a sum provided for in the said subsection, to reckon any period of service in another police force as approved service for the purposes of the said Act, then—

(a) in the case of a person who enters upon employment under a local authority—

(i) if his former authority, or the police authority for the area comprising the area of that authority, agree and make to the authority under which he becomes employed such payment as is provided in paragraph (2) of Regulation 10 of these Regulations, and

(ii) if he has paid to his former authority, or pays to that authority, or to the police authority for the area comprising the area of that authority, the sum provided for in the said subsection as aforesaid,

that person shall be entitled to reckon, in the proportion provided for in paragraph (2) of Regulation 4 of these Regulations, such said

period of service in another police force as contributing service, or, where the local authority under which he becomes employed are a local Act authority, as a period of local Act scheme service, under, in either case, the authority under which he becomes employed as aforesaid, and any such period of service is hereafter in these Regulations referred to as an " extra period of service " ;

(*b*) in the case of a person who enters upon employment in the civil service of the Crown—

(i) if his former authority, or the police authority for the area comprising the area of that authority, agree and make to the Secretary of State such payment as is provided in the said paragraph (2) of Regulation 10, and

(ii) if he has paid to his former authority, or pays to that authority, or to the police authority for the area comprising the area of that authority, the sum provided for in the said subsection as aforesaid,

the said period of service in another police force shall be aggregated with the service treated by virtue of Regulation 5 of these Regulations as continuous service of that person in an established capacity in the civil service of the State, and shall for that purpose be treated in the same proportion as the said last-mentioned service is treated by virtue of the said Regulation, and any period of service so aggregated is hereafter in these Regulations referred to as an " extra period of service ". [1085]

7.—(1) Where any person who has been employed in the National Fire Service, not being a former professional fireman, enters on the appointed day upon employment in the civil service of the Crown, he shall, if he makes to the Secretary of State the payment provided for in paragraph (2) of this Regulation, be deemed for the purposes of the Superannuation Acts, 1834 to 1946, to have performed a period of continuous service in an established capacity in the civil service of the State, within the meaning of the said Acts, ending immediately before the said day, equal to one-and-a-third times the aggregate length of the following periods of service, that is to say :—

(*a*) one-half of the total period of all service performed by that person after the second day of September, 1939, and before the thirteenth day of January, 1946, as a member of the Auxiliary Fire Service or of the National Fire Service, and

(*b*) the total period of all service performed by him after the twelfth day of January, 1946, as a member of the National Fire Service.

(2) The payment referred to in paragraph (1) of this Regulation, to be made by any person, is a payment equal to the aggregate of the following amounts, that is to say :—

(*a*) two-and-a-half per cent. of the total amount of pay received by him as a member of the Auxiliary Fire Service and of the National Fire Service in respect of the period commencing on the third day of September, 1939, and ending immediately before the thirteenth day of January, 1946, and

(*b*) five per cent. of the total amount of pay received by him as a member of the National Fire Service in respect of the period commencing on the said thirteenth day of January.

(3) In this Regulation " pay ", in relation to any person, means pay actually received by that person and does not include the value of free quarters or of fuel or light supplied without charge, nor allowances towards rent or towards the cost of lodgings, fuel or light, nor allowances to meet expenses on subsistence, travelling, or the cost of uniform or boots, nor other like allowances. [1086]

8.—(1) Where any person who—

(*a*) has been employed in the National Fire Service,

(*b*) is not a former professional fireman, and

(*c*) is one of the class of firemen in whose case, by reason that they were expected to enter upon pensionable employment under a local authority on the appointed day otherwise than as members of fire brigades, deductions have, by direction of the Secretary of State, been made from the pay received by them in respect of their employment in the National Fire Service,

enters on the said day upon employment under a local authority otherwise than as a member of a fire brigade, he shall, if he makes to that authority the payment provided for in paragraph (2) of this Regulation, be entitled to reckon all service performed by him in his employment in the National Fire Service after the thirty-first day of March, 1946, as, if that authority are not a local Act authority, contributing service, or, if that authority are a local Act authority, as local Act scheme service, under, in either case, the said authority.

(2) The payment referred to in paragraph (1) of this Regulation, to be made by any person, is a payment equal to the following amount, that is to say, six per cent. of the total amount of pay received by him in his employment in the National Fire Service in respect of the period commencing on the first day of April, 1946, but in reckoning the said total amount, if that person was for any period holding a rank to which his promotion had, by virtue of paragraph (3) of Regulation 7 of the National Fire Service (General) Regulations, 1944, been expressed to be temporary only, his pay during the last-mentioned period shall be deemed to have been the pay which he would have received if the said promotion had not been made.

(3) In this Regulation "pay" has the same meaning as in the last foregoing Regulation. [1087]

General note.—This paragraph has been modified by the Fire Services (Pensionable Employment) Regulations, 1949 (S.I. 1949 No. 71).

9.—(1) Where any person is by virtue of any of these Regulations entitled to reckon any service, including any extra period of service, as contributing service, or, in the case of a local Act authority, as local Act scheme service, and had in respect of any of the service which he is entitled to reckon as aforesaid made any contributions from his pay (whether by way of deductions or otherwise) to any person or fund under the provisions and arrangements as to pensions applicable in his case at that time (including any provision in the Police and Firemen (War Service) Act, 1939, and the Regulations specified in the Schedule to these Regulations), any such said contributions shall be deemed to have been contributions made in respect of contributing service for the purposes of the Local Government Superannuation Act, 1937, or, as the case may be, in respect of local Act scheme service for the purposes of the local Act scheme, to, in either case, the authority maintaining the superannuation fund within the meaning of the said Act in relation to the employment under a local authority upon which he enters or has entered.

(2) Where any person is by virtue of Regulation 8 of these Regulations entitled to reckon any service as contributing service, or, in the case of a local Act authority, as local Act scheme service, the payment made by him in pursuance of that Regulation to the authority under which he becomes employed shall be deemed to have been made by him by way of contributions made in respect of contributing service for the purposes of the Local Government Superannuation Act, 1937, or, as the case may be, in respect of local Act scheme service for the purposes of the local Act scheme, to, in either

case, the authority maintaining the superannuation fund within the meaning of the said Act, in relation to the employment upon which he enters as aforesaid. [1088]

10.—(1) Where a former professional fireman or a person, not being a former professional fireman, who was employed in the National Fire Service immediately before the appointed day and to whom the Police Pensions Act, 1921, applied immediately before the said day—

(*a*) enters or has entered upon employment under a local authority, and is by virtue of Regulation 1 or 4 of these Regulations, entitled to reckon any service as contributing service, or, in the case of a local Act authority, as local Act scheme service, or

(*b*) enters upon employment in the civil service of the Crown, and by virtue of Regulation 2 or 5 of these Regulations any period of service performed by him is treated for the purposes of the Superannuation Acts, 1834 to 1946, as if it were service in the civil service of the State within the meaning of those Acts,

subsection (1) of section twenty-nine of the Local Government Superannuation Act, 1937, and paragraph (1) of Regulation 3 of, and the First Schedule to, the Local Government Superannuation (Transfer Value) Regulations, 1939 (which provide for payment of transfer values in certain cases where employees of a local authority cease to be employed by them and become employed by another local authority), shall apply—

(i) as if that person had, immediately before he ceased to be employed in the National Fire Service, been an officer employed and paid by his former authority, and had then ceased to hold his said employment under them,

(ii) as if all the service which he is entitled to reckon as aforesaid, or, as the case may be, which is treated as aforesaid, had been contributing service under his former authority,

(iii) in a case where awards might, under the provisions and arrangements as to pensions applicable in his case, have been made to him immediately before the appointed day out of a pension fund, as if that fund were a superannuation fund within the meaning of the said Act and Regulations, and as if any deductions from his pay made under the provisions as to pensions applicable in his case had been contributions to that superannuation fund,

(iv) in a case where awards might, under the said provisions and arrangements, have been made to him as aforesaid otherwise than out of a pension fund, as if his former authority were an authority maintaining such a superannuation fund and as if any deductions made as aforesaid had been contributions to that superannuation fund,

(v) in the case of a person who enters or has entered upon employment under a local authority which are his former authority, as if the superannuation fund referred to in sub-paragraph (iii), or, as the case may be, sub-paragraph (iv) of this paragraph and the superannuation fund relating to the employment upon which he enters or has entered as aforesaid were different funds maintained by different authorities,

(vi) in the case of a person who enters upon employment in the civil service of the Crown, as if the Crown were a local authority maintaining a superannuation fund within the meaning of the said Local Government Superannuation Act, 1937, and as if entering upon employment in the service of the Crown were entering upon contributing service under such an authority,

and a transfer value shall be payable accordingly out of the said pension fund, or, as the case may be, by that person's former authority, to the authority maintaining the superannuation fund within the meaning of the said Act relating to the employment on which that person has entered, or, as the case may be, to the Secretary of State.

(2) Where, under Regulation 3 or 6 of these Regulations, if a person's former authority agree and make a certain payment—

(*a*) that person will be entitled to reckon an extra period of service as contributing service, or, where the authority under which he becomes employed are a local Act authority, as local Act scheme service, or

(*b*) an extra period of service will be treated as service performed by him in the civil service of the State,

the amount of that payment shall be determined under paragraph (1) of this Regulation as if it were a transfer value payable in respect of a period of service which was of the same length as that extra period and which—

(i) by virtue of Regulation 1 or 4 of these Regulations that person was entitled to reckon as contributing service or as local Act scheme service as aforesaid, or, as the case may be,

(ii) by virtue of Regulation 2 or 5 of these Regulations was treated as if it were service performed by that person in the civil service of the State.

(3) Where under any of these Regulations any service is to be reckoned in an increased proportion, or, as the case may be, is to be treated as equivalent to a proportionately increased period of service, the period of that service shall, for the purposes of the said Local Government Superannuation (Transfer Value) Regulations, 1939, as applied by this Regulation, be deemed to be increased in that proportion. [1089]

11.—(1) Where any person on the appointed day enters upon employment under a local authority and is by virtue of Regulation 8 of these Regulations entitled to reckon any service as contributing service, or, in the case of a local Act authority, as local Act scheme service, there shall be payable by the Secretary of State to the authority maintaining the superannuation fund within the meaning of the Local Government Superannuation Act, 1937, in relation to the employment on which that person has entered, a sum in respect of that person determined in accordance with the succeeding provisions of this Regulation.

(2) In determining the said sum subsection (1) of section twenty-nine of the Local Government Superannuation Act, 1937, and paragraph (1) of Regulation 3 of, and the First Schedule to, the Local Government Superannuation (Transfer Value) Regulations, 1939 (which provide for payment of transfer values in certain cases where employees of a local authority cease to be employed by them and become employed by another local authority), shall apply as if a transfer value were being calculated thereunder and—

(*a*) as if the Crown were a local authority maintaining a superannuation fund within the meaning of the said Act and as if the person in respect of whom the sum is payable had, immediately before the appointed day, been an officer employed by such authority and had then ceased to hold his employment under them,

(*b*) as if all the service which that person is entitled to reckon as aforesaid had been contributing service under such authority, and

(*c*) as if in paragraph 1 of the First Schedule to the said Regulations for the definition of "remuneration" there were substituted the following definition:—

" ' remuneration ', in relation to any employee, means the pay computed at an annual rate which he was entitled to receive in his employment in the National Fire Service on the material date, so, however, that, if he was then holding a rank to which his promotion had, by virtue of paragraph (3) of Regulation 7 of the National Fire Service (General) Regulations, 1944, been expressed to be temporary only, the pay which he was entitled to receive as aforesaid shall be deemed to have been that which he would have been entitled to receive if the said promotion had not been made, and for the purposes of this definition the expression ' pay ' means pay actually receivable, and does not include the value of free quarters or of fuel or light supplied without charge, nor allowance towards rent or towards the cost of lodging, fuel or light, nor allowances to meet expenses on subsistence, travelling or the cost of uniform or boots, nor other like allowances."

(3) From the amount of the value so ascertained there shall be deducted an amount equal to the amount paid under Regulation 8 of these Regulations by the person entering upon employment, and the resulting amount is the sum which is payable by the Secretary of State as aforesaid to the authority maintaining the said superannuation fund in relation to the employment upon which that person enters. [1090]

General note.—This paragraph has been modified by the Fire Services (Pensionable Employment) Regulations, 1949 (S.I. 1949 No. 71).

12.—(1) In these Regulations the following expressions have the meanings hereby respectively assigned to them, that is to say :—

" the Act of 1925 " means the Fire Brigade Pensions Act, 1925 ;

" Act of 1925 approved service " means all service which a former professional fireman subject to the Act of 1925 would, by virtue of the Act of 1925, the Police and Firemen (War Service) Act, 1939, and the National Fire Service (Preservation of Pensions) (Act of 1925) Regulations, 1941, as amended by the National Fire Service (Preservation of Pensions) (Act of 1925) Regulations, 1945, immediately before he ceased to be employed in the National Fire Service, be entitled to reckon as approved service within the meaning, and for the purposes, of the Act of 1925 ;

" the appointed day " means the first day of April, 1948 ;

" approved service under the relevant pension provisions " means all service which a former professional fireman not subject to the Act of 1925 would, by virtue of the provisions as to pensions applicable in his case, the Police and Firemen (War Service) Act, 1939, or, as the case may be, the Local Government Staffs (War Service) Act, 1939, and the Regulations specified in the Schedule to these Regulations, immediately before he ceased to be employed in the National Fire Service, be entitled to reckon as approved service within the meaning, and for the purposes, of the said provisions applicable in his case ;

" contributing service " has the same meaning as in the Local Government Superannuation Act, 1937 ;

" former authority ", in relation to—

(*a*) a person in whose case the National Fire Service (Preservation of Pensions) (Police Firemen) Regulations, 1941, as amended by the National Fire Service (Preservation of Pensions) (Police Firemen) (No. 2) Regulations, 1945, had effect immediately before he ceased to be employed in the National Fire Service, means the police authority for the police force of which he was last a member before he became a member of the National Fire Service,

(*b*) a person, not being a former professional fireman, to whom the Police Pensions Act, 1921, applied immediately before he ceased to be employed in the National Fire Service, means the police authority for the police force of which he was a member immediately before he ceased as aforesaid, and

(*c*) any other person, means the local authority which maintained the fire brigade of which he was last a member before he became a member of the National Fire Service ;

" former local brigade ", in relation to any person, means the fire brigade of which he was last a member before he became a member of the National Fire Service ;

" former police force ", in relation to any person, means the police force of which he was last a member before he became a member of the National Fire Service ;

" former professional fireman " means a person in whose case any of the Regulations specified in the Schedule to these Regulations had effect immediately before he ceased to be employed in the National Fire Service ;

" former professional fireman subject to the Act of 1925 " means a former professional fireman in whose case the National Fire Service (Preservation of Pensions) (Act of 1925) Regulations, 1941, as amended by the National Fire Service (Preservation of Pensions) (Act of 1925) Regulations, 1945, had effect immediately before he ceased to be employed in the National Fire Service ;

" former professional fireman not subject to the Act of 1925 " means a former professional fireman other than one in whose case the National Fire Service (Preservation of Pensions) (Act of 1925) Regulations, 1941, as amended by the National Fire Service (Preservation of Pensions) (Act of 1925) Regulations, 1945, had effect immediately before he ceased to be employed in the National Fire Service ;

" local Act authority " and " local Act scheme " have the same meaning as in the Local Government Superannuation Act, 1937 ;

" local Act scheme service ", in relation to any person, means service reckonable as service, or as a period of contribution, for the purpose of calculating his superannuation allowance under the local Act scheme ;

" local authority " has the same meaning as in the Local Government Superannuation Act, 1937.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [1091]

13.—(1) These Regulations may be cited as the Fire Services (Pensionable Employment) Regulations, 1948, and shall come into operation on the first day of April, 1948.

(2) These Regulations shall not extend to Scotland. [1092]

* * * * *

Regulations 9, 12 SCHEDULE

The National Fire Service (Preservation of Pensions) (Act of 1925) Regulations, 1941, as amended by the National Fire Service (Preservation of Pensions) (Act of 1925) Regulations, 1945.

The National Fire Service (Preservation of Pensions) (General Pension Funds) Regulations, 1941.

The National Fire Service (Preservation of Pensions) (Police Firemen) Regulations, 1941, as amended by the National Fire Service (Preservation of Pensions) (Police Firemen) (No. 2) Regulations, 1945.

The National Fire Service (Preservation of Pensions) (London and West Ham) Regulations, 1941.

The National Fire Service (Preservation of Pensions) (Birmingham and Leicester) Regulations, 1941.

The National Fire Service (Preservation of Pensions) (Bolton and Derby) Regulations, 1941. [1093]

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

Under these Regulations former pensionable members of fire brigades and police forces who have been in the National Fire Service and who enter or, in certain cases, have already entered, upon local government service are enabled to reckon, for the purposes of the Local Government Superannuation Act, 1937, *or local Act schemes, service which they were entitled to reckon under their former pension enactments, in some cases in an increased proportion. If they enter the civil service these persons are enabled to reckon such service for the purposes of the Superannuation Acts. Persons in the National Fire Service with no past pensionable service entering the civil service, and certain such persons entering local government service, will on making prescribed payments be enabled to reckon part of their fire service for the purposes of the relevant enactments. In the case of persons with past pensionable service, provision is made for a transfer value payment by their former authority to their new authority or, if they enter the civil service, to the Secretary of State, and in the case of other persons becoming employed under a local authority, by the Secretary of State to that authority.*

FIREMEN'S PENSION SCHEME ORDER, 1948

S.I 1948 *No.* 604.

March 23, 1948

General note.—The scheme set out in the Appendix, *infra*, has been modified by the Firemen's Pension Scheme (No. 2) Order, 1948 (S.I. 1948 No. 1094), *post*, and by the Firemen's Pension Scheme Order, 1949 (S.I. 1949 No. 396).

In exercise of the powers conferred on me by section twenty-six of the Fire Services Act, 1947, and of all other powers enabling me in that behalf, I [*i.e.* the Secretary of State] hereby order, with the approval of the Treasury and after consultation with the Central Fire Brigades Advisory Council and the Scottish Central Fire Brigades Advisory Council, that the Pension Scheme set out in the Appendix to this Order shall come into operation, as respects England, on the first day of April, 1948, and, as respects Scotland, on the sixteenth day of May, 1948.

This Order may be cited as the Firemen's Pension Scheme Order, 1948, and shall come into operation on the day after the day on which it shall have been laid before both Houses of Parliament. [1094]

* * * * *

APPENDIX

THE FIREMEN'S PENSION SCHEME

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PART I

PENSIONS, GRATUITIES AND ALLOWANCES

1. Fireman's ordinary pension.—(1) Every fireman who retires on or after completing twenty-five years' pensionable service shall be entitled to receive a fireman's ordinary pension.

(2) The amount of the said pension shall be determined in accordance with the First Schedule to this Scheme.

(3) Where a chief officer or a firemaster retires before attaining the age of fifty-five years, he shall not be entitled to a pension under this Article unless his notice of retirement was given with the permission of the fire authority. [1095]

2. Fireman's short service award.—(1) Where a fireman retires on reaching the age prescribed for retirement by his conditions of service, and he is not entitled to an ordinary pension under Article 1 of this Scheme, he shall be entitled to receive a fireman's short service award.

(2) If the fireman has not, at the time when he so retires, completed ten years'

pensionable service, the said award shall be a gratuity. Save as aforesaid, the award shall be a pension (hereinafter referred to as a " short service pension ").

(3) The amount of a short service award shall be determined in accordance with the Second Schedule to this Scheme. [1096]

3. Fireman's ill-health award.—(1) If at any time a fireman is incapacitated for the performance of his duty by infirmity of mind or body, and he retires on that account, he shall be entitled on so retiring to receive an ill-health award :

Provided that he shall not be entitled to receive such an award unless it appears that the incapacity is likely to be permanent.

(2) If the fireman has not, at the time when he so retires, completed ten years' pensionable service, the said award shall be a gratuity, unless the incapacity is occasioned by an injury received in the execution of the fireman's duty without his own default.

(3) Save as provided in paragraph (2) of this Article, an ill-health award shall be a pension (hereinafter referred to as an " ill-health pension ").

(4) The amount of an ill-health award shall be determined in accordance with the Second Schedule to this Scheme.

(5) Where a fireman retires in circumstances in which he is entitled to an ill-health award, Articles 1 and 2 of this Scheme shall not apply in respect of his said retirement. [1097]

4. Widow's ordinary benefit.—(1) Where any person who has completed three years' pensionable service—

(*a*) dies while serving as a fireman ; or

(*b*) dies while in receipt of a pension under this Scheme ; or

(*c*) retires on account of any disease or injury and subsequently (without any intervening period of service as a fireman) dies in consequence of that disease or injury,

his widow shall be entitled to a widow's ordinary pension.

The amount of the said pension shall be determined in accordance with the Third Schedule to this Scheme.

(2) Where a person dies while serving as a fireman and his widow is not entitled to a pension under this Article, she shall be entitled to a widow's ordinary gratuity.

The amount of the said gratuity shall be determined in accordance with the Fourth Schedule to this Scheme.

(3) Where a widow is entitled to a pension under this Article, and the fire authority are satisfied that there are sufficient reasons for granting her a gratuity in lieu of a pension, they may in their discretion and with her consent commute the pension for a gratuity. [1098]

5. Child's ordinary allowance.—(1) Where any person—

(*a*) dies while serving as a fireman ; or

(*b*) having served as a fireman, dies while in receipt of a pension under this Scheme ; or

(*c*) retires on account of any disease or injury and subsequently (without any intervening period of service as a fireman) dies in consequence of that disease or injury,

any child of his who has not attained the prescribed age at the date of the death shall be entitled to a child's ordinary allowance.

The amount of the said allowance shall be determined in accordance with Part I of the Fifth Schedule to this Scheme ; but the provisions of this Article and of the said Part I shall have effect subject to the provisions of Part II of that Schedule.

(2) For the purposes of this Scheme the prescribed age is the age of sixteen years ;

Provided that if on attaining the age of sixteen years the child is in receipt of full-time education, the prescribed age in his case shall be the age which he attains on whichever is the earlier of the following dates :—

(*a*) the date on which he first ceases to receive full-time education after attaining the age of sixteen years ;

(*b*) the thirty-first day of July next following the date on which he attains the age of sixteen years.

(3) Where a child is entitled to an allowance under this Article, and the fire authority are satisfied that there are sufficient reasons for the grant of a gratuity

in lieu of an allowance, they may in their discretion and with the consent of the child's guardian commute the allowance for a gratuity. [1099]

6. Fireman's special pension.—(1) Where an ill-health pension is payable to any person on the ground that he has been incapacitated for the performance of his duty by infirmity of mind or body, and that pension, when increased by the amount of such additional benefit, if any, as is payable to him, is less than the minimum injury award appropriate to his case, he shall be entitled to receive from the fire authority by which the ill-health pension is payable a special pension equal to the deficiency.

The minimum injury award appropriate to any particular case shall be determined in accordance with the Sixth Schedule to this Scheme.

(2) A special pension shall not be payable under this Article unless either—

(*a*) the infirmity of mind or body was occasioned by an injury received by the fireman in the execution of his duties as a fireman without his own default; or

(*b*) the infirmity of mind or body, though not occasioned by such an injury, has been so substantially aggravated by such an injury that, if the man had not received that injury, he would not have had to retire at the time when he in fact retired.

(3) In this Article the expression "additional benefit" means:—

(*a*) any injury benefit or displacement pension payable under the National Insurance (Industrial Injuries) Act, 1946; and

(*b*) any sickness benefit payable under the National Insurance Act, 1946.

(4) For the purposes of this Article no account shall be taken of so much of a disablement pension as represents an increase payable under section fifteen of the National Insurance (Industrial Injuries) Act, 1946.

(5) Where a person is entitled to an ill-health pension on his retirement, and his retirement is attributable to any injury or disease in respect of which he receives a disablement gratuity under the National Insurance (Industrial Injuries) Act, 1946, this Article shall apply with respect to that ill-health pension as if he were entitled during the relevant period to a disablement pension under that Act of such amount as would be produced by converting the gratuity into an annuity for that period.

In this paragraph the expression "the relevant period" means the period taken into account, in accordance with section twelve of the said Act of 1946, for the purpose of making the assessment by reference to which the gratuity became payable. [1100]

General note.—New sub-paragraphs have been substituted for sub-paragraph (*a*) of paragraph (2) and for sub-paragraph (*b*) of paragraph (3), *supra*, by the Firemen's Pension Scheme Order, 1949 (S.I. 1949 No. 396).

7. Widow's special pension.—(1) Where a fireman dies from the effects of an injury received in the execution of his duties as a fireman without his own default, or where a person, having retired as a result of such an injury as aforesaid, dies from its effects, his widow shall be entitled to a widow's special pension.

(2) The amount of a widow's special pension shall be determined in accordance with the Seventh Schedule to this Scheme.

(3) Where a widow is entitled to a pension under this Article, she shall not be entitled under this Scheme to a widow's ordinary pension or a widow's ordinary gratuity in respect of the death of the same person.

(4) Where a widow is entitled to a pension under this Article, and the fire authority are satisfied that there are sufficient reasons for granting her a gratuity in lieu of a pension, they may in their discretion and with her consent commute the pension for a gratuity. [1101]

8. Child's special allowance.—(1) Where a fireman dies from the effects of an injury received in the execution of his duties as a fireman without his own default, or where a person, having retired as a result of such an injury as aforesaid, dies from its effects, any child of his who has not attained the prescribed age at the date of the death shall be entitled to a child's special allowance.

(2) The amount of a child's special allowance shall be determined in accordance with Part I of the Eighth Schedule to this Scheme; but the provisions of this Article and of the said Part I shall have effect subject to the provisions of Part II of that Schedule.

(3) Where a child is entitled to an allowance under this Article, he shall not be entitled to a child's ordinary allowance under this Scheme in respect of the death of the same person.

(4) Where a child is entitled to an allowance under this Article, and the fire authority are satisfied that there are sufficient reasons for the grant of a gratuity in lieu of an allowance, they may in their discretion and with the consent of the child's guardian commute the allowance for a gratuity. [1102]

9. Gratuities for dependants other than widows and children.—Where a person dies while serving as a fireman, or, having served as a fireman, dies while in receipt of a pension under this Scheme, the fire authority may, if they think fit, grant a gratuity to any of his relatives who was substantially dependent on him at the time of his death, and who is not entitled to any pension, gratuity or allowance under any other provision of this Scheme. [1103]

10. Injury or disease attributable to war service.—(1) Where any person who becomes a fireman—

(*a*) has, before becoming a fireman, received or contracted any injury or disease while serving in His Majesty's forces or while engaged in war work; and

(*b*) was, at the time when he received the injury or contracted the disease, a person to whom section one of the Police and Firemen (War Service) Act, 1939, applied,

the following provisions of this Article shall have effect in his case.

(2) If he dies in consequence of the injury or disease—

(*a*) while serving as a fireman; or

(*b*) while in receipt of a pension under this Scheme; or

(*c*) after having retired on account of the injury or disease,

the fire authority may—

(i) where on his death a gratuity becomes payable to his widow under any other provision of this Scheme, pay to her, in lieu of the gratuity, a pension at such rate, not exceeding the marginal rate specified in Part I of the Ninth Schedule to this Scheme, as the fire authority may determine;

(ii) where on his death a pension becomes payable to his widow under any other provision of this Scheme, and the rate at which the pension is payable is less than the marginal rate specified in the said Part I, pay the pension at such increased rate, not exceeding the marginal rate so specified, as the fire authority may determine;

(iii) where on his death an allowance becomes payable to any child of his under any other provision of this Scheme, and the rate at which the allowance is payable is less than the marginal rate specified in Part II of the Ninth Schedule to this Scheme, pay the allowance at such increased rate, not exceeding the marginal rate so specified, as the fire authority may determine:

Provided that where in the exercise of their discretion under this paragraph the fire authority decide to pay a pension to a widow in lieu of a gratuity, and the marginal rate specified in Part I of the Ninth Schedule to this Scheme is in that case less than £30 a year, the pension shall be paid at the rate of £30 a year.

(3) If he dies in consequence of the injury or disease after having retired on account of the injury or disease, and he is survived by a relative of his, not being his widow or child, and the said relative was substantially dependent on him at the time of his death, the fire authority may (without prejudice to their powers under any other provision of this Scheme) pay a gratuity to that relative.

(4) If he becomes incapacitated for the performance of his duties as a fireman in consequence of the injury or disease and retires on that account, then—

(*a*) where on his retirement a gratuity becomes payable to him under any other provision of this Scheme, the fire authority may pay to him, in lieu of the gratuity, a pension at such rate, not exceeding the marginal rate specified in Part III of the Ninth Schedule to this Scheme, as the fire authority may determine; and

(*b*) where on his retirement a pension becomes payable to him under any other provision of this Scheme, and the rate at which the pension is payable

is less than the marginal rate specified in the said Part III, the fire authority may pay the pension at such increased rate, not exceeding the marginal rate so specified, as the fire authority may determine :

Provided that where in the exercise of their discretion under this paragraph the fire authority decide to pay a pension to any person in lieu of a gratuity, and the marginal rate specified in the said Part III is in his case less than one-twelfth of his pensionable pay, the pension shall be paid at the rate of one-twelfth of his pensionable pay. [1104]

11. General rules as to pensions, allowances and gratuities.—The provisions of this Scheme with respect to pensions, allowances and gratuities shall have effect subject to the general rules set out in the Tenth Schedule to this Scheme. [1105]

12. Change of brigade with consent of fire authority.—(1) Where a fireman retires from the brigade in which he is employed in order to become a fireman in another brigade, and he retires from the first-mentioned brigade with the written consent of the fire authority by whom that brigade is maintained, no pension or gratuity shall be payable to him on his retiring from that brigade.

(2) For the purposes of this Article consent to a fireman's retiring from a brigade may be given after he has left the brigade, but only if he has applied to the fire authority for such consent while still a member of the brigade. [1106]

13. Allocation of superannuation benefits.—(1) If before retiring with a fireman's ordinary pension a fireman—

(*a*) gives notice to the fire authority by whom the pension will be payable of his intention to surrender a portion of the pension not exceeding one-third thereof ;

(*b*) nominates the person in whose favour the surrender is to take effect ; and

(*c*) provides the fire authority with such evidence of his good health as the authority consider satisfactory,

the pension shall be reduced accordingly, and after his death the fire authority shall pay to the person so nominated, if that person survives him, a pension of such amount as, according to tables from time to time prepared by the Government Actuary, is actuarially equivalent, as at the time when the fireman's ordinary pension first became payable, to that part of the pension which he has surrendered.

(2) A fireman shall not be entitled under this Article to surrender a part of his pension in favour of any person other than his wife unless the fire authority are satisfied that that person is substantially dependent on him when he gives notice of his desire to surrender. [1107]

PART II

COUNTING OF SERVICE

14. Pensionable service on and after the appointed day.—(1) Subject as hereinafter provided, the expression " pensionable service " in this Scheme means whole-time service as a fireman.

(2) There shall not be included in a person's period of pensionable service—

(*a*) any period during which he is absent from duty as a fireman as a result of sickness or injury which is certified by a duly qualified medical practitioner to be due to his own misconduct or vicious habits ;

(*b*) any period during which he is suspended from such duty as a result of misconduct.

Where a person is suspended from duty pending the investigation of a charge of misconduct against him, then, if misconduct is established, his suspension pending the investigation shall be treated for the purposes of this paragraph as suspension as a result of misconduct, but if misconduct is not established, his said suspension shall not be treated for the purposes of this paragraph as suspension as a result of misconduct.

(3) Where a fireman is absent from service without pay and the provisions of the last preceding paragraph do not apply, the fire authority may, at any time while he is a fireman in their service, resolve that the whole or any part of the period of absence shall be included in his period of pensionable service for the purposes of this Scheme.

Subject to any such resolution, no period of absence without pay shall be counted as a period of pensionable service for the purposes of this Scheme.

(4) Where by virtue of any such resolution as aforesaid any period falls to be counted as a period of pensionable service, the fireman shall become liable to pay to the fire authority the contributions which would have been payable by him for that period if he had been paid at the rate applicable to his case.

(5) Where a person serves as a fireman before attaining the age of twenty years, his service before attaining that age shall not be counted as pensionable service :

Provided that if a fireman who has not attained that age dies or is incapacitated for the performance of his duty in consequence of an injury received in the execution of his duty without his own default, the like pensions, gratuities and allowances shall be payable in respect of the death as would have been payable if the whole of his service as a fireman had been pensionable service. [1108]

15. Service before the appointed day.—(1) The provisions of this Article shall have effect in the case of any person who becomes a fireman on the appointed day and who, immediately before that day, was serving in a permanent capacity in the National Fire Service.

(2) If the said person was, immediately before the appointed day, subject to the Fire Brigade Pensions Act, 1925, his pensionable service for the purposes of this Scheme shall include the period of service which would have counted in his case as a period of approved service for the purposes of the said Act of 1925 if he had retired immediately before the appointed day.

Where the said person has been employed by a local authority before the appointed day in service which would have been approved service for the purposes of the said Act of 1925, if a certificate had been duly given with respect thereto under section six of that Act, and the said local authority are satisfied that the said service was diligent and faithful service, the authority may certify accordingly, and any such certificate shall, for the purposes of this paragraph, have the like effect as a certificate duly given in accordance with the said section six.

(3) If the said person was, immediately before the appointed day, subject to any such arrangements as are mentioned in paragraph (*a*) of subsection (2) of section twenty-seven of the principal Act, his pensionable service for the purposes of this Scheme shall include the period of service which would have counted in his case for the purposes of the said arrangements if he had retired immediately before the appointed day.

Where the said person has been employed by a local or police authority before the appointed day in service which would have been pensionable service for the purposes of any such arrangements as aforesaid if a certificate had been duly given with respect to that service in accordance with any provision in that behalf contained in the arrangements, and the local or police authority are satisfied that the said service was diligent and faithful service, they may certify accordingly, and any such certificate shall, for the purposes of this paragraph, have the like effect as a certificate duly given in accordance with the said provision.

This paragraph shall not apply to a person who was, immediately before the appointed day, subject to any such arrangements as aforesaid by reason of having been a member of a police force, unless his duty as a member of that force, at the time when he was last employed therein before the appointed day, was or included the duty of serving as a fireman.

(4) If the said person is not a person to whom paragraph (2) or paragraph (3) of this Article applies, the period ending with the appointed day during which he has been continuously employed as a permanent employee in whole-time service in the National Fire Service shall be treated as a period of pensionable service for the purposes of this Scheme, if he pays to the fire authority by whom he is employed as a fireman on the appointed day such sum as is prescribed in his case by the Eleventh Schedule to this Scheme :

Provided that for the purposes of this paragraph no account shall be taken of any period during which he has served before attaining the age of twenty years.

(5) If the said person is not a person to whom paragraph (2) or paragraph (3) of this Article applies, but he has, on or after the third day of September, nineteen hundred and thirty-nine, been employed in whole-time service in a fire brigade maintained by a local authority under the Fire Brigades Act, 1938, or in the Auxiliary Fire Service, or in the National Fire Service, one-half of the period during

which he has been so employed shall be treated as a period of pensionable service for the purposes of this Scheme, if he pays to the fire authority by whom he is employed as a fireman on the appointed day such sum as is prescribed in his case by the Eleventh Schedule to this Scheme:

Provided that for the purposes of this paragraph no account shall be taken of any period during which he has served before attaining the age of twenty years or of any period during which he was permanently employed in the National Fire Service.

(6) If the said person was, immediately before the appointed day, pensionable in respect of his service in the National Fire Service by virtue of the Local Government Staffs (War Service) Act, 1939, paragraphs (3), (4) and (5) of this Article shall not apply in his case, but his pensionable service for the purposes of this Scheme shall include three-quarters of the period of service which would have counted in his case for the purpose of the appropriate pension arrangements if he had retired immediately before the appointed day.

In this paragraph the expression "appropriate pension arrangements" means any arrangements for the payment of pensions in respect of service in any such civil capacity as is specified in the first column of the Schedule to the said Act of 1939.

(7) The Secretary of State may, after consultation with any local authority with whom it appears to him to be desirable to consult, direct that paragraph (6) of this Article shall, in its application to any particular person specified in the direction, have effect as if the words "three-quarters of" were omitted therefrom.

(8) If the said person was, immediately before the appointed day, pensionable in respect of his service in the National Fire Service by virtue of the Teachers Superannuation (War Service) Act, 1939, or of the Education (Scotland) (War Service Superannuation) Act, 1939, paragraphs (4) and (5) of this Article shall not apply in his case, but his pensionable service for the purposes of this Scheme shall include three-quarters of the period of service which would have counted in his case for the purposes of Part II of the Teachers (Superannuation) Act, 1925, or of any scheme made under section twenty-one of the said Act of 1925, or for the purposes of the Education (Scotland) (Superannuation) Acts, 1919 to 1939, or of any Act amending those Acts, or of any scheme made under those Acts or any of them, if he had retired immediately before the appointed day.

(9) The supplementary provisions contained in the Twelfth Schedule to this Scheme shall have effect with respect to the counting of service before the appointed day in the case of persons to whom this Article applies. [1109]

16. Service before the appointed day of persons in the armed forces on that day.—(1) Where any person, having been employed in employment to which this Article applies, has, before the appointed day, ceased to be employed in such employment in order to become a member of the armed forces of the Crown, then if—

(*a*) he is a member of those forces on the appointed day; and

(*b*) his service in those forces between his so ceasing as aforesaid and the appointed day has not been subject to any interruption; and

(*c*) he next ceases to be a member of those forces within one year from the appointed day; and

(*d*) within three months after next ceasing to be a member of those forces, he becomes a fireman without any intervening period of service in any other capacity,

one-half of the period during which he has been employed in employment to which this Article applies shall be treated as a period of pensionable service for the purposes of this Scheme, if he pays to the fire authority by whom he is first employed as a fireman such sum as is prescribed in his case by the Eleventh Schedule to this Scheme.

(2) The employment to which this Article applies is employment in a temporary capacity, on or after the third day of September, nineteen hundred and thirty-nine, and before the appointed day, in a fire brigade maintained by a local authority under the Fire Brigades Act, 1938, or in the Auxiliary Fire Service, or in the National Fire Service:

Provided that for the purposes of this Article no account shall be taken of any period during which a person has been employed before attaining the age of twenty years. [1110]

17. Service before the appointed day of persons who have been cadets or probationers.—(1) Where any person has ceased, on or after the third day of September, nineteen hundred and thirty-nine, and before the appointed day, to be a member of a fire brigade maintained by a local authority in order to serve in His Majesty's forces, or in order to be engaged in war work, and, at the time when he so ceased he was not a professional fireman as defined by paragraph (2) of section twenty-three of the Fire Brigade Pensions Act, 1925, and had not attained the age of twenty years, and was not subject to the provisions of any pension scheme in respect of his service in the brigade, then, if he is a member of the National Fire Service immediately before the appointed day and becomes a fireman on that day, there shall be included in his period of pensionable service for the purposes of this Scheme the whole of any period after he has attained the age of twenty years and before the appointed day during which he has served in the armed forces of the Crown or has been engaged in war work, but subject to his paying to the fire authority by which he is employed as a fireman on the appointed day a sum equal to the total amount of the rateable deductions which would have been made from his pay in respect of the last-mentioned period if, throughout that period, he had been a professional fireman as defined by the Fire Brigade Pensions Act, 1925, and had been paid as such at the rate at which ordinary firemen were, immediately before the eighteenth day of August, nineteen hundred and forty-one, paid by the local authority in whose fire brigade he last served before the appointed day.

(2) Where on the establishment of the National Fire Service any person serving as a probationer in a fire brigade maintained by a local authority ceased so to serve in order to become a member of the National Fire Service, and he was not, at the time when he so ceased, subject to the provisions of any pension scheme in respect of his service in the fire brigade maintained by the local authority, then, if he is serving in a permanent capacity in the National Fire Service immediately before the appointed day and becomes a fireman on that day, Article 15 of this Scheme shall not apply in his case, but there shall be included in his period of pensionable service for the purposes of this Scheme the whole of the period during which he has served after attaining the age of twenty years in the National Fire Service, but subject to his paying to the fire authority by which he is employed as a fireman on the appointed day a sum equal to the total amount of the rateable deductions which would have been made from his pay in respect of the last-mentioned period if, throughout that period, he had been a professional fireman as defined by the Fire Brigade Pensions Act, 1925, and had been paid as such at the rate at which ordinary firemen were, immediately before the eighteenth day of August, nineteen hundred and forty-one, paid by the local authority in whose fire brigade he was serving immediately before that day. [1111]

18. Service before the appointed day in certain special cases.—(1) Where a person who becomes a fireman on the appointed day has, before that day, been engaged in service as a member of a police force or as a servant of the Crown, but that service cannot be counted as pensionable service for the purposes of this Scheme by virtue of any other provision of this Scheme, the fire authority by whom he is employed on that day may, subject to his paying to them such sum as they may direct, permit the whole or any part of that service to be reckoned in his case as pensionable service for the purposes of this Scheme :

Provided that a fire authority shall not exercise the powers conferred by this paragraph without the approval of the Secretary of State.

(2) Where in the case of any person service in a police force is reckoned as pensionable service by virtue of this Article, the authority by whom he was employed in that service may make in respect thereof to the fire authority by whom he is employed on the appointed day such payments as may be approved by the Secretary of State. [1112]

General note.—New Articles 18A and 18B have been added at this point by the Firemen's Pension Scheme Order, 1949 (S.I. 1949 No. 396).

19. Discontinuous service, and service in two or more brigades.—(1) Where a person ceases to serve as a fireman in any particular brigade, the period of pensionable service which he has then completed (including any period of service before the appointed day which counts or might count in his case as a period of pensionable service for the purposes of this Scheme) shall not, except in so far as is expressly provided by this Scheme, be taken into account for the purpose of applying this

Scheme in relation to any subsequent period during which he serves as a fireman in the same or another brigade.

(2) Where a fireman retires without a pension and subsequently (without any intervening period of service as a fireman) serves as a fireman for a further period in the brigade from which he so retired, the period of pensionable service which he was entitled to reckon for the purposes of this Scheme on so retiring shall be taken into account for the purpose of applying this Scheme in relation to the said further period, but subject to his repaying to the fire authority any sum which became payable to him at the end of the first of the two periods by way of gratuity or return of aggregate contributions.

(3) Where a fireman retires without a pension and subsequently (without any intervening period of service as a fireman) serves as a fireman for a further period in any brigade other than that from which he so retired, the period of pensionable service which he was entitled to reckon for the purposes of this Scheme on so retiring shall be taken into account for the purpose of applying this Scheme in relation to the said further period :

Provided that the foregoing provisions of this paragraph shall not have effect unless the fire authority by whom he is employed during the said further period so allow ; and the operation of the said provisions shall be conditional upon his paying to that authority any sum which became payable to him at the end of the first of the two periods by way of gratuity or return of aggregate contributions.

(4) Where, with such consent as is mentioned in Article 12 of this Scheme, a fireman retires from the brigade in which he is employed in order to become a fireman in another brigade, the period of pensionable service which he would have been entitled to reckon for the purposes of this Scheme on the occasion of his retirement from the first-mentioned brigade if he had retired from it without such consent as aforesaid shall be taken into account for the purpose of applying this Scheme in relation to his next subsequent period of pensionable service. [1113]

PART III

CONTRIBUTIONS

20. Payment of contributions by the fireman.—(1) Subject to the provisions of this Scheme, every fireman who has attained the age of twenty years shall pay contributions to the fire authority at the following rate, that is to say :—

(*a*) in the case of a person who has served before the appointed day in a fire brigade maintained by a local authority or in the National Fire Service, and who becomes a fireman on that day, twopence a week less than five per cent. of his pensionable pay ; and

(*b*) in any other case, one shilling and twopence a week less than five per cent. of his pensionable pay.

(2) The contribution upon each instalment of pay shall fall due at the same time as that instalment, and may, without prejudice to any other method of payment, be discharged by way of a rateable deduction made by the authority from the said instalment.

(3) Where any person who has served before the appointed day in a fire brigade maintained by a local authority or in the National Fire Service—

(*a*) is, on the appointed day, a member of His Majesty's forces, and

(*b*) after next ceasing to be a member of those forces, becomes a fireman without any intervening period of service in another capacity,

the provisions of paragraph (1) of this Article shall apply in his case as if for the reference therein to the appointed day there were substituted a reference to the first day on which he becomes a fireman. [1114]

21. Repayment of contributions generally.—(1) Where a fireman retires without a pension or gratuity, the fire authority shall repay to him his aggregate contributions :

Provided that where with such consent as is mentioned in Article 12 of this Scheme the fireman retires in order to become a fireman in another brigade, his aggregate contributions shall not be repaid to him on his so retiring.

(2) Where a fireman dies while serving as such, and no pension, allowance or gratuity is payable under this Scheme on his death, the fire authority shall pay

his aggregate contributions to his personal representatives, to be dealt with as part of his estate.

(3) Where a fireman is dismissed from the fire brigade, the fire authority may in their discretion—

(*a*) repay to him his aggregate contributions wholly or in part;
(*b*) apply his aggregate contributions wholly or in part for the benefit of his dependants;
(*c*) retain his aggregate contributions wholly or in part. [1115]

22. Repayment of balance of contributions in certain cases.—Where a fireman retires with an ill-health pension, and the pension is subsequently cancelled, but he does not within one month from the cancellation thereof resume service as a fireman in the brigade from which he retired with the pension, then, if the aggregate amount paid to him in respect of the pension is less than his aggregate contributions, the fire authority shall pay to him the difference. [1116]

PART IV

MEMBERS OF A FIRE BRIGADE WHO ARE NOT FIREMEN

23. Part-time members of a fire brigade.—(1) Where, without his own default, a part-time member of a fire brigade suffers any injury in the execution of his duties as a member of the brigade, or contracts any disease in the execution of his said duties, the provisions of this Article shall have effect in his case.

(2) If he retires in consequence of the injury or disease, the fire authority shall pay to him such pension or gratuity, if any, as, subject to subsection (3) of section twenty-six of the principal Act, may be approved by the Secretary of State.

(3) If he dies from the effects of the injury or disease, either while still a member of the brigade or after retiring therefrom, the fire authority shall pay to any relative of his who survives him such pension, allowance or gratuity, if any, as, subject to subsection (3) of section twenty-six of the principal Act, may be approved by the Secretary of State.

(4) In this Article the expression "fire brigade" means a fire brigade maintained under the principal Act. [1117]

24. Whole-time members of a fire brigade who are not firemen.—(1) Where, while in attendance at a fire and without his own default, a whole-time member of a fire brigade who is not a fireman suffers any injury in the execution of his duties as a member of the brigade, or contracts any disease in the execution of his said duties, the provisions of this Article shall have effect in his case.

(2) If he retires in consequence of the injury or disease, the fire authority may pay to him such pension, if any, as the fire authority think fit:

Provided that the said pension shall not, when added to such additional benefit, if any, as is payable to him, exceed the minimum injury award which would have been appropriate to his case if—

(*a*) he had been a fireman at the time when he suffered the injury or contracted the disease; and
(*b*) the injury or disease had been suffered or contracted in the execution of his duties as a fireman without his own default; and
(*c*) he had at the time of his retirement been entitled to count ten years' pensionable service for the purposes of this Scheme; and
(*d*) his pay as a fireman immediately before his retirement had been the pay appropriate to an ordinary fireman in the brigade in question, exclusive of increments.

(3) If he dies from the effects of the injury or disease, either while still a member of the brigade or after retiring therefrom, and he is survived by any relative of his to whom a pension or allowance would have been payable under this Scheme on his death if the prescribed conditions had been fulfilled, the fire authority may pay a pension, or, as the case may be, an allowance to that relative:

Provided that the pension or allowance paid to any person under this paragraph shall not, when increased by such additional benefit, if any, as is paid to that person, exceed the pension or allowance which would have been payable to that person under this Scheme if the prescribed conditions had been fulfilled.

For the purposes of this paragraph the prescribed conditions are :—

(*a*) that the deceased was a fireman at the time when he suffered the injury or contracted the disease ; and

(*b*) that the injury or disease was suffered or contracted in the execution of his duties as a fireman without his own default ; and

(*c*) that his pay as a fireman immediately before his death or retirement was the pay appropriate to an ordinary fireman in the brigade in question, exclusive of increments.

(4) In this Article—

(*a*) the expression " additional benefit " means any periodical payments, of whatever nature, which, apart from the provisions of this Article, are made by the fire authority or by any Minister of the Crown ; and

(*b*) the expression " fire brigade " means a fire brigade maintained under the principal Act. [1118]

PART V

CANCELLATION, REVISION, REDUCTION AND WITHDRAWAL OF BENEFIT

25. Cancellation of pensions.—(1) Where a person is in receipt of an ill-health pension, the fire authority shall, at such reasonable intervals as they think proper, consider whether he has become capable of performing the duties of a fireman, and, if he has become capable of performing those duties, the authority may cancel the pension :

Provided that the powers and duties of a fire authority under this paragraph shall not be exercisable in the case of any person who, at the time when he retired with the ill-health pension, was entitled to reckon for the purposes of this Scheme a period of pensionable service of twenty-five years or more, and shall cease to be exercisable in the case of any person after the time when, if he had continued to serve as a fireman in the brigade, he would have been entitled to retire and receive an ordinary pension or would have reached the age prescribed for his retirement by his conditions of service.

(2) Where a person's pension is cancelled under this Article, the fire authority shall, if he presents himself for service in the brigade at any time before the expiration of one month from the cancellation of the pension, permit him to resume service in the brigade forthwith in a rank not lower than that which he held when he retired with the pension ; and if the fire authority fail to comply with the requirements of this paragraph the cancellation shall be void and shall be deemed never to have taken effect.

(3) Where on the cancellation of his ill-health pension under this Article a person resumes service as a fireman in the brigade from which he retired with the pension, the period of pensionable service taken into account for the purposes of this Scheme on his next ceasing to serve as a fireman in that brigade shall be increased by the period of pensionable service which he was entitled to reckon for the purposes of this Scheme when he retired with the ill-health pension. [1119]

26. Revision of fireman's special pension.—(1) Subject as hereinafter provided, where a special pension is payable under Article 6 of this Scheme the fire authority shall, at such reasonable intervals as they think proper, consider whether the extent of the pensioner's disablement has altered : and if after such consideration the fire authority find that the extent of the pensioner's disablement has substantially altered, the pension shall be revised accordingly.

(2) Paragraph (1) of this Article shall cease to have effect with respect to a pension if, at any time after the expiration of five years from the time when the pension first became payable, the fire authority so resolve. [1120]

27. Reduction of pensions where incapacity due to misconduct.—Where a fireman retires on account of infirmity of mind or body, and he has brought about or contributed to the infirmity by his own default or his vicious habits, the fire authority may reduce the amount of any pension or gratuity payable to him on his retirement by an amount not exceeding one half of that to which he would otherwise be entitled. [1121]

28. Withdrawal of pensions and allowances for misconduct.—Where any person to whom a pension or allowance is payable under this Scheme—

(*a*) is sentenced for any offence to penal servitude or to imprisonment for a term exceeding twelve months, or

(*b*) becomes or continues to be engaged in any business, occupation or employment which is illegal,

the fire authority may withdraw the pension or allowance either wholly or in part and either temporarily or permanently ; and so much of any pension or allowance as is withdrawn under this Article may, to such extent as the authority think fit, be applied by the authority for the benefit of any dependant of the person to whom it would otherwise have been payable. [1122]

29. Withdrawal of pensions on re-employment.—A fire authority by whom a pension is payable under this Scheme may in their discretion withdraw the whole or any part of the pension for any period during which the pensioner is employed in any capacity by a local authority. [1123]

30. Effect of withdrawal.—To the extent to which a pension or allowance is withdrawn under any power conferred by the preceding provisions of this Scheme, the fire authority shall be discharged from all actual or contingent liability in respect thereof. [1124]

PART VI

DETERMINATION OF QUESTIONS

31. General functions of fire authority.—(1) Subject as hereinafter provided, the question whether a person is entitled to any and if so what benefits under this Scheme shall be determined in the first instance by the fire authority.

(2) Subject to the provisions of this Scheme, the fire authority shall consider the evidence of at least one duly qualified medical practitioner selected by the authority before determining for the purposes of this Scheme—

(*a*) whether a person has been incapacitated for the performance of his duty as a fireman by infirmity of mind or body ;

(*b*) whether any such incapacity is likely to be permanent ;

(*c*) whether a person's incapacity has been occasioned by an injury received in the execution of his duties as a fireman without his own default ;

(*d*) whether a person has become capable of performing the duties of a fireman ;

(*e*) the extent to which a person has been disabled ;

(*f*) any other question which ought to be determined on medical grounds :

Provided that where an authority are unable to obtain such evidence by reason of the refusal or the wilful or negligent failure of any person to submit to medical examination by a duly qualified medical practitioner selected by the authority, the authority may dispense with such evidence and may give such decision on the question at issue as they may in their discretion choose to give, either without medical evidence or upon such medical evidence as they think fit. [1125]

32. Appeal against opinion of fire authority's medical practitioner.—(1) Where for the purposes of any decision which falls to be made by a fire authority under this Scheme any person is medically examined by a medical practitioner selected by the authority, the opinion of the practitioner shall be given in writing to the authority.

(2) If within fourteen days of being informed by the fire authority of the decision the said person applies to the authority for a copy of the opinion, the authority shall supply him with a copy thereof.

(3) If he is dissatisfied with the opinion of which a copy has been so supplied to him, he may, subject to and in accordance with the provisions of the Thirteenth Schedule to this Scheme, appeal against the opinion to an independent person nominated by the Secretary of State (hereinafter referred to as a " medical referee ")

(4) A fire authority shall be bound by any decision on a medical question duly given on any such appeal. [1126]

33. Appeal against decision of fire authority.—(1) Where any person claims that he is entitled to a pension, allowance or gratuity under this Scheme, or to any

payment on account of any such pension, allowance or gratuity, and the fire authority do not admit the claim at all, or do not admit the claim to the full extent thereof, the person aggrieved may apply to the fire authority for a reconsideration of the case, and, if aggrieved by the decision on such reconsideration, may appeal to the next practicable court of quarter sessions for any county or borough which constitutes, or is wholly or partly included in, the area of the fire authority.

(2) Subject as hereinafter provided, a court of quarter sessions may, on an appeal under paragraph (1) of this Article, make such order or declaration as appears to the court to be just.

(3) Nothing in this Article shall authorise a court of quarter sessions—

(*a*) to make an order or declaration controlling or restricting the exercise of any discretion which by this Scheme is vested in a fire authority ; or

(*b*) to reopen any decision on a medical question which has been given on an appeal under Article 32 of this Scheme.

(4) Subject to and in accordance with rules of court, an appeal on a point of law from a decision of a court of quarter sessions under this Article shall lie to the High Court.

(5) In the application of this Article to Scotland, for any reference to a court of quarter sessions there shall be substituted a reference to the sheriff having jurisdiction in the place where the person concerned last served as a fireman, and for any reference to the High Court there shall be substituted a reference to the Court of Session. [1127]

PART VII

PAYMENT AND ASSIGNMENT OF BENEFIT

34. Payment generally.—(1) Subject to the provisions of this Scheme, every pension or allowance payable thereunder shall, subject to such delay as may be necessary for the purpose of determining any question as to the liability of the fire authority in respect thereof, be discharged by payments in advance at such reasonable intervals as the fire authority may determine.

(2) Where a person dies after receiving a sum paid in advance on account of a pension or allowance under this Scheme, no claim for repayment shall be entertained on the ground that the said sum or any part thereof is referable to a period after his death.

(3) Where a widow remarries after receiving a sum paid in advance on account of a pension under this Scheme, no claim for repayment shall be entertained on the ground that the said sum or any part thereof is referable to a period after her remarriage.

(4) Every gratuity payable under this Scheme shall be paid in one sum :

Provided that where a fire authority are satisfied that it would be for the advantage of the beneficiary to pay a gratuity in instalments, they may pay it in instalments of such reasonable amounts and over such reasonable period as they think fit. [1128]

35. Payment in certain special cases.—(1) Where any sum is due on account of a pension, and any debt is due to the fire authority from the pensioner, so much of the said sum as does not exceed the debt may be applied by the authority in or towards the satisfaction of the debt.

(2) If it appears to the fire authority that a pensioner is insane or otherwise incapable of managing his affairs, the authority may in their discretion pay the pension or any part thereof to any institution or person having the care of the pensioner, and, in so far as they do not dispose of the pension in that manner, may apply it in such manner as they think fit for the benefit of the pensioner or his dependants.

(3) On the death of a pensioner to whom a sum not exceeding £100 is due on account of a pension, the fire authority may, without probate, confirmation or any other formality or proof of title, pay the said sum to the persons appearing to the authority to be beneficially entitled to the personal estate of the deceased, or, as the authority think fit, pay the said sum to one or more of those persons or distribute it among all or any of those persons in such proportions as the authority may determine.

(4) Where any sum is payable to a minor on account of a pension, the authority may, if they think fit, in lieu of paying the said sum to the minor, pay it to such other person as they may determine.

A person who receives any sum paid under this paragraph shall, subject to and in accordance with any directions of the fire authority, apply the said sum for the minor's benefit.

In the application of this paragraph to Scotland, as well as in its application to England, the expression "minor" means a person who has not attained the age of twenty-one years.

(5) Subject as hereinafter provided, in this Article the expression "pension" means a pension payable under this Scheme and the expression "pensioner" means a person to whom a pension is payable.

(6) This Article shall apply with respect to allowances and gratuities payable under this Scheme as it applies with respect to pensions, and accordingly any reference in this Article to a pension shall be construed as including a reference to any such allowance or gratuity, and any reference therein to a pensioner shall be construed as including a reference to a person to whom any such allowance or gratuity is payable.

(7) A fire authority shall obtain a good discharge by applying or paying any sum in the manner provided by this Article. [1129]

36. Assignment.—(1) Every assignment of or charge on a pension, allowance or gratuity payable under this Scheme shall be void:

Provided that nothing in this paragraph shall invalidate any assignment or charge in favour of a single assignee or chargee who is a relative of the person to whom the pension, allowance or gratuity is payable, or in favour of two or more assignees or chargees all of whom are relatives of the said person.

(2) Where any pension, allowance or gratuity is payable under this Scheme to a person who is bankrupt, any sums which are paid or payable to him on account of the pension, allowance or gratuity while he is bankrupt shall not pass to his trustee in bankruptcy or to any other person acting on behalf of his creditors. [1130]

PART VIII

MISCELLANEOUS AND SUPPLEMENTAL

37. Special provisions as to persons called up for service on or after the appointed day.—(1) Where a person ceases to serve as a fireman in a particular brigade by reason of being called up for service in the armed forces of the Crown under the National Service Acts, 1939 to 1946, or under the National Service Act, 1947, then, subject as hereinafter provided, this Scheme shall apply with respect to him as if he had not so ceased, but had continued without interruption to serve as a fireman in that brigade until the time when he next ceases to be a member of the armed forces of the Crown:

Provided that if the period of his service in the said forces which terminates at that time (hereafter in this Article referred to as "the said period") is brought to an end by his death, then, whatever the cause of his death, this Scheme shall apply with respect to him as if the death were not attributable to an injury or disease received or contracted in the execution of his duties.

(2) Subject to the following provisions of this Article, if the said period is brought to an end otherwise than by his death, this Scheme shall apply with respect to him as if he had retired from the said brigade at the end of that period:

Provided that consent to his said retirement shall be deemed to have been duly given in accordance with Article 12 of this Scheme if it is given on an application made by him at any time before the expiration of one month from the end of the said period.

(3) If within one month from the end of the said period he resumes service as a fireman in the said brigade, then, subject as hereinafter provided, this Scheme shall apply with respect to him as if he had not ceased to be a member of the said brigade on being so called up as aforesaid, but had continued without interruption to serve as a fireman in that brigade until he next ceases so to serve.

(4) If at the end of the said period he is unfit for service as a fireman, but he becomes fit for such service at any time within one year from the end of the said period, then, if the fire authority by whom the said brigade is maintained so allow,

paragraph (3) of this Article shall have effect with respect to him as if for the reference therein to the end of the said period there were substituted a reference to the said time.

(5) No contributions shall be payable under this Scheme in respect of any period which is treated as a period of service as a fireman by virtue only of the provisions of this Article. [1131]

38. Reduction of benefits and contributions in certain cases.—(1) Except as hereinafter provided, every fireman's ordinary pension, every short service pension and every ill-health pension shall, on the pensioner attaining the age of sixty-five years, be reduced in accordance with the Table contained in the Fourteenth Schedule to this Scheme.

(2) Paragraph (1) of this Article shall not apply in the case of a pension payable to any person who has served before the appointed day in a fire brigade maintained by a local authority or in the National Fire Service, unless, within the time and in the manner hereinafter provided, he elects to pay contributions at the lower rate; and, if he so elects—

(*a*) the rate at which contributions are payable by him under Article 20 of this Scheme shall be reduced by one shilling a week; and

(*b*) the said reduction shall take effect as from the beginning of the appointed day, and the fire authority shall refund to him such sums, if any, as may be necessary to secure that he receives the full benefit of the said reduction.

A person shall not be competent to make such an election except while he is actually serving as a fireman; and any such election must be made by giving notice in writing of the election to the fire authority within the period of two months beginning with the appointed day.

(3) Where any person who has served before the appointed day in a fire brigade maintained by a local authority or in the National Fire Service—

(*a*) is, on the appointed day, a member of His Majesty's forces; and

(*b*) after next ceasing to be a member of those forces, becomes a fireman without any intervening period of service in any other capacity,

the provisions of paragraph (2) of this Article shall apply in his case as if for each reference therein to the appointed day there were substituted a reference to the first day on which he became a fireman. [1132]

General note.—Paragraph (2), *supra*, is to take effect as if the words "four months" were substituted for the words "two months" therein (Firemen's Pension Scheme (No. 2) Order, 1948 (S.I. 1948 No. 1094), *post*).

39. Exercise of options under principal Act.—A notice given for the purposes of subsection (2) of section twenty-seven of the principal Act must be given within the period of two months beginning with the time when the person giving the notice first becomes a fireman, and must be given to the fire authority by whom he is first employed as such. [1133]

General note.—This article is to take effect as if the words "four months" were substituted for the words "two months" therein (Firemen's Pension Scheme (No. 2) Order, 1948, *supra*).

40. Exclusion of workmen's compensation rights.—Where—

(*a*) a person dies from the effects of any injury or disease, and on his death his widow becomes entitled to a pension under this Scheme or any child of his becomes entitled to an allowance under this Scheme, or

(*b*) a person retires from service as a fireman in consequence of any injury or disease, and becomes entitled to a pension under this Scheme on so retiring,

no compensation shall be payable to any person under the Workmen's Compensation Acts, 1925 to 1945, in respect of that injury or disease or the consequences thereof. [1134]

41. Right of fire authority to receive payments in respect of previous service.—(1) Where with such consent as is mentioned in Article 12 of this Scheme a fireman retires from the brigade in which he is employed in order to become a fireman in another brigade, the fire authority with whose consent he so retired shall pay to the fire authority by whom the second-mentioned brigade is maintained such sum as may be determined in accordance with a scale approved for the purposes of this paragraph by the Secretary of State.

(2) Where in the case of any person a period of service is treated as a period of pensionable service by virtue of paragraph (4) or paragraph (5) of Article 15 of this Scheme, the Secretary of State shall pay to the fire authority by whom that person is employed on the appointed day such sum as may be determined in accordance with a scale approved for the purposes of this paragraph by the Secretary of State.

(3) Where in the case of any person a period of service is treated as a period of pensionable service by virtue of Article 16 of this Scheme, the Secretary of State shall pay to the fire authority by whom that person is first employed as a fireman such sum as may be determined in accordance with a scale approved for the purposes of this paragraph by the Secretary of State.

(4) Where a period of service is included in a person's period of pensionable service by virtue of Article 17 of this Scheme, and the authority in whose fire brigade he was last employed before the appointed day is not the authority by whom he is employed on that day, the first-mentioned authority shall pay to the second-mentioned authority such sum as the Secretary of State may direct. [1135]

General note.—The Firemen's Pension Scheme Order, 1949 (S.I. 1949 No. 390) has added after the words "this Scheme" in paragraph (2) of this Article the words "or by virtue of paragraph (2) of Article 189 of this Scheme".

42. Expenses and receipts of fire authorities.—(1) Every council of a county borough which is a fire authority for the purposes of the principal Act and which, immediately before the appointed day, maintained a fire brigade pensions fund under the Fire Brigade Pensions Act, 1925, or maintained any similar fund under a local Act, shall continue to maintain that fund and shall pay into that fund—

(*a*) all sums received by the authority under this Scheme;

(*b*) in respect of each person employed by the authority as a fireman, a sum equivalent to each contribution which that person is required to make to the authority under this Scheme;

(*c*) any dividends or interest on the sums for the time being forming part of the said fund by virtue of this Article; and

(*d*) such other sums, if any, as the authority may resolve to carry into the said fund for the purposes of this Scheme;

and shall pay out of the said fund all sums payable by the authority under or for the purposes of this Scheme.

In the application of this paragraph to Scotland the reference to a county borough shall be construed as a reference to any county and to any large burgh.

(2) Every fire authority which is not required to comply with the preceding paragraph of this Article shall maintain a separate account showing all sums received by the authority under this Scheme and all sums paid by the authority under or for the purposes of this Scheme. [1136]

43. Fireman defined.—(1) In this Scheme the expression "fireman" means a whole-time member of a fire brigade maintained under the principal Act who was appointed on terms under which he is or may be required to engage in fire-fighting, except that the said expression does not include any person whose employment is temporary only.

(2) Where a person—

(*a*) is, immediately before the appointed day, subject to the Fire Brigade Pensions Act, 1925; and

(*b*) becomes, on that day, a whole-time member of a fire brigade serving the whole or any part of the area of the local authority by whom he was last employed as a member of a fire brigade before the appointed day,

he shall, for so long as he continues to be a whole-time member of that brigade, be treated as a fireman for the purposes of this Scheme notwithstanding that he is not such a person as is mentioned in paragraph (1) of this Article:

Provided that if at any time on or after the appointed day he ceases to be a whole-time member of the said brigade, no subsequent period during which he serves as a member of a fire brigade shall be treated as a period of service as a fireman by virtue only of the provisions of this paragraph.

(3) Any reference in this Scheme to a fireman shall, where appropriate, be construed as, or be construed as including, a reference to a person who has been a fireman or who has been entitled to be treated as such by virtue of paragraph (2) of this Article. [1137]

44. Aggregate contributions defined.—(1) Where a period during which a person has continuously served as a fireman in a particular fire brigade is brought to an end by his death, retirement or dismissal, his aggregate contributions for the purposes of this Scheme shall be—

(*a*) all sums which he has paid by way of contributions under this Scheme in respect of that period of service ; and

(*b*) where any sum became payable under paragraph (1) of Article 41 of this Scheme on the occasion of his entering on that period of service, so much of the said sum as represents contributions previously made under this Scheme or represents a payment in lieu of contributions made by or in respect of him.

(2) In relation to a person's first period of service as a fireman, his aggregate contributions shall include any payment in lieu of contributions made by or in respect of him.

(3) In this Article the expression " payment in lieu of contributions ", when used in relation to any person, means—

(*a*) a payment made by him for the purpose of securing the benefits provided by paragraph (4) or paragraph (5) of Article 15 of this Scheme, or by Article 16 or Article 17 or Article 18 of this Scheme, or by the Twelfth Schedule to this Scheme ; and

(*b*) so much of any sum paid to a fire authority by virtue of regulations made under paragraph (11) of the Fifth Schedule to the principal Act as that fire authority may, subject to any directions of the Secretary of State, determine to treat as a payment in lieu of contributions made in respect of him. [1138]

General note.—A new Article has been substituted for Article 44, *supra*, by the Firemen's Pension Scheme Order, 1949 (S.I. 1949 No. 396).

45. Total and partial disablement.—For the purposes of this Scheme the extent to which a person is disabled shall be determined by reference to the extent to which his earning capacity has been affected, and a person shall be deemed to be totally disabled if, and only if, he is incapable, by reason of infirmity of mind or body, of earning any money in any employment. [1139]

General note.—A new paragraph (2) has been added at this point by the Firemen's Pension Scheme Order, 1949 (S.I. 1949 No. 396).

46. Pensionable pay and annual pensionable pay.—(1) In this Scheme the expression " pensionable pay " means the rate which for the time being expresses the whole of a fireman's monetary remuneration as a fireman, including increments which have accrued but not including—

(*a*) increments which have not accrued ;

(*b*) allowances in respect of particular expenses ;

(*c*) remuneration in respect of services not forming part of his duties as a fireman.

(2) For the purpose of determining the benefits payable under this Scheme on a person's death or retirement—

(*a*) the expression " pensionable pay " means his pensionable pay immediately before the death or retirement or, in a case where he was not serving as a fireman when he died, his pensionable pay immediately before he last ceased to serve as a fireman ; and

(*b*) the expression " annual pensionable pay " means the annual value of his said pensionable pay.

(3) Where during the relevant period before his death or retirement a person's rank as a fireman has changed, paragraph (2) of this Article shall have effect in his case as if his pensionable pay immediately before the death or retirement were his average pensionable pay during that period :

Provided that where the last change of rank during the relevant period was a promotion, and the said average is less than his pensionable pay immediately before the promotion, paragraph (2) of this Article shall have effect in his case as if his pensionable pay immediately before the death or retirement were his pensionable pay immediately before the promotion.

In this paragraph the expression " the relevant period " means the period of three years ending with the death or retirement, or, if the death or retirement occurs within three years from the beginning of the appointed day, the period beginning with that day and ending with the death or retirement.

(4) Where a person was, immediately before the appointed day, a member of the National Fire Service pensionable as such by virtue of regulations made under the Fire Services (Emergency Provisions) Act, 1941, paragraph (3) of this Article shall have effect in his case as if—

(*a*) the period ending at the appointed day during which he has continuously served in the National Fire Service were a period of service as a fireman ;

(*b*) his pensionable pay during that period were the rate of pay in respect of which he was liable during that period to make contributions or suffer deductions by virtue of the said regulations ; and

(*c*) for the references in the said paragraph (3) to the appointed day there were substituted references to the beginning of that period. [1140]

General note.—New paragraphs have been substituted for paragraphs (1) and (4), *supra*, by the Firemen's Pension Scheme Order, 1949 (S.I. 1949 No. 396).

47. Posthumous children.—Where a legitimate child is born after his father's death he shall, as from his birth, be entitled to receive any allowance which would have become payable to him under this Scheme on his father's death if he had been born immediately before his father died ; and any reference in this Scheme to an allowance payable on death shall be construed as including a reference to an allowance payable by virtue of this Article. [1141]

48. Interpretation.—(1) In this Scheme, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say :—

" appointed day " means, in relation to England, the first day of April, nineteen hundred and forty-eight, and in relation to Scotland, the sixteenth day of May, nineteen hundred and forty-eight ;

" child " includes, in relation to any person, a step-child, an illegitimate child and a child adopted by him in pursuance of an adoption order made under the Adoption of Children Act, 1926, or the Adoption of Children (Scotland) Act, 1930 ;

" prescribed age " has the meaning assigned to it by Article 5 of this Scheme ;

" principal Act " means the Fire Services Act, 1947 ;

" relative " means wife, widow, parent, grandparent or child, and includes also any person who is a child of a person who is a relative within the meaning of the foregoing provisions of this definition ;

" service pension " means any pension or allowance payable out of any naval, military or air force fund in pursuance of any royal warrant or other instrument ;

" war work " means work which was war work by virtue of Regulation 60DA of the Defence (General) Regulations, 1939 ; and where any person was engaged in such work on the thirty-first day of December, nineteen hundred and forty-seven, and thereafter continued without interruption to be engaged in the same kind of work, this Scheme shall have effect with respect to him as if he were engaged in war work for the period for which he so continued, except that he shall not be treated as having been engaged in war work after the thirty-first day of March, nineteen hundred and forty-eight.

(2) For the purposes of this Scheme a person's parents shall be deemed to include any person of whom he is the child, and a person's grandparents shall be deemed to include any person who is a parent of a parent of his.

(3) Any reference in this Scheme to an injury received by a fireman in the execution of his duties as a fireman without his own default shall be construed as including a reference to a disease contracted by him in the execution of his said duties without his own default.

(4) Where it appears that a person would not have died at the time when he in fact died if he had not suffered a particular injury or contracted a particular disease, he shall be deemed for the purposes of this Scheme to have died from the effects of that injury or disease.

(5) Any reference in this Scheme to a person's retirement shall, except where the reference is a reference to retirement before the appointed day, or where the reference is made in Part IV of this Scheme, or where for other reasons the context otherwise requires, be construed as a reference to his retirement from service as a fireman.

(6) References in this Scheme to any enactment shall be construed as references to that enactment as amended by or under any other enactment, and any reference in this Scheme to the Police and Firemen (War Service) Act, 1939, shall include a reference to that Act as extended by Regulation 60DA of the Defence (General) Regulations, 1939.

(7) The Interpretation Act, 1889, applies for the purposes of the interpretation of this Scheme as it applies for the purpose of the interpretation of an Act of Parliament. [1142]

49. Citation.—This Scheme may be cited as the Firemen's Pension Scheme, 1948. [1143]

* * * * *

SCHEDULES

Article 1

FIRST SCHEDULE

FIREMEN'S ORDINARY PENSIONS

1. Subject to paragraph 2 of this Schedule, the pension shall be calculated in accordance with the following Table, the figures in the second column of the Table representing sixtieths of the fireman's pensionable pay :—

TABLE

Fireman's completed years of pensionable service	Pension expressed in 60ths of pensionable pay
25 but less than 26	30
26 but less than 27	32
27 but less than 28	34
28 but less than 29	36
29 but less than 30	38
30 or more	40

2. In the case of a fireman who on retirement has not attained the age of fifty-five years, the pension shall not exceed the amount specified in the following Table, the figures in the second column of the Table representing sixtieths of the fireman's pensionable pay :—

TABLE

Age of fireman at retirement	Maximum pension expressed in 60ths of pensionable pay
Less than 51	30
Less than 52 but 51 or over	32
Less than 53 but 52 or over	34
Less than 54 but 53 or over	36
Less than 55 but 54 or over	38

[1144]

Articles 2, 3

SECOND SCHEDULE

SHORT SERVICE AWARDS AND ILL-HEALTH AWARDS

1. Where the award is a gratuity and the fireman has completed at least one year of pensionable service, the gratuity shall be whichever is the greater of the two following amounts :—

(*a*) one-twelfth of the fireman's annual pensionable pay multiplied by the number of completed years of pensionable service which he is entitled to count ; or

(*b*) the fireman's aggregate contributions.

2. Where the award is a gratuity and the fireman has not completed one year of pensionable service, the gratuity shall be an amount equal to the fireman's aggregate contributions.

3. Where the award is a pension, the amount thereof shall be calculated in accordance with the following Table, the figures in the second column of the Table representing sixtieths of the fireman's pensionable pay :—

TABLE

Fireman's completed years of pensionable service	Pension expressed in 60ths of pensionable pay
Less than 2	1
2 but less than 3	2
3 but less than 4	3
4 but less than 5	4
5 but less than 6	5
6 but less than 7	6
7 but less than 8	7
8 but less than 9	8
9 but less than 10	9
10 but less than 11	10
11 but less than 12	11
12 but less than 13	12
13 but less than 14	13
14 but less than 15	14
15 but less than 16	15
16 but less than 17	16
17 but less than 18	17
18 but less than 19	18
19 but less than 20	19
20 but less than 21	20
21 but less than 22	22
22 but less than 23	24
23 but less than 24	26
24 but less than 25	28
25 but less than 26	30
26 but less than 27	32
27 but less than 28	34
28 but less than 29	36
29 but less than 30	38
30 or more	40

[1145]

Article 4

THIRD SCHEDULE

WIDOWS' ORDINARY PENSIONS

The pension shall be calculated in accordance with Scheme I :

Provided that where the fireman's period of pensionable service amounts to at least ten years, the pension shall be calculated in accordance with Scheme II in any case in which that Scheme will yield to the widow a higher pension than Scheme I.

The Schemes hereinbefore referred to are as follows :—

SCHEME I

1. Where the death occurs on or after the fifth day of July, nineteen hundred and forty-eight, and the widow is not entitled in right of her husband's insurance

to widow's benefit under the National Insurance Act, 1946, or to a retirement pension under that Act, but would have been so entitled if her husband had satisfied the relevant contribution conditions, the pension shall be payable at the following rate, hereinafter referred to as " the prescribed rate " :—

(i) where the husband's rank in the fire service at the time of his death or retirement was not higher than that of sub-officer, £30 a year ;
(ii) where the husband's said rank was higher than that of sub-officer and lower than that of assistant chief officer, £40 a year ; and
(iii) in any other case, £50 a year :

Provided that this paragraph shall not apply in any case in which the widow would have been entitled in right of her husband's insurance to widow's benefit or to a retirement pension under the said Act of 1946 if her husband had not defaulted in the payment of the contributions payable by him thereunder.

In the application of this paragraph to Scotland, for any reference to a sub-officer there shall be substituted a reference to a section leader, and for any reference to an assistant chief officer there shall be substituted a reference to a firemaster.

2. Where the death occurs before the fifth day of July, nineteen hundred and forty-eight, the pension shall be payable at the prescribed rate.

3. Save as provided in paragraphs 1 and 2 of this Scheme, the pension shall be of such amount as, together with any increase thereof under the Pensions (Increase) Acts, 1944 and 1947, will produce a pension at the prescribed rate.

SCHEME II

1. The pension shall be such that, when it is added to any widow's benefit or retirement pension payable to the widow under the National Insurance Act, 1946, in right of her husband's insurance the total rate of payment is equal to the prescribed percentage of her husband's pensionable pay.

2. The prescribed percentage of the husband's pensionable pay shall be calculated by reference to the length of his pensionable service in accordance with the following Table :—

TABLE

Husband's completed years of pensionable service	Prescribed percentage
More than 10 but less than 15 years	4 per cent.
More than 15 but less than 20 years	6 per cent.
More than 20 but less than 25 years	8 per cent.
More than 25 but less than 30 years	10 per cent.
30 years or over	12½ per cent.

[1146]

Article 4

FOURTH SCHEDULE

WIDOWS' ORDINARY GRATUITIES

1. Where the fireman has not completed one year of pensionable service, the gratuity shall be an amount equal to the fireman's aggregate contributions.

2. Where the fireman has completed at least one year of pensionable service, the gratuity shall be of such amount as the fire authority may determine, save that it shall not be less than the fireman's aggregate contributions and shall not exceed the sum produced by multiplying one-twelfth of the fireman's annual pensionable pay by the total number of his completed years of pensionable service.

[1147]

Article 5

FIFTH SCHEDULE

CHILDREN'S ORDINARY ALLOWANCES

PART I

1. Subject as hereinafter provided, a child's ordinary allowance shall be payable at the following rate :—

(*a*) where the father's rank in the fire service at the time of his death was not higher than that of sub-officer, £10 a year ;

(*b*) where the father's said rank was higher than that of sub-officer and lower than that of assistant chief officer, £12 a year ; and

(*c*) in any other case, £15 a year.

2. Where the child's mother is dead at the time when the allowance first becomes payable, the child's ordinary allowance shall be payable at the following rate :—

(*a*) where the father's rank in the fire service at the time of his death was not higher than that of sub-officer, £15 a year, or such rate in excess of £15 a year and not exceeding £20 a year as the fire authority may from time to time determine ;

(*b*) where the father's said rank was higher than that of sub-officer and lower than that of assistant chief officer, £18 a year, or such rate in excess of £18 a year and not exceeding £24 a year as the fire authority may from time to time determine ; and

(*c*) in any other case, £22 10s. a year, or such rate not exceeding £30 a year as the fire authority may from time to time determine.

3. Where a child's mother dies while the child is entitled to a child's ordinary allowance, the allowance shall, as from the date of the death, be determined in accordance with paragraph 2 of this Part of this Schedule instead of paragraph 1 thereof.

4. In the application of this Part of this Schedule to Scotland, for any reference to a sub-officer there shall be substituted a reference to a section leader, and for any reference to an assistant chief officer there shall be substituted a reference to a firemaster. [1148]

PART II

1. Where the child's mother is in receipt of a widowed mother's allowance under the National Insurance Act, 1946, then, subject as hereinafter provided, the child's ordinary allowance, as ascertained in accordance with Part I of this Schedule, shall be reduced to such extent as is necessary to reduce the increased allowance by 7s. 6d. a week.

General note.—The Firemen's Pension Scheme Order, 1949 (S.I. 1949 No. 396) has added after the words " National Insurance Act, 1946 ", *supra*, the words " or of a widow's allowance, which is increased under section twenty-three of the said Act or a retirement pension which is so increased ".

2. Where a woman has two or more children who would, apart from the provisions of this Part of this Schedule, be entitled to children's ordinary allowances, paragraph 1 of this Part of this Schedule shall have effect only with respect to that one of those children who is older than the others.

3. Where an allowance is payable in respect of a child under the Family Allowances Act, 1945, his child's ordinary allowance, as ascertained in accordance with Part I of this Schedule, shall be reduced to such extent as is necessary to reduce the increased allowance by 5s. a week.

4. Where a guardian's allowance is payable in respect of a child under the National Insurance Act, 1946, his child's ordinary allowance, as ascertained in accordance with Part I of this Schedule, shall be reduced to such extent as is necessary to reduce the increased allowance by 12s. a week.

5. In this Part of this Schedule, the expression " increased allowance ", when used in relation to a child's ordinary allowance, means the amount which would be payable in respect of that allowance by virtue of this Scheme and of the Pensions (Increase) Acts, 1944 and 1947, if this Part of this Schedule were not in force.

6. Where the amount by which a child's ordinary allowance is required to be reduced under this Part of this Schedule is greater than the amount of that allowance, then, for so long as the reduction is operative, the allowance shall not be payable. [1149]

Article 6

SIXTH SCHEDULE

MINIMUM INJURY AWARD

1. The minimum injury award shall be determined by reference to the number of the fireman's completed years of pensionable service and by reference to his pensionable pay.

2. Where the fireman is totally disabled, the minimum injury award shall be the amount specified in the second column of the Table appended to paragraph 3 of this Schedule, and where the fireman is partly disabled, the minimum injury award shall be such proportion of the amount so specified as the extent of the actual disablement bears to total disablement :

Provided that the minimum injury award shall not be less than the proportion of the pensionable pay specified in the third column of the said Table.

3. In the following Table the figures in the second and third columns represent sixtieths of the fireman's pensionable pay :—

TABLE

Firemen's completed years of pensionable service	Minimum injury award on total disablement expressed in 60ths of pensionable pay	Lower limit of minimum injury award expressed in 60ths of pensionable pay
Less than 11	40	15
11 but less than 12	40	16
12 but less than 13	40	17
13 but less than 14	40	18
14 but less than 15	41	19
15 but less than 16	41	20
16 but less than 17	42	21
17 but less than 18	42	22
18 but less than 19	43	23
19 but less than 20	43	24
20 but less than 21	44	25
21 but less than 22	44	27
22 but less than 23	45	29
23 but less than 24	45	31
24 but less than 25	46	33
25 but less than 26	46	35
26 but less than 27	47	36
27 but less than 28	47	37
28 but less than 29	48	38
29 but less than 30	49	39
30 or more	50	40

[1150]

Article 7

SEVENTH SCHEDULE

WIDOWS' SPECIAL PENSIONS

A widow's special pension shall be such that, when it is added to—

(*a*) any pension payable to her under the National Insurance (Industrial Injuries) Act, 1946, in consequence of the death of her husband ; and

(*b*) any widow's benefit or retirement pension payable to her under the National Insurance Act, 1946, in right of her husband's insurance,

the total rate of payment is equal to one-quarter of her husband's pensionable pay :

Provided that a widow's special pension shall not in any event be paid at a rate of less than one-sixth of her husband's pensionable pay. [1151]

Article 8

EIGHTH SCHEDULE

CHILDREN'S SPECIAL ALLOWANCES

PART I

1. Subject as hereinafter provided, a child's special allowance shall be payable at the rate of six per cent. of the father's pensionable pay.

2. If the child's mother is not alive at the time when the allowance first becomes payable, the child's special allowance shall be payable at the rate of nine per cent. of the father's pensionable pay, or at such greater rate not exceeding twelve per cent. of the father's pensionable pay as the fire authority may from time to time determine.

3. If the child's mother dies while he is entitled to a child's special allowance the allowance shall, in respect of the period after the mother's death, be payable at the rate of nine per cent. of the father's pensionable pay, or at such greater rate not exceeding twelve per cent. of the father's pensionable pay as the fire authority may from time to time determine. [1152]

PART II

1. Where the child's mother is in receipt of a widow's allowance or a widowed mother's allowance under the National Insurance Act, 1946, then, subject as hereinafter provided, the child's special allowance, as ascertained in accordance with Part I of this Schedule, shall be reduced to such extent as is necessary to reduce the increased allowance by 7s. 6d. a week.

2. Where a woman has two or more children who would, apart from the provisions of this Part of this Schedule, be entitled to children's special allowances, paragraph 1 of this Part of this Schedule shall have effect only with respect to that one of those children who is older than the others.

3. Where an allowance is payable in respect of a child under section twenty-one of the National Insurance (Industrial Injuries) Act, 1946, his child's special allowance, as ascertained in accordance with Part I of this Schedule, shall be reduced to such extent as is necessary to reduce the increased allowance by 7s. 6d. a week.

4. Where an allowance is payable in respect of a child under the Family Allowances Act, 1945, his child's special allowance, as ascertained in accordance with Part I of this Schedule, shall be reduced to such extent as is necessary to reduce the increased allowance by 5s. a week.

5. In this Part of this Schedule the expression "increased allowance," when used in relation to a child's special allowance, means the amount which would be payable in respect of that allowance by virtue of this Scheme and of the Pensions (Increase) Acts, 1944 and 1947, if this Part of this Schedule were not in force.

6. Where the amount by which a child's special allowance is required to be reduced under this Part of this Schedule is greater than the amount of that allowance, then, for so long as the reduction is operative, the allowance shall not be payable. [1153]

General note.—Paragraph 1, *supra*, has been modified, and a new paragraph 4A has been added after paragraph 4, *supra*, by the Firemen's Pension Scheme Order, 1949 (S.I. 1949 No. 396).

Article 10

NINTH SCHEDULE

PENSIONS AND ALLOWANCES IN CASE OF DEATH OR INCAPACITY ATTRIBUTABLE TO WAR SERVICE

PART I

Widow's pension

The marginal rate shall be one-third of the husband's pensionable pay :

Provided that when by reason of the husband's death a service pension is payable to the widow in her own right, the marginal rate shall be reduced by the rate at which the said pension is payable. [1154]

PART II

Child's allowance

1. Subject as hereinafter provided, the marginal rate shall be :—

(*a*) in respect of any period before the death of the child's mother, one-fifteenth of the father's pensionable pay ; and

(*b*) in respect of any period after the death of the child's mother, two-fifteenths of the father's pensionable pay.

2. When by reason of the father's death a service pension is payable to the child in his own right, or is payable in respect of him, the marginal rate shall be reduced by the rate at which the said pension is payable. [1155]

PART III

Pensions in case of incapacity

1. Subject as hereinafter provided, the marginal rate shall be calculated in accordance with the following Table, the figures in the second column of the said Table representing sixtieths of the fireman's pensionable pay :—

TABLE

Fireman's completed years of pensionable service	Marginal rate expressed in 60ths of pensionable pay
Less than 11	45
11 or more but less than 16	48
16 or more but less than 21	51
21 or more but less than 26	54
26 or more but less than 30	57
30 or more	60

2. When a service pension is payable to the person incapacitated, the marginal rate shall be reduced by the rate at which the said pension is payable. [1156]

Article 11 TENTH SCHEDULE

GENERAL RULES AS TO PENSIONS, ALLOWANCES AND GRATUITIES

1. Where, apart from the provisions of this paragraph, a person would be entitled to receive two or more pensions or allowances under this Scheme in respect of any particular period, he shall be entitled in respect of that period to receive that one only of those pensions or allowances which is for the time being greater than the others, or, if for the time being they are all equal, that one only of the said pensions or allowances which first became payable :

Provided that—

(*a*) nothing in this paragraph shall prevent an ill-health pension from being supplemented by a special pension in accordance with Article 6 of this Scheme, and where an ill-health pension is so supplemented the two pensions shall be treated as one for the purposes of this paragraph ; and

(*b*) where a surrender has been made in favour of a person under Article 13 of this Scheme, the pension to which that person is entitled by virtue of the surrender shall be disregarded for the purpose of the application of this paragraph in relation to that person.

2. Where a person marries during the period between his last ceasing to be a fireman and his death, no pension shall become payable to his widow under this Scheme on the occasion of his death.

3.—(1) When a person dies leaving a widow who was living apart from him at the time of his death, no gratuity or pension shall be payable to her under this Scheme on his death unless either—

(*a*) at the time of the death the deceased was regularly contributing to her support, or was liable to contribute to her support by virtue of any agreement or any order of a competent court; or

(*b*) she was living apart from him because he had deserted her:

Provided that where the preceding provisions of this sub-paragraph would prevent the payment of a gratuity or pension and the fire authority are satisfied that the application of those provisions would cause substantial hardship in that particular case, the authority may, in the case of a gratuity, pay the whole or any part thereof, and, in the case of a pension, pay the whole or any part thereof for such period as they think proper.

(2) Where a person dies leaving a widow who was living apart from him at the time of his death, then—

(*a*) if at the time of his death he was liable to contribute to her support by virtue of any agreement or any order of a competent court, any pension payable to the widow under this Scheme on his death shall not be payable at a higher rate than the rate at which, at the time of his death, he was so liable to contribute as aforesaid: and

(*b*) if at the time of his death he was not so liable to contribute as aforesaid, but was in fact making regular contributions to her support, any pension payable to the widow under this Scheme on his death shall not be payable at a higher rate than the rate at which, at the time of his death, he was making such contributions as aforesaid.

(3) For the purpose of the preceding provisions of this paragraph contributions to a woman for the support of her child shall be treated as contributions to her support.

4.—(1) Where a pension becomes payable to a woman under this Scheme on the death of her husband, then, if she subsequently remarries, she shall not be entitled to receive any payment on account of the pension in respect of any period after her remarriage:

Provided that if at any time after her remarriage the woman again becomes a widow, the fire authority may pay the whole or any part of the pension for such period after that time as they think proper.

(2) Where a gratuity becomes payable to a woman under this Scheme on the death of her husband, then, if she subsequently remarries, so much of the gratuity as has not been paid before her remarriage shall not be payable thereafter:

Provided that if at any time after her remarriage the woman again becomes a widow, the fire authority may pay to her the whole or any part of the sums which they were actually or contingently liable to pay to her in respect of the gratuity immediately before her remarriage.

General note.—The Firemen's Pension Scheme Order, 1949 (S.I. 1949 No. 396) has added after the words "under this Scheme", in sub-paragraph (1), *supra*, the words "otherwise than under Article 13".

5.—(1) Where a fireman who has completed three years' pensionable service retires on account of any disease or injury in circumstances in which a gratuity becomes payable to him under this Scheme on his retirement, and subsequently (without any intervening period of service as a fireman) dies in consequence of the disease or injury, the duty of the fire authority under this Scheme to pay an ordinary pension to his widow on his death shall be subject to the modification that no payment shall be made on account of the pension in respect of the period of one year beginning with his death:

Provided that—

(*a*) the preceding provisions of this sub-paragraph shall not apply in any particular case in which the fire authority determine to dispense with those provisions; and

(*b*) the said provisions shall, if the fire authority so determine in any particular case, have effect in that case as if for the reference therein to one year there were substituted a reference to such shorter period as the fire authority think proper.

(2) Where a person dies after receiving any sum paid in advance on account of a pension under this Scheme, and the whole or any part of that sum is referable to a period after his death, any duty of the fire authority under this Scheme to pay a pension to his widow on his death shall be subject to the modification that no payment shall be made on account of the widow's pension in respect of that period.

(3) Any reference in this Scheme to a pension payable to a woman on, or on the occasion of, her husband's death shall include a reference to a pension which is subject to the preceding provisions of this paragraph.

6. No allowance shall be payable to a child under this Scheme in respect of any period after he has attained the prescribed age.

7. A step-child or illegitimate child or adopted child shall not as such receive any allowance under this Scheme unless he was substantially dependent on his step-father, natural father or adoptive father at the time when the latter died.

8. Where any person becomes the father of a child during the period between his last ceasing to be a fireman and his death, no allowance shall become payable to that child under this Scheme on the occasion of the death.

9. Where a widow is entitled to a pension under this Scheme and her children are entitled to children's special allowances thereunder, the allowances shall be reduced by such amount, if any, as is necessary to secure that the aggregate amount of these allowances, when added to the widow's pension, does not exceed two-thirds of the fireman's pensionable pay.

Any such reduction shall be apportioned rateably between the children concerned.

10. The total amount of the gratuities paid under Articles 9 and 10 of this Scheme in respect of the death of any one person shall not exceed the amount of his aggregate contributions. [1157]

Articles 15, 16

ELEVENTH SCHEDULE

PAYMENTS IN RESPECT OF SERVICE BEFORE THE APPOINTED DAY

1. The sum to be paid by the fireman shall be determined by reference to a notional rate of pay in accordance with the following Table :—

TABLE

Rank of fireman on first becoming a fireman		Notional rate of pay for the purposes of this Schedule
England	Scotland	
1. Ordinary fireman ..	1. Ordinary fireman	1. £4 16s. per week
2. Leading fireman ..	2. Leading fireman ..	2. £5 11s. „ „
3. Sub-officer	3. Section leader ..	3. £6 11s. „ „
4. Station officer ..	4. Company officer ..	4. £450 per annum
5. Assistant divisional officer	5. Senior company officer	5. £500 „ „
6. Divisional officer, Grade III	6. Column officer ..	6. £600 „ „
7. Divisional officer, Grade II	7. Divisional officer ..	7. £700 „ „
8. Divisional officer, Grade I	8. Assistant firemaster	8. £800 „ „
9. Assistant chief officer	9. Firemaster ..	9. Such rate as the Secretary of State may in each particular case direct.
10. Chief officer	——	10. Such rate as the Secretary of State may in each particular case direct.

2. For the purpose of securing that service before the appointed day shall be counted as pensionable service by virtue of paragraph (4) of Article 15 of this

Scheme, the fireman must pay a sum equal to five per cent. of the total pay which he would have received in respect of that service if he had been paid in respect thereof at the notional rate appropriate to his case.

3. For the purpose of securing that service before the appointed day shall be counted as pensionable service by virtue of paragraph (5) of Article 15 of this Scheme, or by virtue of Article 16 of this Scheme, the fireman must pay a sum equal to two-and-a-half per cent. of the total pay which he would have received in respect of that service if he had been paid in respect thereof at the notional rate appropriate to his case. [1158]

General note.—This Schedule has been modified by the Firemen's Pension Scheme Order, 1949 (S.I. 1949 No. 396).

Article 15

TWELFTH SCHEDULE

SUPPLEMENTARY PROVISIONS AS TO COUNTING OF SERVICE BEFORE THE APPOINTED DAY

1. Where, if a person to whom paragraph (2) of Article 15 of this Scheme applies had in fact retired immediately before the appointed day, a local authority might have exercised in his case the powers conferred by subsection (2) of section twenty-two of the Fire Brigade Pensions Act, 1925 (but subject to his making to that authority a payment of an amount not exceeding the amount specified in that behalf in the said subsection), the said paragraph (2) shall have effect in his case as if the whole of his past pensionable service had been approved service for the purposes of the said Act of 1925, but subject to his paying to the fire authority by whom he is employed on the appointed day a sum equivalent to the said amount.

In this paragraph the expression "past pensionable service" has the meaning assigned to it by the said section twenty-two.

2.—(1) Where for the purposes of Article 15 of this Scheme it is necessary to determine whether any period of service would have counted in the case of a particular person as a period of approved service for the purposes of the Police Pensions Act, 1921, or the Fire Brigade Pensions Act, 1925, if he had retired immediately before the appointed day, that question shall be determined as if the powers conferred by the provisions to which this paragraph applies had ceased to be exercisable immediately before the appointed day:

Provided that where, if the said person had in fact retired immediately before the appointed day, a local authority would, after his retirement, have had a discretion in his case to allow a particular period of service to be reckoned as a period of approved service by virtue of either of the said provisions (but subject to his making a payment to that authority of the amount specified in that provision), that period shall be included in his period of pensionable service for the purposes of this Scheme if he pays a sum equivalent to the said amount to the fire authority by whom he is employed on the appointed day.

(2) The provisions to which this paragraph applies are subsection (2) of section nine of the Police Pensions Act, 1921, and subsection (2) of section eight of the Fire Brigade Pensions Act, 1925.

3. In determining for the purposes of paragraph (6) of Article 15 of this Scheme what period of service would have counted in the case of any particular person for the purposes of the Local Government Superannuation Act, 1937, if he had retired immediately before the appointed day, it shall be assumed that his non-contributing service (as defined by that Act) would have counted for the purposes of that Act to the extent only of one half thereof:

Provided that the preceding provisions of this paragraph shall not have effect in the case of any person who pays to the fire authority by whom he is employed on the appointed day a sum equal to the total amount which would have been payable by him, if he had in fact retired immediately before the appointed day, as a condition of being entitled to the rights conferred by paragraph (ii) of the proviso to paragraph (*b*) of subsection (2) of section eight of the said Act of 1937.

In the application of this paragraph to Scotland, for any reference to the Local Government Superannuation Act, 1937, there shall be substituted a reference to the Local Government Superannuation (Scotland) Act, 1937. [1159]

General note.—This Schedule has been modified by the Firemen's Pension Scheme Order, 1949 (S.I. 1949 No. 396).

Article 32

THIRTEENTH SCHEDULE

APPEALS TO MEDICAL REFEREES

1. The person seeking to appeal must institute his appeal within fourteen days from the date on which he is supplied by the fire authority with a copy of the opinion in pursuance of Article 32 of this Scheme :

Provided that where the fire authority are of opinion that a person's failure to institute his appeal within the time allowed was not due to his own default, they may (notwithstanding that the said time has expired) extend it by so much as they think fit, but so that the appeal shall in any event be instituted before the expiration of six months from the aforesaid date.

2. He must institute his appeal by giving to the fire authority a notice in writing informing them of his intention to appeal and stating the grounds on which he proposes to appeal.

Any such notice shall state the appellant's name and his place of residence.

3.—(1) Upon receiving the said notice the fire authority shall supply the Secretary of State with two copies thereof and two copies of the opinion in question.

(2) The Secretary of State shall supply a copy of the said notice and a copy of the said opinion to the medical referee nominated by the Secretary of State for the purposes of the appeal.

4.—(1) The medical referee so nominated shall forthwith after his nomination inform the appellant and the fire authority that he has been nominated to act as medical referee for the purposes of the appeal.

(2) It shall be the duty of the medical referee to secure that the appellant and the fire authority are at all material times aware of an address at which communications may be delivered to the referee for the purposes of the appeal.

5.—(1) Subject to the provisions of this Schedule, the medical referee shall interview the appellant at least once, and may interview him or cause him to be interviewed on such further occasions as the referee thinks necessary for the purpose of determining the appeal.

(2) The medical referee shall appoint a time and place for any such interview and shall give reasonable notice thereof to the appellant and to the fire authority.

(3) Where the medical referee is satisfied that the appellant is unable to travel, the place appointed for any such interview shall be the place where the appellant resides.

(4) It shall be the duty of the appellant to attend at the time and place appointed for any such interview and to submit himself at the interview to medical examination by the medical referee or by any person appointed by the referee for that purpose.

(5) If the appellant fails to comply with sub-paragraph (4) of this paragraph, the medical referee may, unless satisfied that there was reasonable cause for the failure, dispense with the interview required by the preceding provisions of this Schedule, or, as the case may be, with any further interview, and give his decision upon such information as is then available.

(6) Any such interview may be attended—

(*a*) by the medical practitioner whose opinion is under appeal, or in his absence by any duly qualified medical practitioner appointed for the purpose by the fire authority ; and

(*b*) by a duly qualified medical practitioner appointed for the purpose by the appellant.

6. At any time before the interview, or before the last interview if there is more than one, either party may submit to the medical referee a statement relating to the subject matter of the appeal, and the referee shall take account of any such statement and give to the other party such opportunity as he thinks necessary of replying thereto.

7. The decision of the medical referee shall take the form of an opinion on the medical questions which appear to him to be relevant, and the opinion shall be delivered in writing to both parties.

8.—(1) The medical referee shall be entitled to the following fees and allowances :—

(*a*) for giving his opinion on the appeal, a fee of three guineas or such higher fee as the Secretary of State may determine in any particular case ;

(*b*) where, solely for the purposes of the appeal, he travels two miles or more from his place of residence or from any place where he practises, and in the circumstances it is not unreasonable for him so to travel, an allowance of five shillings for each full mile up to ten full miles, and one shilling for each full mile thereafter ;

(*c*) where he incurs fees or expenses in respect of expert assistance in a case involving special difficulty, an allowance of such amount, if any, as the Secretary of State may approve, not exceeding the amount of those fees or expenses.

(2) The said fees and allowances shall be paid by the fire authority, and shall be treated as part of the fire authority's expenses for the purposes of the following provisions of this Schedule.

9.—(1) Save as hereinafter provided, the expenses of each party to the appeal shall be borne by that party.

(2) Where the medical referee decides in favour of the fire authority, the authority may, unless the referee otherwise directs, require the appellant to pay towards the cost of the appeal such sum not exceeding the referee's total fees and allowances as the authority think fit.

(3) Where the medical referee decides in favour of the appellant, the fire authority shall, unless the referee otherwise directs, refund to the appellant any personal expenses actually and reasonably incurred by the appellant in respect of any such interview as is mentioned in paragraph 5 of this Schedule, and, if any duly qualified medical practitioner chosen by the appellant has attended any such interview, any fees and expenses reasonably paid by the appellant in respect of such attendance.

(4) If in connection with any payment claimed under this paragraph any question arises as to whether the decision of the medical referee is in favour of the fire authority or the appellant, that question shall be decided by the referee, or, in default of a decision by the referee, by the Secretary of State.

10. An appellant shall be deemed to have received any information, notice or document which he is entitled to receive for the purposes of this Schedule if that information, notice or document has been duly posted in a letter addressed to the appellant at his last known place of residence. [1160]

Article 38 FOURTEENTH SCHEDULE

REDUCTION OF FIREMEN'S ORDINARY PENSIONS AND OF SHORT SERVICE AND ILL-HEALTH PENSIONS WHERE THE PENSIONER HAS ATTAINED THE AGE OF SIXTY-FIVE YEARS

1. The pension shall be reduced at a rate determined by reference to the period for which the pensioner has served as a fireman.

2. The rate of reduction shall be calculated on the annual value of the pension, and the reduction shall be distributed evenly over the period for which the reduced pension is payable.

3. In the case of a person who has not served in a pensionable capacity in a fire brigade before the appointed day, the annual value of the pension shall be reduced by £1 14s. for each complete year during which he has served as a fireman :

Provided that the rate of reduction shall not in the case of any such person exceed £51 a year.

4. In the case of a person who has served in a pensionable capacity in a fire brigade before the appointed day, the rate of reduction shall depend on his age

at the appointed day, and shall be calculated in accordance with the following Table :—

TABLE

Age on the appointed day of the person concerned	Amount by which annual value of pension is to be reduced for each year during which he has served as a fireman
	£ s. d.
Under 23 years	1 14 0
23 years or more but under 24 years	1 13 0
24 years or more but under 25 years	1 12 0
25 years or more but under 26 years	1 11 0
26 years or more but under 27 years	1 10 6
27 years or more but under 28 years	1 10 0
28 years or more but under 29 years	1 9 6
29 years or more but under 30 years	1 9 0
30 years or more but under 31 years	1 8 6
31 years or more but under 32 years	1 8 0
32 years or more but under 33 years	1 7 6
33 years or more but under 34 years	1 7 0
34 years or more but under 35 years	1 6 6
35 years or more but under 37 years	1 6 0
37 years or more but under 38 years	1 5 6
38 years or more but under 40 years	1 5 0
40 years or more but under 42 years	1 4 6
42 years or more but under 44 years	1 4 0
44 years and over	1 3 6

[1161]

General note.—This Schedule has been modified by the Firemen's Pension Scheme Order, 1949 (S.I. 1949 No. 396).

FIRE SERVICES (RANKS AND CONDITIONS OF SERVICE) (NO. 2) REGULATIONS, 1948

S.I. 1948 *No.* 605

March 23, 1948

General note.—For the Fire Services (Ranks and Conditions of Service) Regulations, 1948, see p. 345, *ante*.

In pursuance of the powers conferred on me by paragraphs (*a*) and (*b*) of subsection (1) of section seventeen of the Fire Services Act, 1947, I [*i.e.*, the Secretary of State] hereby make the following Regulations :—

1. After paragraph 3 of Part II of the Fourth Schedule to the Fire Services (Ranks and Conditions of Service) Regulations, 1948, there shall be added the following paragraph :—

"3A.—(1) A member of a brigade who, not being entitled to a lodging allowance under paragraph 3 of this Part of this Schedule and not being in receipt of a payment under sub-paragraph (5) of the said paragraph 3, has been transferred from his original station to another station and is thereby put to expense in travelling between that other station and his home in his off-duty periods additional to the expense of travelling between the original station and his home in such periods, may be paid the amount of such additional expense.

(2) In this paragraph the expression ' original station ' in relation to—

(*a*) a member of the brigade, being a person who became such a member on the first day of April, 1948, who either has been transferred thereto by virtue of Regulation 3 of the Fire Services (Transfer of Persons) Regulations, 1948, or would have been so transferred if he had not been discharged from the National Fire Service on the thirty-first day of March, 1948, or, as the case may be, if he had not been transferred thereto under Regulation 1 of the said Regulations, means the first station at which he was stationed while a member of the National Fire Service, and

(*b*) any other member of the brigade means the first station at which he was stationed while a member of the brigade." [1162]

2. These Regulations may be cited as the Fire Service (Ranks and Conditions of Service) (No. 2) Regulations, 1948, and shall come into operation on the first day of April, 1948. [1163]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Regulations, but is intended to indicate their general purport.*)

These Regulations deal with the payment to certain members of fire brigades of the increase in the expense of travelling between their homes and places of duty caused by transfer from one place of duty to another.

FIREMEN'S PENSION SCHEME (NO. 2) ORDER, 1948

S.I. 1948 *No.* 1094

May 26, 1948

General note.—This Order was laid before Parliament on May 26, 1948, and accordingly came into operation on May 27, 1948. For the Firemen's Pension Scheme Order, 1948, see p. 385, *ante.*

In exercise of the above powers conferred on me by section twenty-six of the Fire Services Act, 1947, and of all other powers enabling me in that behalf, I [*i.e.*, the Secretary of State] hereby, with the approval of the Treasury and after consultation with the Central Fire Brigades Advisory Council and the Scottish Central Fire Brigades Advisory Council, make the following Order :—

1. The Firemen's Pension Scheme set out in the Appendix to the Firemen's Pension Scheme Order, 1948, shall have effect as if in paragraph (2) of Article 38 thereof (which relates to the exercise by a fireman of a right of election to pay contributions at a lower rate) and in Article 89 thereof (which relates to the giving of notice by a fireman in exercise of an option to have the said Scheme applied in his case subject to certain modifications) for the words " two months " there were substituted the words " four months ". [1164]

2. This Order may be cited as the Firemen's Pension Scheme (No. 2) Order, 1948, and shall come into operation on the day after the day on which it shall have been laid before both Houses of Parliament. [1165]

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FIRE SERVICES (RANKS AND CONDITIONS OF SERVICE) (NO. 3) REGULATIONS, 1948

S.I. 1948 *No.* 1500

June 30, 1948

General note.—For the Fire Services (Ranks and Conditions of Service) Regulations, 1948, see p. 345, *ante*.

In pursuance of the powers conferred on me by paragraphs (*a*) and (*b*) of subsection (1) of section seventeen of the Fire Services Act, 1947, I [*i.e.*, the Secretary of State] hereby make the following Regulations :—

1. For paragraph 3 of the Third Schedule to the Fire Services (Ranks and Conditions of Service) Regulations, 1948, there shall be substituted the following paragraph :—

" 3. While a member of a brigade is on sick leave on full pay his pay shall be reduced by the amount—

(*a*) of any sickness benefit to which he may be entitled under the National Insurance Act, 1946,

(*b*) of any injury benefit to which he may be entitled under the National Insurance (Industrial Injuries) Act, 1946, and

(*c*) of any weekly payments he receives under the Workmen's Compensation Acts, 1925 to 1943, by way of compensation for the injury or sickness causing the infirmity :

Provided that where a member was immediately before the fifth day of July, 1948, insured or treated as insured under the National Health Insurance Acts, 1936 to 1941, as a voluntary contributor his pay shall not be reduced under this paragraph by the amount of any sickness benefit under the National Insurance Act, 1946, to which he may be entitled in respect of any period before the third day of January, 1949." [1166]

2. For sub-paragraph (3) of paragraph 11 of the Fifth Schedule to the said Regulations (which relates to compensation for loss of remuneration in private employment resulting from an injury or disease caused by or arising out of duty as a part-time fireman) there shall be substituted the following sub-paragraph :—

" (3) In computing loss of remuneration for the purposes of this paragraph there shall be deducted from such loss—

(*a*) any sickness benefit to which he may be entitled under the National Insurance Act, 1946,

(*b*) any injury benefit to which he may be entitled under the National Insurance (Industrial Injuries) Act, 1946,

(*c*) any weekly payments he receives under the Workmen's Compensation Acts, 1925 to 1943, by way of compensation for the injury or sickness causing the infirmity, and

(*d*) any payments which he is entitled to claim under any scheme made under the Personal Injuries (Emergency Provisions) Act, 1939 :

Provided that where a member was immediately before the fifth day of July, 1948, insured or treated as insured under the National Health Insurance Acts, 1936 to 1941, as a voluntary contributor his pay shall not be reduced under this paragraph by the amount of any sickness benefit under the National Insurance Act, 1946, to which he may be entitled in respect of any period before the third day of January, 1949." [1167]

3. These Regulations may be cited as the Fire Services (Ranks and Conditions of Service) (No. 3) Regulations, 1948, and shall come into operation on the fifth day of July, 1948. [1168]

* * * * *

FIRE SERVICES (GRANT) REGULATIONS, 1948

S.I. 1948 *No.* 1690

July 20, 1948

In pursuance of the powers conferred on me by section twenty-five of the Fire Services Act, 1947, I [*i.e.*, the Secretary of State] hereby, with the consent of the Treasury, make the following Regulations :—

1.—(1) Subject to the provisions of these Regulations, there shall be payable by the Secretary of State to each authority in respect of each year a grant equal to twenty-five per cent. of the net approved expenditure incurred by that authority in respect of that year.

(2) For the purposes of these Regulations no expenditure shall be treated as approved expenditure unless it was in the determination of the Secretary of State incurred in connection with the provision of fire services, and in reckoning for the said purposes the net approved expenditure incurred by an authority in respect of each year the following provisions shall have effect, that is to say :—

(*a*) no expenditure shall be reckoned unless it was incurred with the prior approval of the Secretary of State, or is expenditure either of a class in respect of which, or incurred in circumstances in which, the Secretary of State has dispensed with the need for obtaining such approval,

(*b*) if the amount of any item of expenditure is in the determination of the Secretary of State excessive, the excess of that amount over the amount determined by the Secretary of State to be reasonable shall not be reckoned, and

(*c*) from the gross amount of the expenditure reckoned in accordance with the preceding provisions of this paragraph there shall be deducted such amount as in the determination of the Secretary of State ought to be deducted in respect of that year having regard to the sums which were, or ought to have been, received by that authority in connection with the provision of fire services. [1169]

2. The payment of any grant to an authority in pursuance of these Regulations in respect of any year shall be dependent upon the Secretary of State being satisfied that the following conditions are fulfilled, that is to say :—

(*a*) that the authority have complied with any requirements imposed upon them by or under the Act,

(*b*) that efficient provision of fire services is made in the area of the authority,

(*c*) that the authority have submitted to the Secretary of State at such time and in such form as he may have required estimates of the expenditure to be incurred, and the amounts to be received, by them in that year in connection with the provision of fire services,

(*d*) that the authority have submitted to the Secretary of State as soon as may be after the end of that year a financial statement, in a form approved by him, relating to the expenditure and income of

that authority and of any committee (including a joint committee) thereof in connection with the provision of fire services,

(*e*) that the authority have afforded all reasonable facilities to the district auditor appointed under the Local Government Act, 1933, for the district comprising the area of the authority for the examination of the aforesaid financial statement and of any books, records or other documents of the authority or of such committee as aforesaid relating thereto, and

(*f*) that the authority have supplied to the Secretary of State such information, records or other documents as the Secretary of State may have required,

and if the Secretary of State is not satisfied as aforesaid, he may withhold the grant in whole or in part permanently or for such time as he may determine. [1170]

3. To an authority to which grants are payable under these Regulations there may be apportioned in respect of each year a fraction, determined in accordance with the provisions of the Schedule to these Regulations, of the expenditure incurred in that year by the Secretary of State under paragraph (*a*) of subsection (1) of section twenty-three of the Act and under subsection (2) of the said section (which provisions relate to the establishment and maintenance of a central training institution), and an amount equal to the said fraction may be deducted from the grant payable under these Regulations to that authority in respect of the said year. [1171]

4.—(1) The payment of any grant to an authority in pursuance of these Regulations shall be made at such times and in such manner as the Secretary of State may determine, and, pending the final determination of the grant payable to any authority in respect of any year, payments on account of the estimated amount thereof, but not exceeding ninety per cent. of the said estimated amount, may be made from time to time.

(2) If in any case the total amount of the payments which have been made to an authority under this Regulation in respect of any year exceeds the total amount of the grant payable to that authority under these Regulations in respect of that year, the excess may, without prejudice to any other method of recovery by the Secretary of State, be deducted from any payment made under these Regulations in respect of a later year.

(3) The inclusion by the Secretary of State of the amount of any expenditure in a calculation of the amount of any payment on account shall not be deemed to constitute an approval of the Secretary of State, for the purposes of paragraph (2) of Regulation 1 of these Regulations, of the incurring of any item of that expenditure. [1172]

5.—(1) In these Regulations—

(*a*) "the Act" means the Fire Services Act, 1947;

(*b*) "authority" means an authority in England or Wales which for the time being is constituted a fire authority by the Act or any combination scheme made thereunder;

(*c*) "year" means the period beginning with the first day of April in each year and ending with the thirty-first day of March in the succeeding year.

(2) In these Regulations any reference to expenditure incurred by the Secretary of State under any provisions of section twenty-three of the Act shall be construed as a reference to the net expenditure incurred by him thereunder after the deduction from the gross expenditure so incurred by him of any sums received by him the receipt of which is attributable to his functions under the said provisions.

(3) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [1173]

6. These Regulations may be cited as the Fire Services (Grant) Regulations, 1948, and shall come into operation on the twenty-third day of July, 1948. [1174]

* * * * *

Regulation 3 SCHEDULE

1. The fraction of the expenditure incurred in any year by the Secretary of State under paragraph (*a*) of subsection (1) of section twenty-three of the Act and under subsection (2) of the said section which may be apportioned to an authority in respect of that year shall be such fraction of the said expenditure as bears to the relevant part, as defined in paragraph 2 of this Schedule, of that expenditure the same proportion as, at the commencement of that year, the authorised strength of that authority bears to the total authorised strength in England and Wales.

2. The relevant part referred to in paragraph 1 of this Schedule of the said expenditure is one-half of that part of the said expenditure which bears the same proportion to the total thereof as, at the commencement of the year in which the expenditure is incurred, the total authorised strength in England and Wales bears to the total authorised strength in Great Britain.

3. In this Schedule—

(*a*) subject to the provisions of this paragraph, the expression " authorised strength ", in relation to an authority at any time, means the number of members which, in accordance with the provisions of the establishment scheme, or, as the case may be, combination scheme, in force under the Act at that time in relation to that authority, is determined as the establishment of members of the fire brigade maintained by them ;

(*b*) in a case where there is in existence a joint committee appointed by two or more authorities under section ninety-one of the Local Government Act, 1933, for the purposes of the Act, the authorised strength of each of the authorities shall, for the purposes of this Schedule, be deemed to be such part of the total authorised strength in relation to those authorities together as bears to the said total the same proportion as the amount of the grant payable to that authority bears to the sum of the amounts of the grants payable to all the said authorities, and for the purposes of this sub-paragraph the amount of the grant payable to an authority shall be deemed to be the amount of the grant which would under these Regulations, apart from any deduction under Regulation 3 thereof, be payable to that authority in respect of the year at the commencement of which it is necessary for the purposes of this Schedule to determine the authorised strength of that authority ;

(*c*) the expression " total authorised strength in England and Wales ", in relation to any time, means the sum of the numbers, determined in accordance with the provisions of this paragraph, of members which, in accordance with the provisions of the establishment schemes and combination schemes in force under the Act at that time in England and Wales, are determined as the establishments of members of fire brigades maintained in pursuance of the Act in England and Wales ;

(*d*) the expression " total authorised strength in Great Britain ", in relation to any time, means the sum of the numbers, determined in accordance with the provisions of this paragraph, of members which, in accordance with the provisions of establishment schemes, combination schemes and administration schemes in force under the Act at that time in Great Britain, are determined as the establishments of members of fire brigades maintained in pursuance of the Act in Great Britain;

(*e*) in computing for the purposes of this Schedule the number of members which, in accordance with any such scheme as aforesaid, is determined as the establishment of members of a fire brigade—

(i) five retained members thereof as defined in paragraph 12 of the Fifth Schedule to the Fire Services (Ranks and Conditions of Service) Regulations, 1948, or, as the case may be, in paragraph 12 of the Fifth Schedule to the Fire Services (Conditions of Service) (Scotland) Regulations, 1948 (that is to say, part-time members who have undertaken certain obligations in return for certain emoluments), shall be reckoned together as one member only of the brigade and not otherwise, and in a case where the number of such said retained members in a brigade is not exactly divisible by five the odd number shall be disregarded ;

(ii) any volunteer members thereof as defined in the said provisions (that is to say, part-time members who have undertaken obligations otherwise than as retained members) shall be disregarded. [1175]

EXPLANATORY NOTE

(*This Note is not part of the Regulations, but is intended to indicate their general purport.*)

These Regulations provide for the making of grants to fire authorities in England and Wales in respect of their expenditure in connection with the provision of fire services. The payment of grant is subject to the fulfilment of certain conditions, and, subject to a certain deduction, the grant is equal to twenty-five per cent. of the net approved expenditure determined in the manner specified in paragraph (2) *of Regulation* 1. *The conditions are specified in Regulation* 2 *and include the condition that the fire authority has complied with any requirements imposed by or under the Fire Services Act*, 1947. *The deduction, which is provided for in Regulation* 3, *is a sum equal to an apportioned part of the net expenses incurred by the Secretary of State in providing a central training institution.*

FIRE SERVICES (RANKS AND CONDITIONS OF SERVICE) (NO. 4) REGULATIONS, 1948

S.I. 1948 *No.* 1782

July 28, 1948

General note.—For the Fire Services (Ranks and Conditions of Service) Regulations, 1948, see p. 345, *ante*.

In pursuance of the powers conferred on me by paragraphs (*a*) and (*b*) of subsection (1) of section seventeen of the Fire Services Act, 1947, I [*i.e.*, the Secretary of State] hereby make the following Regulations :—

1. For sub-paragraph (1) of paragraph 2 of Part I of the Fourth Schedule to the Fire Services (Ranks and Conditions of Service) Regulations, 1948 (which specifies the rates of pay of certain officers), there shall be substituted the following sub-paragraph :—

" (1) The rate of pay of an officer holding one of the ranks set out in the subjoined Table shall be in accordance with a scale which begins with the rate set opposite in the second column of the said Table to the rank he holds and increases on each anniversary of the date on which he first attained the said rank by the amount of the annual increment set opposite in the third column of the said Table to the said rank until the maximum rate set opposite thereto in the fourth column of the said Table is reached :—

TABLE

Rank	Minimum rate	Annual increment	Maximum rate
Divisional Officer (Grade I) ..	£850 a year	£20	£950 a year
Divisional Officer (Grade II) ..	£725 ,,	£15	£800 ,,
Divisional Officer (Grade III) ..	£650 ,,	£15	£725 ,,
Assistant Divisional Officer ..	£600 ,,	£10	£650 ,,
Station Officer	£475 ,,	£10	£525 ,,

[1176]

General note.—The amendment effected by paragraph 1, *supra*, ceased to have effect as from November 30, 1948, by virtue of the Fire Services (Ranks and Conditions of Service) (No. 5) Regulations, 1948 (S.I. 1948 No. 2570), which substituted new provisions.

2. For the proviso to sub-paragraph (1) of paragraph 4 of Part I of the Fourth Schedule to the said Regulations (which relates to the pay of certain members of brigades on promotion to the rank of leading fireman) there shall be substituted the following proviso :—

" Provided that where a fireman immediately before his promotion to leading fireman was in receipt of pay at a rate of 126s. or more weekly he shall immediately on promotion be entitled to pay at the rate in the scale in this paragraph next above the rate of pay of which he was so in receipt, and the date on which he shall thereafter receive an increment in the said scale shall be each anniversary of the date on which he last received an increment in his pay, so, however, that the date on which a fireman who immediately before his said promotion was in receipt of a long service increment under paragraph 7 of this Part of this Schedule shall thereafter receive an increment in the said scale shall be each anniversary of the date of his said promotion." [1177]

3. For sub-paragraphs (2) and (3) of paragraph 2 of Part II of the Fourth Schedule to the said Regulations (which relate to the supplementary allowances of male members of brigades) there shall be substituted the following sub-paragraphs :—

" (2) The supplementary allowance shall be—

(*a*) for an assistant chief officer, an allowance of an amount determined with the approval of the Secretary of State by the fire authority ;

(*b*) for a single man of any rank below that of assistant chief officer, a ' flat rate allowance ' ; and

(*c*) for a married man of any rank below that of assistant chief officer, a ' maximum limit allowance ' equal to the actual amount paid in rent and rates in each case if the accommodation is unfurnished, and, if it is furnished, whatever amount the fire authority consider would be paid for similar unfurnished accommodation subject in either case to a maximum limit determined in accordance with the provisions of sub-paragraph (3) of this paragraph.

(3) (*a*) The flat rate allowance referred to in sub-paragraph (2) of this paragraph for a man above the rank of sub-officer stationed in the metropolitan police district or the City of London police area shall be that set opposite in column (3) of the subjoined Table to the rank he holds, and for such a man stationed elsewhere shall be that so set opposite in column (5) of the said Table.

(*b*) The maximum limit referred to in sub-paragraph (2) of this paragraph for a man above the rank of sub-officer stationed in the metropolitan police district or the City of London police area shall be that set opposite in column (2) of the subjoined Table to the rank he holds,

and for such a man stationed elsewhere shall be that so set opposite in column (4) of the Table :—

TABLE

Rank	Stationed in metropolitan police district or the City of London police area		Stationed elsewhere	
Col. (1)	Col. (2)	Col. (3)	Col. (4)	Col. (5)
	Married	Single	Married	Single
Divisional Officer (Grade I) ..	45s. weekly	22s. 6d. weekly	40s. weekly	20s. weekly
Divisional Officer (Grade II) ..	45s. weekly	22s. 6d. weekly	40s. weekly	20s. weekly
Divisional Officer (Grade III) ..	45s. weekly	22s. 6d. weekly	40s. weekly	20s. weekly
Assistant Divisional Officer ..	40s. weekly	20s. weekly	35s. weekly	17s. 6d. weekly
Station Officer	40s. weekly	20s. weekly	35s. weekly	17s. 6d. weekly

(*c*) The maximum limit referred to in sub-paragraph (2) of this paragraph for a man of the rank of sub-officer, leading fireman or fireman shall be equal to that fixed at the first day of August, 1948, for the purposes of rent allowance under the Police (Consolidation) Regulations, 1948, for a married man in the corresponding rank of the police force in the police area in which the member of the brigade is stationed.

(*d*) The flat rate allowance referred to in sub-paragraph (2) of this paragraph for a man of the rank of sub-officer, leading fireman or fireman shall be equal to half the maximum limit fixed at the first day of August, 1948, for a married man in the corresponding rank of the police force in the police area in which the member of the brigade is stationed.

(*e*) for the purposes of this sub-paragraph—

(i) the corresponding rank in a police force to that of fireman and leading fireman shall be the rank of constable and the corresponding rank to that of sub-officer shall be that of sergeant, and

(ii) if a member of the brigade is not living with his family and satisfies the chief officer that the only reason why he is not living with his family is that he is unable to find suitable accommodation for his family at a reasonable cost within a distance from his usual place of duty such that he can reasonably travel to his home for his off-duty periods, he shall be deemed to be stationed where his family resides." [1178]

4. After paragraph 2 of Part II of the Fourth Schedule to the said Regulations there shall be inserted the following paragraph :—

"2A.—(1) In the year commencing on the sixth day of April, 1949, and in each subsequent year, a member of a brigade who has, during the preceding year, paid income tax in respect of a supplementary allowance or any compensatory grant mentioned in this paragraph paid or made to him in respect of his service in the brigade shall be paid a compensatory grant.

(2) The amount of compensatory grant shall be equal to the amount by which the income tax in fact deducted during the preceding year according to the tax tables prepared or prescribed by the Commissioners of Inland Revenue from the member's emoluments in respect of his

service in the brigade is increased by virtue of the inclusion in such emoluments of a supplementary allowance or any compensatory grant mentioned in this paragraph made or paid to him.

(3) The compensatory grant may, except in the circumstances described in sub-paragraph (4) of this paragraph, be paid by such instalments throughout the year in which it is payable as the fire authority may determine.

(4) Where a member of a brigade leaves the brigade or dies whilst serving in the brigade he or his personal representatives, as the case may be, shall be paid the whole of the compensatory grant due to the member during that year and, in addition, shall be paid a further compensatory grant equal to the amount by which the income tax in fact deducted between the beginning of the year and the date on which he leaves the brigade or dies, according to the tax tables prepared or prescribed by the Commissioners of Inland Revenue, from the member's emoluments in respect of his service in the brigade during that period is increased by virtue of the inclusion in such emoluments of a supplementary allowance or any compensatory grant mentioned in this paragraph paid or made to him.

(5) For the purposes of this paragraph—

(*a*) the expression 'year' means the year commencing on the sixth day of April and ending on the following fifth day of April,

(*b*) the expression 'supplementary allowance' means a supplementary allowance referred to in paragraph 2, or a rent allowance referred to in paragraph 1, of this Part of this Schedule, and

(*c*) where a member of a brigade has served more than once in the same brigade references in this paragraph to service in the brigade shall be construed as references to his service therein since his last appointment thereto." [1179]

5. After paragraph 3A of Part II of the Fourth Schedule to the said Regulations as amended by the Fire Services (Ranks and Conditions of Service) (No. 2) Regulations, 1948, there shall be inserted the following paragraph:—

"3B. Where a student attending at the central training institution or a student attending at, or an instructor appointed to, a local training centre is for the purpose of such attendance or appointment provided with sleeping accommodation, his meals and accommodation shall be provided without charge to him, and he shall not in that event be entitled to a lodging allowance under paragraph 3 of this Part of this Schedule." [1180]

6. After sub-paragraph (9) of paragraph 4 of Part II of the Fourth Schedule to the said Regulations there shall be added the following sub-paragraph:—

"(10) In relation to a student attending at the central training institution or a student attending at, or an instructor appointed to, a local training centre who for the purpose of such attendance or appointment is provided with sleeping accommodation, the central training institution or the local training centre, as the case may be, shall, for the purposes of this paragraph, be deemed to be his usual place of duty." [1181]

7. At the end of paragraph 5 of Part II of the Fourth Schedule to the said Regulations (which provides for grants in respect of certain expenses incurred by members of brigades in consequence of their transfer to a brigade from the National Fire Service) there shall be added the words "or in moving from one home to another in consequence of an order of the fire authority". [1182]

8.—(1) In sub-paragraph (1) of paragraph 9 of Part II of the Fourth Schedule to the said Regulations (which paragraph relates to payments to certain whole-time members of brigades who have undertaken certain obligations of retained part-time members in respect of periods when they would otherwise be off duty) for the words from "(*a*) annual 'retaining fees'" to the end of the sub-paragraph there shall be substituted the words "an annual 'retaining fee' in accordance with the provisions of sub-paragraph (2) of this paragraph and, subject to the provisions of sub-paragraph (3) of this paragraph, the remuneration described in paragraphs 3, 4 and 5 of the said Fifth Schedule to which he would be entitled if he were a retained member of the brigade".

(2) For sub-paragraphs (3), (4), (5) and (6) of the said paragraph 9 there shall be substituted the following sub-paragraph :—

"(3) In computing for the purposes of this paragraph any period of duty performed by a member of a brigade which is due to the obligations referred to in sub-paragraph (1) of this paragraph which he has undertaken, any period during which he would have been on duty if he had not undertaken the said obligations shall be ignored." [1183]

9. After paragraph 10 of Part II of the Fourth Schedule to the said Regulations there shall be inserted the following paragraph :—

"10A. A member of a brigade who undertakes the duties of mess manager or deputy mess manager may be paid an allowance approved by the Secretary of State." [1184]

10. For paragraph 1 of the Fifth Schedule to the said Regulations (which relates to the remuneration of retained members of brigades) there shall be substituted the following paragraph :—

"1. A retained member of a brigade shall, subject to the provisions of paragraph 2 of this Schedule, be paid an annual 'retaining fee'." [1185]

11. For paragraph 3 of the Fifth Schedule to the said Regulations (which relates to the "turn-out fee" paid to retained members of brigades) there shall be substituted the following paragraph :—

"3.—(1) If while a male retained member of a brigade is on duty whether in response to a call or otherwise an appliance leaves the station in consequence of a fire or other occurrence and the member is required either to attend the fire or other occurrence, to stand by at another station or to do telephone duties, he shall be entitled, in accordance with the succeeding provisions of this paragraph and the provisions of paragraph 5 of this Schedule, to the payments specified in those provisions.

(2) If the appliance leaves the station in consequence of a fire or to attend an occurrence necessitating immediate attention, he shall be entitled to a 'turn-out fee'.

(3) If the appliance leaves the station otherwise than in consequence of a fire and otherwise than to attend an occurrence necessitating immediate attention, he shall be entitled to the payments specified in sub-paragraph (5) of this paragraph.

(4) The 'turn-out fee' shall be that set opposite in the subjoined Table to the rank held by the retained member :—

TABLE

Station Officer or officer of higher rank	16s.
Sub-Officer	14s.
Leading Fireman	12s.
Fireman	10s.

(5) The payment referred to in sub-paragraph (3) of this paragraph shall, in respect of each hour during which the retained member continues to do the duties which under sub-paragraph (1) of this paragraph entitle him to the payment, be that set opposite in the subjoined Table to the rank he holds :—

TABLE

Station Officer or officer of higher rank	4s.
Sub-Officer	4s.
Leading Fireman	3s.
Fireman	3s.

(6) For the purposes of this paragraph the expression 'occurrence' includes an imaginary occurrence for the purposes of training and an occurrence shall be deemed to be one necessitating immediate attention if it is one to deal with which a call is sent out to retained members or would be so sent out if sufficient retained members were not already present." [1186]

12. In paragraph 5 of the Fifth Schedule to the said Regulations (which relates to payments to retained members of brigades who in certain circumstances have remained on duty for more than two hours) for the words from "(*a*) in the case of a male retained member" to the end of the said paragraph there shall be substituted the words "in the case of a male retained member the amount set opposite in the Table subjoined to sub-paragraph (5) of paragraph 3 of this Schedule to the rank he holds, and in the case of a female retained member 2s.". [1187]

13. In paragraph 6 of the Fifth Schedule to the said Regulations (which relates to the payment of retained members of brigades for certain work in connection with the functions of the fire authority) the words from "Any period of time exceeding fifteen minutes" to the end of the paragraph shall be omitted. [1188]

14. After paragraph 10 of the Fifth Schedule to the said Regulations there shall be inserted the following paragraph :—

"10A. A part-time member of a brigade who attends the central training institution as a student or a local training centre as a student or instructor shall, so far as is necessary for the purpose of such attendance, be provided with meals and accommodation without charge to him, and he shall not in that event be entitled to any payments under the preceding provisions of this Schedule." [1189]

15. At the end of paragraph 12 of the Fifth Schedule to the said Regulations there shall be added the following sub-paragraph :—

"(2) For the purposes of paragraphs 3 and 6 of this Schedule any period of time exceeding fifteen minutes over and above any continuous period of complete hours shall be reckoned as a complete hour, and for the purposes of paragraph 5 of this Schedule any period of time exceeding fifteen minutes over and above any continuous period of complete hours after the first two hours therein referred to shall be reckoned as a complete hour." [1190]

16. These Regulations may be cited as the Fire Services (Ranks and Conditions of Service) (No. 4) Regulations, 1948, and shall come into operation on the first day of August, 1948. [1191]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations make fresh provision in regard to the conditions of service of members of fire brigades as respects the following matters, that is to say, an incremental scale of pay for the ranks of divisional officer (Grades I, II and III), assistant divisional officer and station officer (Regulation 1), the pay of leading firemen who before promotion were entitled to long service increments (Regulation 2), supplementary allowances (Regulation 3), compensatory grants in respect of income tax on supplementary allowances (Regulation 4), the provision of accommodation and meals for students at the central training institution and for students and instructors at local training centres and the allowances to such persons (Regulations 5, 6 and 14), grants payable on moving home in consequence of an order of a fire authority (Regulation 7) and allowances to mess managers and deputy mess managers (Regulation 9). Regulations 8, 10 and 11 provide for a variation in certain cases in the " turn-out fee " payable to retained part-time members and to whole-time members who have undertaken certain obligations of retained members, and Regulations 12 and 13 are consequential.

FOOD AND DRUGS

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ORDERS, CIRCULARS AND MEMORANDA

PRESERVES ORDER, 1947 (AMENDMENT NO. 2) ORDER, 1947

S. R. & O., 1947, *No.* 2366

November 6, 1947

General note.—For later modification of the Preserves Order, 1947, see the Preserves Order, 1947 (Amendments Nos. 3 to 5) Orders, 1947 and 1948 (S. R. & O., 1947, No. 2842 and S.I. 1948 Nos. 1324 and 1640), *post.*

In exercise of the powers conferred upon him by Regulations 55 and 55AB of the Defence (General) Regulations, 1939, as having effect by virtue of the

Supplies and Services (Transitional Powers) Act, 1945 as extended by the Supplies and Services (Extended Purposes) Act, 1947, and of all other powers him enabling, the Minister of Food hereby makes the following Order :—

1. The Preserves Order, 1947, as amended, shall be further amended as follows :—

(*a*) by substituting for the definition of "Imported honey" in Article 1 thereof the following definition—

"Imported honey" means honey imported into the United Kingdom, other than honey produced by bees kept in Eire, and includes any blend of honey containing imported honey";

(*b*) by substituting for the words "All other jams" in item 6 of each of Sections A, B and C of Part I of the Third Schedule thereto (which prescribes the maximum prices of imported jam) the words "All other jams except guava jelly";

(*c*) by deleting the last four entries (which prescribe the maximum prices of home-produced honey) in Part I of the Fourth Schedule thereto; and

(*d*) by deleting paragraph 1 of Part II of the Fourth Schedule thereto. [1192]

2. This Order may be cited as the Preserves Order, 1947 (Amendment No. 2) Order, 1947; and shall come into force on the 9th day of November, 1947. [1193]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Order, but is intended to indicate its general purport.*)

This amending Order frees home-produced honey and imported guava jelly from price-control. It provides that any blend of honey containing imported honey shall be treated as imported honey.

PRESERVES ORDER, 1947 (AMENDMENT NO. 3) ORDER, 1947

S. R. & O., 1947, *No.* 2842

December 31, 1947

General note.—For later modifications of the Preserves Order, 1947, see the Preserves Order, 1947 (Amendments Nos. 4 and 5) Orders, 1948 (S.I. 1948 Nos. 1324 and 1640), *post.*

In exercise of the powers conferred upon him by Regulations 55 and 55AB of the Defence (General) Regulations, 1939, as having effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945, as extended by the Supplies and Services (Extended Purposes) Act, 1947, and of all other powers him enabling, the Minister of Food hereby makes the following Order :—

1. The Preserves Order, 1947, as amended, shall be further amended by substituting for Part I of the Second Schedule thereto the Schedule to this Order. [1194]

2. This Order may be cited as the Preserves Order, 1947 (Amendment No. 3) Order, 1947; and shall come into force on the 4th day of January, 1948. [1195]

General note.—For a new Part I of Sched. II to the Preserves Order, 1947, *supra*, substituted as from July 18, 1948, see the Preserves Order, 1947 (Amendment No. 5) Order, 1948 (S.I. 1948 No. 1640), *post.*

* * * * *

THE SCHEDULE

(To be substituted for Part I of the Second Schedule to the Preserves Order, 1947)*

PART I—MAXIMUM PRICES OF JAM MANUFACTURED IN THE UNITED KINGDOM

Group	Description of Jam	Maximum First-hand Price							Maximum Wholesale Price							Maximum Retail Price				
		Rate per dozen containers each containing—					Per cwt. net in 7-lb. returnable containers	Per cwt. net in 7-lb. cans	Rate per dozen containers each containing—					Per cwt. net in 7-lb. returnable containers	Per cwt. net in 7-lb. cans	Rate per container containing—				
		½ lb.	1 lb.	2 lb.	7 lb. (returnable containers)	7 lb. (cans)			½ lb.	1 lb.	2 lb.	7 lb. (returnable containers)	7 lb. (cans)			½ lb.	1 lb.	2 lb.	7 lb. (returnable containers)	7 lb. (cans)
		s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.
I	Strawberry	**8 6**	**15 9**	**30 4**	**98 0**	**102 6**	**130 8**	**136 8**	**8 10**	**16 8**	**32 3**	**104 9**	**109 2**	**139 7**	**145 7**	**– 10**	**1 7**	**3 1**	**10 1½**	**10 6**
II	Apricot	7 4	13 8	26 4	84 0	88 6	112 0	118 0	7 11	14 9	28 6	91 7	96 1	122 1	128 1	– 9	1 5	2 9	8 11	9 3½
III	Blackcurrant jelly	7 0	13 9	25 0	79 4	83 10	105 9	111 9	7 8	14 3	27 6	88 1	92 7	117 5	123 5	– 9	1 4½	2 8	8 8	9 0½
IV	Apricot and pineapple Strawberry and gooseberry	6 11	12 10	24 8	78 2	82 8	104 3	110 3	7 5	13 10	26 8	85 2	89 8	113 7	119 7	– 8½	1 4	2 7	8 4½	8 9
V	Apricot and peach Raspberry	6 10	12 7	24 2	76 5	80 11	101 11	107 11	7 5	13 9	26 6	84 7	89 1	112 9	118 9	– 8½	1 4	2 7	8 4	8 8½
VI	Blackcurrant Peach and pineapple Pineapple Raspberry and loganberry	6 9	12 6	24 0	75 10	80 4	101 1	107 1	7 4	13 8	26 4	84 0	88 6	112 0	118 0	– 8½	1 4	2 7	8 4	8 8½
VII	Raspberry and gooseberry Raspberry and redcurrant	6 7	12 2	23 4	73 6	78 0	98 0	104 0	7 2	13 4	25 7	81 5	85 11	108 7	114 7	– 8	1 3½	2 6	8 1	8 5½
VIII	Special standard *marmalade* other than grapefruit marmalade	**6 4**	**11 9**	**22 6**	**70 7**	**75 1**	**94 1**	**100 1**	**6 11**	**12 9**	**24 6**	**77 7**	**82 1**	**103 5**	**109 5**	**– 8**	**1 3**	**2 5**	**7 9½**	**8 2**
IX	Gooseberry Peach with citrus fruit	6 4	11 8	22 4	70 0	74 6	93 4	99 4	6 10	12 7	24 1	76 2	80 8	101 7	107 7	– 7½	1 2½	2 4	7 6	7 10½
X	Peach	6 4	11 7	22 2	69 5	73 11	92 7	98 7	6 9	12 6	23 11	75 7	80 1	100 8	106 8	– 7½	1 2⅝	2 4	7 6	7 10⅝
XI	Marmalade	**6 0**	**11 0**	**21 0**	**65 4**	**69 10**	**87 1**	**93 1**	**6 6**	**12 0**	**23 0**	**72 4**	**76 10**	**96 5**	**102 5**	**– 7½**	**1 2**	**2 3**	**7 2½**	**7 7**
XII	Any jam other than those specified in this Part of this Schedule or in the First Schedule	5 10	10 8	20 4	63 0	67 6	84 0	90 0	6 3	11 7	22 2	69 5	73 11	92 7	98 7	– 7	1 1½	2 2	6 11	7 3½
XIII	Special standard grapefruit marmalade	—	—	19 0	—	—	—	—	—	—	20 5	—	—	—	—	—	—	2 0	—	—

1. Loose Jam. The retail prices specified above shall not apply to the sale by retail of loose jam. The maximum price for such jam shall be—
   (*a*) when sold in quantities of 8 ounces or less, a price at the rate of one penny per ounce; and
   (*b*) when sold in quantities of over 8 ounces, a price at a rate per lb. calculated by reference to the retail price specified above for jam in a returnable container containing 7 lb.

2. Jam Packed in Multiples of 7 lb. The maximum price, on the sale of jam in a container containing any multiple of 7 lb., shall be a price at a rate per pound calculated by reference to the price applicable on such sale to jam in a container containing 7 lb.

* NOTE: Heavy type indicates changes effected by this Order.

General note.—As to the later substitution of a new Part I, *supra*, see the note to the present order, p. 430, *ante*. [1196]

EXPLANATORY NOTE

(*This Note is not part of the Order, but is intended to indicate its general purport.*)

This amending Order raises the maximum prices of home-produced strawberry jam and home-produced marmalade (other than "special standard" grapefruit marmalade) by the approximate equivalent of a halfpenny a pound.

TRANSFER OF FUNCTIONS (FOOD AND DRUGS) ORDER, 1948

S.I. 1948 *No.* 107

January 26, 1948

His Majesty, in pursuance of subsection (1) of section one of the Ministers of the Crown (Transfer of Functions) Act, 1946, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :

1. Short title, interpretation, commencement and extent.—(1) This Order may be cited as the Transfer of Functions (Food and Drugs) Order, 1948.

(2) In this Order the following expressions have the meanings hereby assigned to them respectively, that is to say—

"the Act of 1936" means the Public Health Act, 1936, as incorporated in the Food and Drugs Act, 1938, by section ninety-six of the last-mentioned Act,

"the Act of 1938" means the Food and Drugs Act, 1938, and

"the Act of 1944" means the Food and Drugs (Milk and Dairies) Act, 1944 ;

and the Interpretation Act, 1889, applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(3) This Order shall come into operation on the first day of March, nineteen hundred and forty-eight.

(4) This Order shall not extend to Scotland. [1197]

2. Regulations as to importation, storage, preparation and sale of food, Bread and Flour Regulations, and regulations as to analysis.—There are hereby transferred to the Minister of Health and the Minister of Food, acting jointly,—

(*a*) the power of the Minister of Health to make regulations under section eight of the Act of 1938 (which provides for regulating the importation, storage, preparation and sale of food) and under section thirty of that Act (which provides for the making of Bread and Flour Regulations) ;

(*b*) the functions of the Minister of Health under subsection (2) of section sixty-six of that Act (which provides that a person shall not be appointed a public analyst unless he possesses either qualifications prescribed by that Minister or such other qualifications as that Minister may approve) ;

(*c*) the functions of the Minister of Health under subsection (3) of section sixty-nine of that Act (which provides for the giving of certificates of analysis in a form prescribed by that Minister) ; and

(*d*) the functions of the Minister of Health under subsection (1) of section eighty-one of that Act (which provides that in any proceedings under that Act the production of a certificate of a public analyst in the form prescribed by that Minister shall be sufficient evidence of the facts stated therein). [1198]

3. Milk and Dairies Regulations.—(1) The power of the Minister of Health to make regulations under section twenty of the Act of 1938 (which provides for regulating the production, distribution and sale of milk) is hereby transferred to that Minister, the Minister of Food and the Minister of Agriculture and Fisheries acting jointly.

(2) In relation to the period before the coming into operation of the Act of 1944, the foregoing paragraph shall have effect with the omission of the reference to the Minister of Agriculture and Fisheries.

(3) Subsection (1) of section one of the Act of 1944 (which from the coming into operation of that Act provides for the making of regulations under section twenty of the Act of 1938 by the Minister of Health and the Minister of Agriculture and Fisheries acting jointly), and in paragraph (*a*) of subsection (2) of section four of the Act of 1944 the words " and in relation to any Milk and Dairies Regulations ", are hereby repealed. [1199]

4. Regulations as to special designations of milk.—Subject to the provisions of subsection (2) of section two of the Act of 1944 (which provides, in relation to raw milk, for the association of the Minister of Agriculture and Fisheries in the exercise of the power of making regulations under section twenty-one of the Act of 1938 as to special designations for milk) the power of the Minister of Health to make regulations under the said section twenty-one is hereby transferred to that Minister and the Minister of Food, acting jointly; and references to the Minister of Health in paragraph (*a*) of subsection (1) of the said section twenty-one and in subsection (2) of section two and paragraph (*a*) of subsection (2) of section four of the Act of 1944 shall be construed accordingly. [1200]

5. Regulations as to adulteration of milk.—The power of the Minister of Agriculture and Fisheries under section twenty-three of the Act of 1938 to make regulations as to presumptive evidence of adulteration of milk is hereby transferred to that Minister, the Minister of Health and the Minister of Food, acting jointly. [1201]

6. Administrative functions.—(1) There are hereby transferred to the Minister of Food the functions of the Minister of Health—

(*a*) under subsection (3) of section sixteen of the Act of 1938 (which section relates to notices to be displayed by persons selling ice cream from stalls, etc.), in relation to the passing and revocation of resolutions applying the section to foods other than ice cream;

(*b*) under subsection (3) of section sixty-six of that Act as to the appointment, terms of appointment and removal of public analysts;

(*c*) under subsection (4) of section sixty-eight of that Act and under section seventy-two thereof (which relate to the sampling of milk and the analysis and examination of food);

(*d*) under subsection (2) of section seventy-four of that Act (which provides for the sending to the Minister of Health of quarterly reports of public analysts);

(*e*) under subsection (1) of section ninety-one of that Act (which relates to the confirmation of bye-laws), in so far as the subsection relates to bye-laws made under section fifteen of that Act;

(*f*) under section ninety-three of that Act (which confers on the Minister of Health certain default powers);

(*g*) under section three hundred and three of the Act of 1936, in so far as it relates to arbitrations as to compensation payable under subsection (4) of section ten of the Act of 1938.

(2) Except as respect producers of raw milk, the functions of the Minister of Health under paragraphs (*b*) and (*e*) of subsection (1) of section twenty-one

of the Act of 1938 relating to the granting of licences authorising the use of special designations for milk, and to appeals from the refusal, suspension or revocation of such licences, are hereby transferred to the Minister of Food.

In this paragraph the expression " raw milk " means milk which has not been treated by heat.

(3) There are hereby transferred to the Minister of Food the functions of the Minister of Agriculture and Fisheries under—

(*a*) sections thirty-three to thirty-five and seventy-three of the Act of 1938 (which relate to margarine, margarine-cheese and milk-blended butter); and

(*b*) sections forty and forty-two of that Act (which make provision for controlling the importation of certain foods). [1202]

7. Inquiries.—In so far as they relate to functions transferred to a Minister or Ministers by this Order, the functions of the Minister of Health under section three hundred and eighteen of the Act of 1936 (which provides for the holding of inquiries) are hereby transferred to the said Minister or Ministers. [1203]

8. General default powers.—The functions of the Minister of Health under sections three hundred and twenty-one to three hundred and twenty-five of the Act of 1936 (which provide for the exercise by that Minister of certain powers where a local authority defaults in the exercise of its functions under the Act of 1938) are hereby transferred to the Minister of Food except in relation to the functions of local authorities under the following provisions of the Act of 1938, that is to say,—

(*a*) sections seventeen and eighteen (which relate to food poisoning);

(*b*) section thirty-seven (which makes provision for preventing the spreading of milk-borne disease by ice-cream);

(*c*) section thirty-nine (which relates to the cleansing of shell-fish); and

(*d*) Part V (which relates to markets, slaughter-houses and cold-air stores). [1204]

9. Supplementary provisions.—(1) In the construction and for the purposes of any enactment (other than an enactment contained in the Ministers of the Crown Act, 1937), regulation, bye-law, or other document passed or made before the date of the coming into operation of this Order any reference to, or which is to be construed as a reference to, a Minister from whom functions are transferred by this Order (hereinafter referred to as " a transferor ") shall, so far only as may be necessary for the purpose or in consequence of the transfer, be construed as a reference to the Minister or Ministers to whom the functions are transferred (hereinafter called " the transferee ").

Nothing in the foregoing provisions of this Order shall be construed as limiting the generality of this paragraph.

(2) The coming into operation of any provision of this Order shall not prejudice the operation of any regulations, order, confirmation, approval or direction made or given or other thing done by a transferor before the coming into operation of that provision, but any such matter shall, if then in force, continue in force to the like extent and subject to the like provisions as if it had been duly made, given or done by the transferee. [1205]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order transfers to the Minister of Health acting jointly with the Minister of Food the powers of the Minister of Health under the Food and Drugs Act,

1938, to make regulations relating to the importation, storage, preparation, and sale of food, the composition of bread and flour, the production, distribution and sale of milk, the use of special designations for milk, and prescribing the qualifications of a public analyst. The Order provides that the Minister of Agriculture and Fisheries be joined in the powers of making regulations relating to milk and dairies and to the use of special designations for raw milk when the Food and Drugs (Milk and Dairies) Act, 1944, comes into operation. The Order also transfers to the Minister of Agriculture and Fisheries, the Minister of Health and the Minister of Food acting jointly, the powers of the Minister of Agriculture and Fisheries under the Food and Drugs Act, 1938, to make regulations as to presumptive evidence of adulteration of milk. Certain other administrative functions at present exercisable under the Food and Drugs Act, 1938, by the Minister of Health or, in some cases, by the Minister of Agriculture and Fisheries are also transferred to the Minister of Food by the Order. The duties of enforcement and execution placed by the Act upon local authorities are not affected by the Order.

KITCHEN WASTE (LICENSING OF PRIVATE COLLECTORS) (EXTENSION) ORDER, 1948

S.I. 1948 *No.* 140

January 27, 1948

In exercise of the powers conferred upon him by Regulation 55 of the Defence (General) Regulations, 1939, as having effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945, as extended by the Supplies and Services (Extended Purposes) Act, 1947, and of all other powers him enabling, the Minister of Agriculture and Fisheries hereby makes the following Order :—

1. The Kitchen Waste (Licensing of Private Collectors) (Consolidation and Extension) Order, 1944, hereinafter referred to as " the Principal Order ", shall be amended by the addition at the end of the Second Schedule to that Order of Part J as follows :—

PART J

The area comprising the Borough of Hereford. [1206]

2. This Order shall come into operation on the first day of April, 1948, from which date the Principal Order shall apply to the area set out in the said Part J. [1207]

3. This Order may be cited as the Kitchen Waste (Licensing of Private Collectors) (Extension) Order, 1948. [1208]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

The Principal Order applies in certain areas where directions have been given to local authorities under Regulation 54B *of the Defence (General) Regulations,* 1939, *to collect kitchen waste. It prohibits private collection in such areas except under licence, with certain exemptions. The present Order extends the operation of the Principal Order to an additional district.*

The last Extension Order added Part H to the Second Schedule to the Principal Order. To avoid confusion the Part added by the present Order has been lettered J and not I.

ICE CREAM (HEAT TREATMENT, ETC.) AMENDMENT REGULATIONS, 1948

S.I. 1948 *No.* 819

April 20, 1948

In exercise of the powers conferred upon them by section 8 of the Food and Drugs Act, 1938, and by the Transfer of Functions (Food and Drugs) Order, 1948, the Minister of Health and the Minister of Food hereby jointly make the following regulations :—

1. These regulations may be cited as the Ice Cream (Heat Treatment, etc.) Amendment Regulations, 1948, and these regulations and the Ice Cream (Heat Treatment, etc.) Regulations, 1947 (in these regulations called " the Regulations of 1947 ") may be cited together as the Ice Cream (Heat Treatment, etc.) Regulations 1947 and 1948. [1209]

2. The regulations of 1947 shall be amended—

(*a*) by the substitution of the figures " 1949 " for the figures " 1948 " in the proviso to regulation 6 thereof, and

(*b*) by the substitution of the word " mixture " for the words " ice cream " in sub-paragraphs (iv) and (v) of regulation 3 (*b*) thereof. [1210]

3. These regulations shall come into operation on the thirtieth day of April, 1948. [1211]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Regulations, but is intended to indicate their general purport.*)

The Regulations extend the special defence of inability to obtain the necessary apparatus to contraventions of the Ice Cream (Heat Treatment, etc.) Regulations, 1947 (*S. R. & O.*, 1947, *No.* 612), *with respect to the cooling process in the preparation of ice cream, committed between the* 1*st May,* 1948 *and the* 1*st May,* 1949. *A drafting amendment of the* 1947 *Regulations is also included.*

PUBLIC HEALTH (IMPORTED FOOD) AMENDMENT REGULATIONS, 1948

S.I. 1948 *No.* 886

April 27, 1948

In exercise of the powers conferred upon them by section 8 of the Food and Drugs Act, 1938, and by the Transfer of Functions (Food and Drugs) Order, 1948, and of all other powers them enabling, the Minister of Health and the Minister of Food hereby jointly make the following Regulations :—

1. The Public Health (Imported Food) Regulations, 1937, shall be amended by inserting in paragraph (*c*) of the First Schedule thereto (which Schedule specifies the kinds of oversea meat which may not be imported into England or Wales for sale for human consumption) after the word " meat " where it first appears the words " other than mutton and lamb ". [1212]

2.—(1) These Regulations may be cited as the Public Health (Imported Food) Amendment Regulations, 1948, and these Regulations and the Public Health (Imported Food) Regulations, 1937, shall be construed together and may be cited together as the Public Health (Imported Food) Regulations, 1937 and 1948.

(2) These Regulations shall come into operation on the 1st day of May, 1948. [1213]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These amending Regulations remove the prohibition of the import into England and Wales of any mutton or lamb from which a lymphatic gland has been taken out.

PUBLIC HEALTH (PRESERVATIVES, ETC. IN FOOD) (AMENDMENT) REGULATIONS, 1948

S.I. 1948 *No.* 1118

May 25, 1948

In exercise of the powers conferred upon them by sections 8, 20, 30 and 92 of the Food and Drugs Act, 1938, and by the Transfer of Functions (Food and Drugs) Order, 1948, and of all other powers them enabling, the Minister of Health and the Minister of Food hereby jointly make the following Regulations :—

1. The Public Health (Preservatives etc. in Food) Regulations, 1925 as amended, shall be further amended by substituting in paragraph (1) of Article 2 thereof for the definition of "The Minister" the following definition :—

" 'The Minister' means the Minister of Food; ". [1214]

2.—(1) These Regulations may be cited as the Public Health (Preservatives etc. in Food) (Amendment) Regulations, 1948, and these Regulations and the Public Health (Preservatives etc. in Food) Regulations, 1925 to 1940, shall be construed together and may be cited together as the Public Health (Preservatives etc. in Food) Regulations, 1925 to 1948.

(2) These Regulations shall come into operation on the 1st day of June, 1948. [1215]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations transfer from the Minister of Health to the Minister of Food certain administrative functions under the Public Health (Preservatives etc. in Food) Regulations. This transfer is supplementary to the transfer from the Minister of Health to the Minister of Food of certain functions under the Food and Drugs Act, 1938, which has been made by the Transfer of Functions (Food and Drugs) Order, 1948.

PUBLIC HEALTH (MEAT) (AMENDMENT) REGULATIONS, 1948

S.I. 1948 *No.* 1119

May 25, 1948

In exercise of the powers conferred upon them by sections 8 and 92 of the Food and Drugs Act, 1938, and by the Transfer of Functions (Food and Drugs) Order, 1948, and of all other powers them enabling, the Minister of Health and the Minister of Food hereby jointly make the following Regulations :—

1. The Public Health (Meat) Regulations, 1924, as amended, shall be further amended by substituting in paragraph (1) of Article 2 thereof for the definition of " The Minister " the following definition :—

" ' The Minister ' means the Minister of Food; ". [1216]

2.—(1) These Regulations may be cited as the Public Health (Meat) (Amendment) Regulations, 1948, and these Regulations and the Public Health (Meat) Regulations, 1924 and 1935, shall be construed together and may be cited together as the Public Health (Meat) Regulations, 1924 to 1948.

(2) These Regulations shall come into operation on the 1st day of June, 1948. [1217]

* * * * *

EXPLANATORY NOTE

(*This Notice is not part of the Regulations, but is intended to indicate their general purport.*)

These Regulations transfer from the Minister of Health to the Minister of Food certain administrative functions under the Public Health (Meat) Regulations. This transfer is supplementary to the transfer from the Minister of Health to the Minister of Food of certain functions under the Food and Drugs Act, 1938, *which has been made by the Transfer of Functions (Food and Drugs) Order,* 1948.

PUBLIC HEALTH (SHELL-FISH) (AMENDMENT) REGULATIONS, 1948

S.I. 1948 *No.* 1120

May 25, 1948

In exercise of the powers conferred upon them by sections 8 and 92 of the Food and Drugs Act, 1938, and by the Transfer of Functions (Food and Drugs) Order, 1948, and of all other powers them enabling, the Minister of Health and the Minister of Food hereby jointly make the following Regulations :—

1. The Public Health (Shell-Fish) Regulations, 1934, shall be amended as to the parts thereof referred to in Column 1 of the Schedule to these Regulations in the manner specified in relation thereto in Column 2 of the said Schedule. [1218]

2.—(1) These Regulations may be cited as the Public Health (Shell-Fish) (Amendment) Regulations, 1948, and these Regulations and the Public Health

(Shell-fish) Regulations, 1934, shall be construed together and may be cited together as the Public Health (Shell-Fish) Regulations, 1934 and 1948.

(2) These Regulations shall come into operation on the 1st day of June, 1948. [1219]

* * * * *

SCHEDULE

Column 1	Column 2
Part of the Regulations to be amended	Amendment
1. Article 7	Insert after the word "Minister" where it first appears the words ", the Minister of Food".
2. Paragraph (1) of Article 10	Insert after the word "Minister" where it first appears the words ", to the Minister of Food". [1220]

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

By these Regulations local authorities are required to inform the Minister of Food, in addition to, as hitherto, the Minister of Health and the Minister of Agriculture and Fisheries, of any action taken by them under the Public Health (Shell-Fish) Regulations, and of the reasons for their variation or revocation of their original orders prohibiting the distribution for sale for human consumption of shell-fish taken from a laying.

PUBLIC HEALTH (IMPORTED FOOD) (AMENDMENT NO. 2) REGULATIONS, 1948

S.I. 1948 *No.* 1121

May 25, 1948

In exercise of the powers conferred upon them by sections 8, 20, 30 and 92 of the Food and Drugs Act, 1938, and by the Transfer of Functions (Food and Drugs) Order, 1948, and of all other powers them enabling, the Minister of Health and the Minister of Food hereby jointly make the following Regulations :—

1. The Public Health (Imported Food) Regulations, 1937, as amended, shall be further amended as to the parts thereof referred to in Column 1 of the Schedule to these Regulations in the manner specified in relation thereto in Column 2 of the said Schedule. [1221]

2.—(1) These Regulations may be cited as the Public Health (Imported Food) (Amendment No. 2) Regulations, 1948, and these Regulations and the Public Health (Imported Food) Regulations, 1937, as amended, shall be construed together and may be cited together as the Public Health (Imported Food) Regulations, 1937 and 1948.

(2) These Regulations shall come into operation on the 1st day of June, 1948. [1222]

* * * * *

SCHEDULE

Column 1	Column 2
Part of the Regulation to be amended	Amendment
1. Paragraph (1) of Article 2	Substitute for the definition of "the Minister" the following definition :— "'the Minister' means the Minister of Food;"
2. Article 20	Substitute for the word "Minister" wherever it appears the words "Minister of Health". [1223]

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations transfer from the Minister of Health to the Minister of Food certain administrative functions under the Public Health (Imported Food) Regulations. This transfer is supplementary to the transfer from the Minister of Health to the Minister of Food of certain functions under the Food and Drugs Act, 1938, which has been made by the Transfer of Functions (Food and Drugs) Order, 1948.

PUBLIC HEALTH (CONDENSED MILK) (AMENDMENT) REGULATIONS, 1948

S.I. 1948 No. 1122

May 25, 1948

In exercise of the powers conferred upon them by sections 8 and 92 of the Food and Drugs Act, 1938, and by the Transfer of Functions (Food and Drugs) Order, 1948, and of all other powers them enabling, the Minister of Health and the Minister of Food hereby jointly make the following Regulations :—

1. The Public Health (Condensed Milk) Regulations, 1923, as amended, shall be further amended by substituting in paragraph (1) of Article 2 thereof for the definition of "The Minister" the following definition :—

"'The Minister' means the Minister of Food;". [1224]

2.—(1) These Regulations may be cited as the Public Health (Condensed Milk) (Amendment) Regulations, 1948, and these Regulations and the Public Health (Condensed Milk) Regulations, 1923 and 1927, and, so far as they relate to condensed milk, the Public Health (Dried and Condensed Milk) Regulations, 1943, shall be construed together and may be cited together as the Public Health (Condensed Milk) Regulations, 1923 to 1948.

(2) These Regulations shall come into operation on the 1st day of June, 1948. [1225]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations transfer from the Minister of Health to the Minister of Food certain administrative functions under the Public Health (Condensed Milk) Regulations. This transfer is supplementary to the transfer from the Minister of Health to the Minister of Food of certain functions under the Food and Drugs Act, 1938, which has been made by the Transfer of Functions (Food and Drugs) Order, 1948.

PUBLIC HEALTH (DRIED MILK) (AMENDMENT) REGULATIONS, 1948

S.I. 1948 *No.* 1123

May 25, 1948

In exercise of the powers conferred upon them by sections 8 and 92 of the Food and Drugs Act, 1938, and by the Transfer of Functions (Food and Drugs) Order, 1948, and of all other powers them enabling, the Minister of Health and the Minister of Food hereby jointly make the following Regulations :—

1. The Public Health (Dried Milk) Regulations, 1923, as amended, shall be further amended by substituting in paragraph (1) of Article 2 thereof for the definition of " The Minister " the following definition :—

" ' The Minister ' means the Minister of Food ; ". [1226]

2.—(1) These Regulations may be cited as the Public Health (Dried Milk) (Amendment) Regulations, 1948, and these Regulations and the Public Health (Dried Milk) Regulations, 1923 and 1927, and, so far as they relate to dried milk, the Public Health (Dried and Condensed Milk) Regulations, 1943, shall be construed together and may be cited together as the Public Health (Dried Milk) Regulations, 1923 to 1948.

(2) These Regulations shall come into operation on the 1st day of June, 1948. [1227]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Regulations, but is intended to indicate their general purport.*)

These Regulations transfer from the Minister of Health to the Minister of Food certain administrative functions under the Public Health (Dried Milk) Regulations. This transfer is supplementary to the transfer from the Minister of Health to the Minister of Food of certain functions under the Food and Drugs Act, 1938, *which has been made by the Transfer of Functions (Food and Drugs) Order,* 1948.

PRESERVES ORDER, 1947 (AMENDMENT NO. 4) ORDER, 1948

S.I. 1948 *No.* 1324

June 21, 1948

General note.—For a later modification of the Preserves Order, 1947, see the Preserves Order, 1947 (Amendment No. 5) Order, 1948 (S.I. 1948 No. 1640), *post.*

In exercise of the powers conferred upon him by Regulations 55 and 55AB of the Defence (General) Regulations, 1939, as having effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945, as extended by the Supplies and Services (Extended Purposes) Act, 1947, and of all other powers him enabling, the Minister of Food hereby makes the following Order :—

1. The Preserves Order, 1947 as amended, shall be further amended by substituting for Part I of the Third Schedule thereto the Schedule to this Order. [1228]

2. This Order may be cited as the Preserves Order, 1947 (Amendment No. 4) Order, 1948, and shall come into operation on the 23rd day of June, 1948. [1229]

* * * * *

THE SCHEDULE

(To be substituted for Part I of the Third Schedule to the Preserves Order, 1947)*

PART I—MAXIMUM PRICES OF IMPORTED JAM

Description of Jam	On a First-hand Sale. Rate per dozen containers each containing—				On a Sale by Wholesale. Rate per dozen containers each containing—				On a Sale by Retail Rate per container containing—			
	12 oz.	1 lb.	1½ lb.	2 lb.	12 oz.	1 lb.	1½ lb.	2 lb.	12 oz.	1 lb.	1½ lb.	2 lb.
	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.
1. Cape gooseberry ..	9 8½	11 1	17 0	21 6½	10 2½	11 10	17 10½	22 11½	1 0	1 2	1 9	2 3
2. Apricot	9 8½	11 1	16 0	21 6½	10 2½	11 10	16 10½	22 11½	1 0	1 2	1 8	2 3
3. Green fig	8 10½	10 3½	15 3½	19 10	9 4½	11 0½	16 2	21 3	11	1 1	1 7	2 1
4. Strawberry	10 6½	12 0	17 10½	22 4½	11 0½	12 9	18 9	23 9½	1 1	1 3	1 10	2 4
5. Raspberry Loganberry .. Peach and pineapple	8 10½	10 3	14 5	19 0	9 4½	11 0	15 3½	20 5	11	1 1	1 6	2 0
6. Pineapple .. Peach	8 10½	10 3	15 5	19 0	9 4½	11 0	16 3½	20 5	11	1 1	1 7	2 0
7. Blackcurrant	8 10	11 2	18 1½	20 8½	9 4	11 11	19 0	22 1½	11	1 2	1 10	2 2
8. Plum	8 0	9 5½	15 1	17 3½	8 6	10 2½	15 11½	18 8½	10	1 0	1 6½	1 10
9. Quince	8 0	9 5½	15 7	17 3½	8 6	10 2½	16 5½	18 8½	10	1 0	1 7	1 10
10. Apple	8 0	9 5½	14 7	17 3½	8 6	10 2½	15 5½	18 8½	10	1 0	1 6	1 10
11. Melon (with or without any other fruit)	8 0	10 5	14 7	18 6	8 6	11 2	15 5½	19 11	10	1 1	1 6	1 11
12. Marmalade	8 0	9 5½	15 1	18 6	8 6	10 2½	15 11½	19 11	10	1 0	1 6½	1 11
13. All other jams except guava jelly ..	8 0	9 5½	13 7	17 3½	8 6	10 2½	14 5½	18 8½	10	1 0	1 5	1 10

Loose Jam. The retail prices specified above shall not apply to the sale by retail of loose jam. The maximum price for loose jam shall be—

(*a*) when sold in quantities of 8 ounces or less, a price at the rate of one penny per ounce; and

(*b*) when sold in quantities of over 8 ounces, a price at the rate per lb. calculated by reference to the retail price specified above for jam in a container containing 2 lb.

* NOTE—Heavy type indicates changes effected by this Order.

EXPLANATORY NOTE

(*This Note is not part of the Order, but is intended to indicate its general purport.*)

This Order makes the following changes in the maximum prices of imported jam (including marmalade) at all stages of sale :—

(1) *The maximum price of apricot jam in* 1½*-lb. containers is lowered.*

(2) *The maximum price of apple jam, blackcurrant jam, peach jam, pine-apple jam, plum jam, and quince jam, in* 1½*-lb. containers is raised.*

(3) *The maximum price of marmalade in* 1½*-lb. and* 2*-lb. containers is raised.*

(4) *The maximum price of jam made of melon, with or without the addition of other fruit, in* 1*-lb.,* 1½*-lb. and* 2*-lb. containers is raised.*

The maximum prices now apply to jam in any sort of container instead of only to jam in cans.

PRESERVES ORDER, 1947 (AMENDMENT NO. 5) ORDER, 1948

S.I. 1948 *No.* 1640

July 14, 1948

In exercise of the powers conferred upon him by Regulations 55 and 55AB of the Defence (General) Regulations, 1939, as having effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945 as extended by the Supplies and Services (Extended Purposes) Act, 1947, and of all other powers him enabling, the Minister of Food hereby makes the following Order :—

1. The Preserves Order, 1947, as amended shall be further amended as follows :—

(*a*) by deleting Article 14 thereof; and

(*b*) by substituting for Part I of the Second Schedule thereto the Schedule to this Order. [1231]

General note.—The substitution effected by Art. 1(*b*), *supra*, takes effect as from July 18, 1948, in place of the substitution effected by Art. 1 of the Preserves Order, 1947 (Amendment No. 3) Order, 1947 (S. R. & O., 1947, No. 2842), *ante*.

2. The Preserves Order, 1947 (Amendment No. 3) Order, 1947 is hereby revoked, but without prejudice to any proceedings in respect of any contravention thereof. [1232]

3. This Order may be cited as the Preserves Order, 1947 (Amendment No. 5) Order, 1948; and shall come into operation on the 18th day of July, 1948. [1233]

* * * * *

THE SCHEDULE

(To be substituted for Part I of the Second Schedule to the Preserves Order, 1947*)

PART I.—MAXIMUM PRICES OF JAM MANUFACTURED IN THE UNITED KINGDOM

Group	Description of Jam	Maximum First-hand Price							Maximum Wholesale Price							Maximum Retail Price				
		Rate per dozen containers each containing—					Per cwt. net in 7-lb. returnable containers	Per cwt. net in 7-lb. cans	Rate per dozen containers each containing—					Per cwt. net in 7-lb. returnable containers	Per cwt. net in 7 lb. cans	Rate per container containing—				
		½ lb.	1 lb.	2 lb.	7 lb. (returnable containers)	7 lb. (cans)			½ lb.	1 lb.	2 lb.	7 lb. (returnable containers)	7 lb. (cans)			½ lb.	1 lb.	2 lb.	7 lb. (returnable containers)	7 lb. (cans)
		s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.
I	Strawberry	8 6	15 9	30 4	98 0	102 6	130 8	136 8	8 10	16 8	32 3	104 9	109 2	139 7	145 7	10	1 7	3 1	10 1½	10 6
II	Apricot	7 4	13 5	26 4	84 0	88 6	112 0	118	7 11	14 9	28 6	91 7	96 1	122 1	128 1	9	1 5	2 9	8 11	9 3½
III	Blackcurrant jelly	**7 3**	**13 6**	**26 0**	**82 10**	**87 4**	**110 5**	**116 5**	**7 11**	**14 9**	**28 6**	**91 7**	**96 1**	**122 1**	**128 1**	**9**	**1 5**	**2 9**	**8 11**	**9 3½**
IV	Raspberry	**7 1**	**13 1**	**25 2**	**79 11**	**84 5**	**106 7**	**112 7**	**7 8**	**14 3**	**27 6**	**88 1**	**92 7**	**117 5**	**123 5**	**9**	**1 4½**	**2 8**	**8 7½**	**9 0**
V	Blackcurrant	**7 0**	**13 0**	**25 0**	**79 4**	**83 10**	**105 9**	**111 9**	**7 7**	**14 2**	**27 4**	**87 6**	**92 0**	**116 8**	**122 8**	**9**	**1 4½**	**2 8**	**8 7**	**8 11½**
VI	Apricot and pineapple Strawberry and gooseberry	6 11	12 10	24 8	78 2	82 8	104 3	110 3	7 5	13 10	26 8	85 2	89 8	113 7	119 7	8½	1 4	2 7	8 4½	8 9
VII	Raspberry and gooseberry Raspberry and redcurrant	**6 10**	**12 8**	**24 4**	**77 0**	**81 6**	**102 8**	**108 8**	**7 5**	**13 10**	**26 7**	**84 11**	**89 5**	**113 3**	**119 3**	**8**	**1 4**	**2 7**	**8 4½**	**8 9**
VIII	Apricot and peach	6 10	12 7	24 2	76 5	80 11	101 11	107 11	7 5	13 9	26 6	84 7	89 1	112 9	118 9	8½	1 4	2 7	8 4	8 8½
IX	Peach and pineapple Pineapple Raspberry and loganberry	6 9	12 6	24 0	75 10	80 4	101 1	107 1	7 4	13 8	26 4	84 0	88 6	112 0	118 0	8½	1 4	2 7	8 4	8 8½
X	Gooseberry	**6 7**	**12 2**	**23 5**	**73 9**	**78 3**	**98 4**	**104 4**	**7 1**	**13 1**	**25 2**	**79 11**	**84 5**	**106 7**	**112 7**	**8**	**1 3**	**2 5**	**7 9½**	**8 2**
XI	Special standard marmalade other than grapefruit marmalade	6 4	11 9	22 6	70 7	75 1	94 1	100 1	6 11	12 9	24 6	77 7	82 1	103 5	109 5	8	1 3	2 5	7 9½	8 2
XII	Peach with citrus fruit	6 4	11 8	22 4	70 0	74 6	93 4	99 4	6 10	12 7	24 1	76 2	80 8	101 7	107 7	7½	1 2½	2 4	7 6	7 10½
XIII	Peach	6 4	11 7	22 2	69 5	73 11	92 7	98 7	6 9	12 6	23 11	75 7	80 1	100 8	106 8	7½	1 2½	2 4	7 6	7 10½
XIV	Marmalade	6 0	11 0	21 0	65 4	69 10	87 1	93 1	6 6	12 0	23 0	72 4	76 10	96 5	102 5	7½	1 2	2 3	7 2½	7 7
XV	Any jam other than those specified in this part of this Schedule or in the First Schedule	5 10	10 8	20 4	63 0	67 6	84 0	90 0	6 3	11 7	22 2	69 5	73 11	92 7	98 7	7	1 1½	2 2	6 11	7 3½
XVI	Special standard grapefruit marmalade	—	—	19 0	—	—	—	—	—	—	29 5	—	—	—	—	—	—	2 0	—	—

1. Loose Jam. The retail prices specified above shall not apply to the sale by retail of loose jam. The maximum price for such jam shall be—
   (*a*) when sold in quantities of 8 ounces or less, a price at the rate of one penny per ounce; and
   (*b*) when sold in quantities of over 8 ounces, a price at a rate per lb. calculated by reference to the retail price specified above for jam in a returnable container containing 7 lb.
2. Jam Packed in Multiples of 7 lb. The maximum price on the sale of jam in a container containing any multiple of 7 lb. shall be a price at a rate per pound calculated by reference to the price applicable on such sale to jam in a container containing 7 lb.

* NOTE: Heavy type indicates changes effected by this Order.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order :—

(1) *raises the maximum prices of home-produced blackcurrant jam and jelly, gooseberry jam, raspberry jam, raspberry and gooseberry jam, and raspberry and redcurrant jam, by the approximate equivalent of a halfpenny a pound ; and*

(2) *revokes an Article of the Preserves Order, 1947 which provided that, in proceedings under that Order relating to a deficiency in weight of preserves, the Court should disregard deficiencies that did not exceed half an ounce in the pound if it was satisfied that they were due to some cause that could not reasonably have been avoided.*

CASES

Food and drugs—Sale to prejudice of purchaser—Drug not of nature, substance or quality ordered—Deficiency caused by manufacturing process—Common repute—Food and Drugs Act, 1938 (*c.* 56), *ss.* 3 (1), 4, 83 (3).

The respondents, who were a firm of manufacturing chemists, supplied to a purchaser a quantity of one grain and three grain pills the average deficiency in drug dosage of which was found, on analysis, to be 25 per cent. The pills were manufactured by hand, and evidence was given that during the process a certain amount of material was apt to stick to the hand of the maker or the implement used.

Held : the pills were deficient in nature and quality, and the respondents were, therefore, guilty of an offence under s. 3 (1) of the Food and Drugs Act, 1938.

Per cur. : If a manufacturer knows that, by reason of the process of manufacture, pills will, or may be, deficient in the quantity of the drug ordered, he should give notice to that effect to the purchaser.—BREED *v.* BRITISH DRUG HOUSES, LTD., [1947] 2 All E. R. 613 ; 112 J. P. 36 ; 63 T. L. R. 558 ; 46 L. G. R. 11. [1235]

Food and drugs—Adulteration and impoverishment—Proceedings against offenders—Public house—Watered gin—Licensee prosecuted—Defence of employee's default—Information laid against employee—Summons not served—Availability of defence—Time at which information must be laid—Food and Drugs Act, 1938 (*c.* 56), *s.* 83 (1).

The licensee of a public house was prosecuted for selling through his employee gin containing an excessive quantity of water contrary to the Food and Drugs Act, 1938, s. 3. In pursuance of s. 83 (1) of the Act he gave the prosecution not less than three clear days' notice of his intention to have his employee, being the person to whose act or default he alleged that the contravention of the provisions in question was due, brought before the court in the proceedings, and laid an information against the employee. The summons on that information was never served because the whereabouts of the employee were unknown. At the hearing of the charge against himself, the licensee proved that the contravention of s. 3 was due to the act or default of his employee and that he (the licensee) had used all due diligence to secure that the provisions in question were complied with in accordance with s. 83 (1).

Held : the defendant, having taken all steps open to him to have the employee brought before the court and having otherwise also complied with

the requirements of s. 83 (1), was entitled to set up the defence afforded by that subsection, although the employee had not been brought before the court owing to the inability of the police to serve the summons and so had not been convicted.

Walkling, Ltd. v. *Robinson* (1930), 99 L. J. (K. B.) 171, *distinguished.*

Per Lord GODDARD, C.J.: The information which, under s. 83 (1), must be laid by the original defendant must be laid not less than three days before the proceedings are heard.—MALCOLM *v.* CHEEK, [1948] 1 K. B. 400; [1947] 2 All E. R. 881; [1948] L. J. R. 388; 112 J. P. 94; 64 T. L. R. 28; 92 Sol. Jo. 41; 46 L. G. R. 26. [1236]

Food rationing—Catering establishment—Fats and cheese—"Use" in specified rationing period—Use, not for consumption by customers, but for manufacture of articles to be stored—Fats, Cheese and Tea (Rationing) (No. 2) Order, 1946 (S. R. & O., 1946, No. 1116), arts. 8, 10 (as amended by the Fats, Cheese and Tea (Rationing) (No. 2) (Amendment No. 3) Order, 1946 (S. R. & O., 1946, No. 2025)).

A catering company suffered a sudden falling off in trade in its restaurant, and, to avoid deterioration in its stocks of fats and cheese, it used them to make various articles of food which could be stored and kept in good condition. The quantities of cheese and fats so used, together with those consumed at meals in the restaurant, exceeded the amounts which might "be used in any specified period" in the establishment under arts. 8 and 10 of the Fats, Cheese and Tea (Rationing) (No. 2) Order, 1946 (as amended by the Fats, Cheese and Tea (Rationing) (No. 2) (Amendment No. 3) Order, 1946).

Held: the word "used" in arts. 8 and 10 meant "used in any way" and not merely "consumed", and the company had, therefore, contravened the Order.—QUAINTWAYS RESTAURANT, LTD. *v.* BUDD, [1948] 2 K. B. 231; [1948] 1 All E. R. 782; 112 J. P. 240; 64 T. L. R. 272; 92 Sol. Jo. 258; 46 L. G. R. 222. [1237]

Food and drugs—Proceedings against third party—Dismissal of informations—Case stated at request of prosecutor—Inclusion of third party essential—Food and Drugs Act, 1938 (c. 56), s. 83 (1).

Justices—Procedure—Adjournment of case for hearing by different bench—Party prejudiced by evidence.

The respondent was charged with selling for human consumption milk to which water had been added contrary to the Food and Drugs Act, 1938, s. 24, and he brought before the court, under s. 83 (1) of the Act, a third party to whose act or default he alleged that the contravention of s. 24 had been due. At the hearing by the justices, the respondent revealed that he had been summoned on previous occasions because of milk supplied to him by the third party. Thereupon the magistrates dismissed the summons against the defendant on the ground that their minds had been prejudiced by the admission and they also dismissed the summons against the third party. On a Case Stated by the justices at the request of the prosecution against the defendant only:—

Held: (i) even if their minds had been prejudiced the justices should not have dismissed the summons, but should have adjourned the case for it to be heard by a different bench.

(ii) the court would not now send the case back to the justices because, the summons against the third party having been dismissed and he not having been made a party to the Case Stated, the defendant could not again bring the third party before the justices and would, therefore, be debarred from pursuing his defence under s. 83. The appeal would, therefore, have to be dismissed.

Per Lord GODDARD, C.J.: Where the prosecution ask for a Case to be stated against a defendant who has taken advantage of the procedure prescribed by s. 83 (1) of the Food and Drugs Act, 1938, it is essential that the third party should be joined as a party to the Case if the result of the Case may be a remission to the justices for re-hearing or with a direction to convict, because otherwise the defendant would lose his right to proceed against the third party on the re-hearing.—ELKINGTON *v.* KESLEY, [1948] 2 K. B. 256; [1948] 1 All E. R. 786; [1948] L. J. R. 1195; 112 J. P. 228; 64 T. L. R. 340; 92 Sol. Jo. 259; 46 L. G. R. 232. [1238]

GAS

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STATUTES

GAS ACT, 1948

(11 & 12 Geo. 6, c. 67)

PRELIMINARY NOTE

This Act, which received the Royal Assent on July 30, 1948, represents a further stage in the Government's nationalisation policy. It provides for bringing into public ownership, as from a "vesting date", all undertakings supplying gas in Great Britain other than businesses operating coke-oven plants. In addition, the Act lays down, as from that date, a revised gas supply code, and provides for co-ordinating the carbonisation activities of the new gas authorities and the National Coal Board. May 1, 1949, has been fixed as the vesting date by the Gas (Vesting Date) Order, 1949 (S.I. 1949 No. 392), made by the Minister of Fuel and Power under s. 17.

To understand the radical changes effected by the Act in the organisation of the gas supply industry, the previous position should be borne in mind. Gas could formerly be supplied with or without statutory authority. Unauthorised suppliers, known as non-statutory undertakers, however, while being under no statutory obligation to continue a supply or to maintain the purity or pressure of gas, laboured under certain disadvantages such as the absence of power to break up streets.

Statutory powers for the supply of gas were obtained by special Act of Parliament or by orders having the force of an Act. Originally the orders, made under the Gas and Water Works Facilities Act, 1870 (8 Halsbury's Statutes 1254), were provisional and required confirmation by an Act, but later a simplified method by means of a special order under the Gas Regulation Act, 1920 (8 Halsbury's Statutes 1278), was provided. Statutory undertakers were either local authorities, companies or persons; and their powers and obligations were substantially similar whether conferred by Act or by order, except that a special order under the Act of 1920 was not apt to incorporate an undertaking as a company and did not confer compulsory power for the acquisition of, or entry on to, land. The general scheme both of private Acts and of provisional and special orders was that the undertakers obtained power to manufacture and supply gas within a defined area, and to carry out and maintain necessary works, including mains and pipes. Statutory

undertakers were under obligation to supply gas of a standard of quality, purity and pressure laid down in the Gasworks Clauses Act, 1871 (8 Halsbury's Statutes 1263), and tests for purity were carried out by gas examiners appointed under that Act or the Gas Regulation Act, 1920, *supra*.

The Gas Act, 1948, consists of four Parts and four Schedules, and follows the lines of the Electricity Act, 1947 (40 Halsbury's Statutes 409), especially as regards the general structure of the new organisation which is established.

Part I of the Act, which deals with the organisation of the industry, provides for the establishment, first, of an Area Board for each of the areas into which the country is divided for the purposes of the Act, and secondly, of a central Gas Council (ss. 1, 2). There are originally to be twelve areas (see S.I. 1948 No. 2773), but the Minister of Fuel and Power may by order form new areas or amalgamate existing ones (s. 6). Each Board is to consist of between six and eight members appointed by the Minister, together with the chairman for the time being of the Gas Consultative Council (see *infra*) for the area (s. 5 (2)). The chief duties of Area Boards are to develop and maintain an efficient, co-ordinated and economical gas supply system for their areas and to satisfy, so far as it is economical to do so, all reasonable demands for gas within their areas, and similarly to develop and maintain the production of coke (other than metallurgical coke) and the recovery of by-products (s. 1 (1)). Wide powers for the purpose of enabling Area Boards to carry out these duties are conferred by s. 1 (2), including not only the manufacture and distribution of gas and the manufacture and sale of coke and by-products, but also the sale and maintenance of gas and coke fittings and, in certain circumstances, the manufacture of such fittings and of plant.

The Gas Council is to consist of a chairman and deputy chairman appointed by the Minister together with the chairmen of the Area Boards (s. 5 (4)). Apart from its financial duties under Part III of the Act, the principal duties of the Gas Council are to advise the Minister on questions affecting the gas industry and to assist the Area Boards (s. 2 (1)). The powers of the Council include a limited power of manufacturing, etc. plant, and gas and coke fittings (s. 2 (3)), the settlement of a programme of research (s. 3), and the co-ordination of the Area Boards' training and research programmes (s. 4).

A Gas Consultative Council is to be established for the area of every Area Board. This Council is to consist of a chairman and between twenty and thirty members appointed by the Minister, of whom at least half are to be members of local authorities in the area and the remainder representative of commerce, industry, labour and gas consumers and other persons interested in gas development. The duties of the Consultative Councils include the consideration of any matter affecting the supply of gas in the area which is brought to their notice by consumers, and the notification to the Area Board of the action which they consider should be taken. Two welcome innovations are that these Councils, unlike their counterparts in other nationalised industries, are to be established within six months of the vesting date, and must arrange for local representatives to be available in specified localities to receive representations from consumers in those localities (s. 9).

The Act confers wide powers upon the Minister, who may give directions of a general character to the Area Boards and the Gas Council (s. 7), as well as specific directions on a number of particular matters (see, for example, ss. 10 (3), 23 (1)).

The Gas Council, and each Area Board are to make reports to the Minister, which he is to lay before Parliament, together with a report by himself on the exercise of his functions during the year (s. 10).

Part I of the Act also contains provisions dealing with the compulsory purchase of land (s. 11), the promoting and opposing of Parliamentary Bills (s. 12), the non-exemption of the Board and the Council from taxation (s. 13), and their liability in actions, etc. (s. 14).

Part II of the Act deals with (i) the vesting of assets (ss. 15–24); (ii) the payment of compensation (ss. 25–32); and (iii) the control of dividends and interest and the safeguarding of assets pending transfer (ss. 33–40).

The undertakers affected by this Part of the Act are divided into four categories:—

(*a*) Statutory undertakers;
(*b*) Non-statutory undertakers;
(*c*) Gas holding companies; and
(*d*) Ancillary gas undertakers (s. 15 (2)).

Subject to the power of disclaimer under s. 22, the general rule is that the whole of the property, rights, liabilities and obligations of these undertakers are transferred on the vesting date to the appropriate Area Board (see S.I. 1949 No. 742), and the undertakers are dissolved (s. 17). The Minister may, however, in special circumstances, dispense with or postpone the application of the Act in the case of a particular ancillary gas undertaker (s. 15 (4)).

The general rule is subject to the exceptions provided by s.18. That section applies to an undertaker who :—

(i) is a local authority ; or
(ii) is a composite company, *i.e.*, a company which supplies water as well as gas under the authority of an enactment ; or
(iii) is an ancillary gas undertaker ; or
(iv) is not a body corporate ; or
(v) is an Electricity Board.

In the case of undertakings to which s. 18 applies, the property, etc., transferred is limited to the property, etc., held or used by the undertaker wholly or mainly for the purposes of the gas undertaking or wholly or mainly in his capacity as a gas undertaker, and the body will continue to exist divested of its gas functions.

Local authorities are given, as they were by the Electricity Act, 1947, s. 16, and the Transport Act, 1947, s. 115 (40 Halsbury's Statutes 435, 1004), a right of pre-emption for ten years in respect of land acquired from them under the Act, and this right extends also to composite companies (s. 21).

Agreements or leases made or varied on or after November 19, 1947 (when the Government announced their intention of nationalising the gas industry), which were not reasonably necessary or which showed an unreasonable lack of prudence on the part of the undertaker, may be disclaimed (s. 22).

Compensation in respect of dissolved undertakings is to take the form of British Gas Stock issued to the holders of the securities of the undertaking. The amount of such stock is to be of a value equal to the value of the securities. Securities which were quoted on the Stock Exchange on certain specified dates are valued by reference to those quotations, with special provisions applying to fresh issues and conversions subsequent to those dates. Unquoted securities are to be valued by agreement between the Minister and the stockholders' representative appointed under s. 27, or in default by the Gas Arbitration Tribunal (see *infra*) on the basis of the value of comparable quoted securities (s. 25). The value of securities for compensation purposes may, in all cases, be increased to offset capital depreciation arising out of loss of revenue due to war causes (s. 26).

In the case of undertakings to which s. 18 applies, different compensation provisions apply. A local authority will be compensated by the Area Board reimbursing the authority's expenditure in respect of any loan raised or money advanced by them for the purpose of their gas undertaking (s. 28). In addition, a sum of £2,500,000 is to be divided between local authorities as compensation for severance (s. 29). For a composite company, the amount of compensation is the value of the gas side of the undertaking together with a further sum for severance. The value of the gas side of the undertaking is determined by reference to the value of its securities ascertained as for dissolved undertakings, and compensation takes the form of British Gas Stock (s. 30). Compensation to ancillary gas undertakers and non-corporate undertakers is to be calculated on the basis of an assumed sale in the open market by a willing seller to a willing buyer, and is to be paid in cash (s. 31).

The Act contains provisions designed to safeguard the assets of undertakings (other than ancillary gas undertakings) during the interim period prior to the vesting date. These include restrictions on dividends, interest and other payments (s. 33), and provision for re-opening transactions resulting in the dissipation of assets (s. 36). In the case of local authorities, sums transferred after February 10, 1948, from the gas undertaking account to another account may be recovered by the Area Board, unless the transfer was approved by the Minister or was an adjustment properly made in respect of a matter involving both accounts (s. 37).

Part III of the Act contains the financial provisions. Each Area Board is required to secure that its revenues are at least sufficient to meet its outgoings " taking one year with another ", and when a Board or the Gas Council engage in the manufacture of plant or fittings, separate accounts thereof are to be kept (s. 41).

Both Area Boards and the Gas Council may borrow temporarily, but power to borrow on a long term basis by the issue of British Gas Stock is conferred only on the Gas Council (s. 42). The ultimate responsibility, however, for obligations in respect of such stock, whether issued for compensation purposes or to provide capital for the Area Boards, is placed on the Boards, who are required to make payments to the Council to enable them to meet those obligations (s. 44). The Council is to maintain a central guarantee fund for the purpose of meeting these and other financial obligations of the Boards and the Council in the event of possible future default (s. 46).

The Area Boards and, so long as it engages in the manufacture of plant and fittings, the Gas Council, are to maintain general reserve funds (s. 47).

Other financial provisions provide for contributions by Area Boards to the Gas Council's expenses (s. 48), and deal with accounts and auditing (s. 50).

The last Part of the Act, namely Part IV, deals with a number of miscellaneous matters.

Schemes are to be made for co-ordinating the carbonisation activities of the National Coal Board and the Area Boards (s. 51), and restrictions are placed on the supply of gas after the vesting date by persons other than Area Boards (s. 52).

Other matters dealt with in this Part of the Act include gas charges and tariffs (s. 53), meter testing (s. 54) and the standards of quality to be complied with by Area Boards (s. 55). S. 56 (1) introduces a new gas supply code, which replaces all previous public enactments dealing with gas supply though it is largely derived therefrom. This code is set out in Sched. III.

Provision is made as to the conditions of employment in the industry (s. 57), pension rights (s. 58, and the Gas (Pension Scheme) Regulations, 1949; S.I. 1949 No. 744), and compensation for officers of transferred undertakings (s. 60).

A Gas Arbitration Tribunal is to be established for determining any question or dispute required to be determined by arbitration under the Act (ss. 63–66).

Part IV of the Act also deals with a number of general matters such as penalties (s. 68), prosecutions and offences by corporations (s. 69), notices (s. 70), regulations and orders (s. 71) and inquiries (s. 73). [1239]

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An Act to provide for the establishment of Area Gas Boards and a Gas Council and for the exercise and performance by those Boards and that Council of functions relating to the supply of gas and coke and certain other matters; for the transfer to such Boards as aforesaid and to the said Council of property, rights, obligations and liabilities of gas undertakers and other persons; for co-ordinating the activities of Area Gas Boards and the National Coal Board relating to carbonization; to amend the law relating to the supply of gas; to make certain consequential provision as to income tax; and for purposes connected with the matters aforesaid. [1240] [30th July 1948.]

PART I

AREA GAS BOARDS AND GAS COUNCIL

1. Establishment and general functions of Area Boards.—(1) There shall be established Boards, to be known by the names mentioned in the first column of the First Schedule to this Act and in this Act referred to as " Area Boards ", for the areas which are described in general terms in the second column of that Schedule and are to be defined by orders made under this Part of this Act, and it shall be the duty of every Area Board as from the vesting date

(*a*) to develop and maintain an efficient, co-ordinated and economical system of gas supply for their area and to satisfy, so far as it is economical to do so, all reasonable demands for gas within their area;

(*b*) to develop and maintain the efficient, co-ordinated and economical production of coke, other than metallurgical coke, by them;

(*c*) to develop and maintain efficient methods of recovering by-products obtained in the process of manufacturing gas. [1241]

(2) Every Area Board shall have power to carry on all such activities as it may appear to the Board to be requisite, advantageous or convenient for them to carry on for or in connection with the discharge of their duties under the preceding subsection or with a view to making the best use of any assets vested in them by or under this Act, and in particular, but without prejudice to the generality of the preceding provision,—

(*a*) to manufacture gas, to acquire gas in bulk from any person including another Area Board, and to supply gas in bulk to another Area Board;

(*b*) to distribute gas in their area;

(*c*) to manufacture, treat, render saleable, supply or sell—

(i) coke and other solid fuels obtained by carbonization;

(ii) any by-products obtained in the process of manufacturing gas, coke or any such other solid fuels as aforesaid; and

(iii) any products made or derived from gas, coke or any such other solid fuel as aforesaid or from any by-product obtained as aforesaid;

(*d*) to sell, hire or otherwise supply gas fittings and coke fittings and to instal, repair, maintain or remove gas fittings and coke fittings and plant required by the Board or any other Area Board;

(*e*) after consultation with the Gas Council established under the next following section, to manufacture plant required by the Board or any other Area Board and to manufacture gas fittings and coke fittings, except for export:

Provided that an Area Board shall not exercise their powers under paragraph (*e*) hereof unless they are satisfied that the available facilities for obtaining at reasonable prices plant required by them or any other Area Board or gas fittings or coke fittings are or may become inadequate. [1242]

(3) Any Area Board may, by agreement with any other Area Board, give a supply of gas to persons in the area of that other Area Board, and the powers conferred by the last preceding subsection shall apply in relation to the giving of such a supply, and if any Area Board are unable to obtain the agreement of another Area Board under this subsection, they may apply to the Gas Council for an authorisation to supply gas to consumers in the area of that other Area Board and the Gas Council may give an authorisation to supply gas to consumers in such part of the area of that other Area Board and upon such terms and conditions as may be specified in the authorisation. [1243]

(4) Every Area Board shall have power to do any thing and to enter into any transaction (whether or not involving the expenditure, the borrowing in accordance with the provisions of this Act or the lending of money, the acquisition of any property or rights or the disposal of any property or rights) which in their opinion is calculated to facilitate the exercise or performance of any functions conferred or imposed on them by any enactment other than this subsection, or is incidental or conducive thereto. [1244]

(5) In carrying out any such measures of reorganization and works of development as involve substantial outlay on capital account, every Area Board shall act in accordance with a general programme settled by them from time to time with the approval of the Minister, and the Minister shall consult with the Gas Council before approving any such programme. [1245]

(6) In planning and carrying out any such programme as aforesaid an Area Board shall consult with the National Coal Board, if that Board is engaged in the area of the Area Board in activities relating to carbonization, and with other persons operating coke-oven plants in the area of the Area Board. [1246]

(7) In exercising and performing their functions every Area Board shall promote the welfare, health and safety of persons in the employment of the Board. [1247]

(8) Subject to and in accordance with any directions given by the Minister under section seven of this Act, every Area Board shall reduce, so far as practicable, the price of gas and coke and avoid undue preference in the supply of gas and coke. [1248]

(9) For the avoidance of doubt it is hereby declared that the preceding provisions of this section, so far as they confer powers on Area Boards, relate only to the capacity of Area Boards as statutory corporations, and nothing in those provisions shall be construed as authorising the disregard by any such Board of any enactment or rule of law. [1249]

Area Boards.—For the constitution of these Boards, which form the administrative foundation of the nationalised gas industry, see s. 5 (2), (3), *post*.

Areas to be defined.—As to the definition and variation of areas, see s. 6, *post*, and the Gas (Areas of Area Boards) Order, 1948 (S.I. 1948 No. 2773), made thereunder.

Vesting date.—May 1, 1949; see S.I. 1949 No. 302, made under s. 17, *post*.

Gas supply.—This includes both production and distribution. The duty of Area Boards in respect of coke is confined to production as it is no part of the intention of the Act to reorganise the distributive side of the coke industry; hence the use of the restricted term "production" in sub-s. (1) (*b*), *supra*. Note, however, that Area Boards have power to supply coke under sub-s. (2) (*c*), *supra*. As to the obligation to supply gas, see Sched. III, para 8, *post*.

Supply of gas in bulk to another area.—This provision is comparable with s. 5 of the Gas Undertakings Act, 1929 (8 Halsbury's Statutes 1295), which is repealed as from the vesting date by s. 76 (1) and Sched. IV, *post*.

Borrowing.—As to the borrowing powers of Area Boards, see s. 42, *post*. Area Boards under the provision of sub-s. (4), *supra*, may continue existing loans to employees to build houses, or lend to a private manufacturer of fitments who has been asked by an Area Board to develop an idea for which he has not the capital.

Enactments.—Area Boards may possess functions, not only under this Act but also under local Acts as applied to them by s. 56, *post*, under provisional orders confirmed by any Act, and under regulations and orders made under an Act; see the definition of "enactment" in s. 74 (1), *post*.

Reorganisation involving capital outlay.—Ministerial approval is here necessary to supplement the Minister's control of borrowing on capital account under s. 39 (2), *post*. Such control is common form in all nationalisation Acts and involves approval of a broad programme including a general financial estimate. Cf. the Transport Act, 1947, s. 4 (2) (40 Halsbury's Statutes 932) and the Electricity Act, 1947, s. 5 (2) (40 Halsbury's Statutes 421).

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

National Coal Board.—The National Coal Board was established by the Coal Industry Nationalisation Act, 1946, s. 1 (39 Halsbury's Statutes 256). As to joint schemes for carbonisation, see s. 51, *post*.

Reduction of price.—To be reasonable a reduction in the price of gas or coke must conform with the requirements of s. 41 (1), *post*, as to meeting outgoings from revenue.

Undue preference.—See also s. 53 (7), *post*. For an example of a permitted preference, see the Housing Act, 1936, s. 101 (29 Halsbury's Statutes 639).

Other functions of Area Boards.—Widely as this section is drawn, it does not comprise all the powers of Area Boards; see also s. 3, *post* (research); s. 4, *post* (training and education) and s. 51, *post* (carbonisation activities).

Definitions.—For definitions of "coke fittings", "functions", "gas fittings", "metallurgical coke" and "plant", see s. 74 (1), *post*.

2. Establishment and general functions of Gas Council.—(1) There shall be established a Council, to be known as the Gas Council, and it shall be the duty of that Council—

(*a*) to advise the Minister on questions affecting the gas industry and matters relating thereto; and

(*b*) to promote and assist the efficient exercise and performance by Area Boards of their functions. [1250]

(2) The Gas Council shall have power, if so authorised by all the Area Boards or a group of Area Boards, to perform services for, or act on behalf of, the Boards concerned in relation to matters of common interest to those Boards. [1251]

(3) The Gas Council shall have power—

(*a*) to manufacture plant required by Area Boards, to sell or supply such plant to Area Boards, and to instal, repair, maintain or remove such plant;

(*b*) to manufacture gas fittings and coke fittings except for export, and to sell or supply such fittings. [1252]

(4) Every Area Board shall afford to the Gas Council facilities for obtaining information with respect to the property and activities of the Area Board, and furnish the Gas Council with returns, accounts and other information with respect thereto, and afford to the Gas Council facilities for the verification of information furnished, in such manner and at such times as the Gas Council may require. [1253]

(5) The Gas Council shall have power to do any thing and to enter into any transaction (whether or not involving the expenditure, the borrowing in accordance with the provisions of this Act or the lending of money, the acquisition of any property or rights or the disposal of any property or rights) which in their opinion is calculated to facilitate the exercise or performance of any functions conferred or imposed on them by any enactment other than this subsection or is incidental or conducive thereto. [1254]

(6) For the avoidance of doubt it is hereby declared that the preceding provisions of this section, so far as they confer powers on the Gas Council, relate only to the capacity of the Gas Council as a statutory corporation, and nothing in those provisions shall be construed as authorising the disregard by that Council of any enactment or rule of law. [1255]

Gas Council.—For the constitution of the Gas Council, see s. 5 (4), *post*.

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

Promote and assist functions of Area Boards.—As to Area Boards and their functions, see s. 1, *ante*. Apart from specific cases, as under s. 3, *post* (research), s. 4 (2), *post* (submission of programmes for training, etc.), s. 44 (1), *post* (borrowing for capital expenditure on reorganisation or development), s. 46 (6), *post* (directions as to management or policy in the case of default) and s. 57 (2) (conditions of employment), the Gas Council exercises no control over the activities of Area Boards.

Manufacture plant, etc.—Compare sub-s. (3), *supra*, with s. 1 (2) (*e*), *ante*. As to revenue from the manufacture of plant, etc., see s. 41 (3), *post*.

Returns and information.—As to the obligation of an Area Board to send a copy of its annual report to the Gas Council, see s. 10 (1), *post*.

Borrowing money.—As to the borrowing powers of the Gas Council, see s. 42, *post*.

Sub-s. (6).—Similar provision to that made by sub-s. (6), *supra*, as respects the Gas Council is made by s. 1 (9), *ante*, as respects Area Boards.

Definitions.—For definitions of "functions", "gas fittings", "coke fittings", "enactment" and "plant", see s. 74 (1), *post*.

3. Research.—(1) It shall be the duty of the Gas Council to settle from time to time in consultation with the Minister a general programme of research into matters affecting gas supply and carbonization and other matters affecting the functions of Area Boards or the Gas Council. [1256]

(2) It shall be the duty of the Gas Council to secure the carrying out of any general programme settled as aforesaid, and for that purpose they may themselves conduct research into any of the matters aforesaid and make

arrangements with any other person, including an Area Board, for the conduct of such research by them. [1257]

(3) Any Area Board may conduct research in accordance with arrangements made with the Gas Council as aforesaid, and may also, after consultation with the Gas Council, conduct research into such matters affecting the functions of the Board as are not included in the general programme settled as aforesaid. [1258]

Gas Council.—As to the Gas Council generally, see s. 2, *ante*, and s. 5, *post*.
The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).
Area Boards.—As to the Area Boards generally, see s. 1, *ante*, and s. 5, *post*.
Definition.—For definition of "function", see s. 74 (1), *post*.

4. Training and education.—(1) It shall be the duty of every Area Board, in consultation with any organization appearing to them to be appropriate, to make provision for advancing the skill of persons employed by them, including the provision by them and the assistance of the provision by others of facilities for training and education. [1259]

(2) Every Area Board shall, from time to time, on being so required by the Gas Council, submit to them programmes showing the provision to be made by them under the preceding subsection, and the Council shall co-ordinate those programmes and settle from time to time in consultation with the Minister a general programme with respect to the provision to be made by the Area Boards as aforesaid, and the Area Boards shall give effect to the programme so settled. [1260]

General note.—Sub-s. (1), *supra*, may be compared with s. 2 (1) of the Electricity Act, 1947 (40 Halsbury's Statutes 416), and sub-s. (2), *supra*, with s. 6 (2) of that Act.
Area Board.—As to the Area Boards generally, see s. 1, *ante*, and s. 5, *post*.
Gas Council.—As to the Gas Council generally, see ss. 2, *ante*, and 5, *post*.
The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).
Definition.—For definition of "employed", see s. 74 (1), *post*.

5. Constitution of Area Boards and Gas Council.—(1) Every Area Board and the Gas Council shall be a body corporate with perpetual succession and a common seal and power to hold land without licence in mortmain. [1261]

(2) Every Area Board shall be constituted as follows:—

(*a*) not less than six nor more than eight members shall be appointed by the Minister from amongst persons appearing to him to be qualified as having had experience of, and shown capacity in, gas supply, local government, industrial, commercial or financial matters, applied science, administration, or the organization of workers; and

(*b*) there shall be one other member who shall be the person for the time being holding the office of chairman of the Gas Consultative Council established under the following provisions of this Part of this Act for the area of the Area Board:

Provided that until the Gas Consultative Council has been established, an Area Board shall be deemed to be properly constituted notwithstanding that the Board does not include the member referred to in paragraph (*b*) of this subsection and, during any period before the vesting date, an Area Board shall be deemed to be properly constituted if the chairman and three other members have been appointed. [1262]

(3) The Minister shall appoint two of the members of each of the Area Boards to be chairman and deputy chairman respectively of that Board, and either the chairman or the deputy chairman of each Board shall be a person appearing to the Minister to have had experience of, and shown capacity in, gas supply. [1263]

(4) The Gas Council shall be constituted as follows:—

(*a*) the chairman and a deputy chairman shall be appointed by the Minister from amongst persons appearing to him to be qualified

as having had experience of, and shown capacity in, gas supply, industrial, commercial or financial matters, applied science, administration, or the organization of workers; and

(*b*) the remaining members shall be the persons for the time being holding the office of chairman of an Area Board:

Provided that the deputy chairman of an Area Board shall be entitled to attend and vote at meetings of the Gas Council in place of the chairman of that Board during any vacancy in the office of chairman or in the event of the chairman being unable to attend owing to illness or absence from Great Britain. [1264]

(5) A person shall be disqualified for being appointed or being a member of any Area Board or the Gas Council so long as he is a member of the Commons House of Parliament. [1265]

(6) There shall be paid to the members of each of the Area Boards and to the members of the Gas Council such remuneration (whether by way of salaries or fees) and such allowances as may be determined by the Minister with the approval of the Treasury, and, on the retirement or death of any member in whose case it may be so determined to make such provision, such a pension to or in respect of that member as may be so determined.

Any such remuneration, allowances and pensions as aforesaid shall be paid by the Area Board concerned or, as the case may be, the Gas Council. [1266]

(7) The Minister shall, as soon as possible after the passing of this Act, lay before each House of Parliament a statement of the remuneration and allowances that are or will be payable under the last preceding subsection to the members of each of the Area Boards and to the members of the Gas Council, and, if any subsequent determination by him under the last preceding subsection involves any departure from the terms of the said statement, the Minister shall as soon as possible after the determination lay a statement thereof before each House of Parliament. [1267]

(8) The Minister may make regulations with respect to—

(*a*) the appointment of, and the tenure and vacation of office by, the members of any Area Board and the Chairman and Deputy Chairman of the Gas Council;

(*b*) the quorum, proceedings, meetings and determinations of any Area Board and the Gas Council;

(*c*) the execution of instruments and the mode of entering into contracts by and on behalf of any Area Board or the Gas Council, and the proof of documents purporting to be executed, issued or signed by any Area Board or the Gas Council or a member or officer thereof; and

(*d*) any other matters supplementary or incidental to the matters aforesaid for which provision appears to the Minister to be necessary or expedient. [1268]

(9) Subject to the provisions of any regulations made under the last preceding subsection, every Area Board and the Gas Council shall have power to regulate their own procedure. [1269]

General note.—This section may be compared with s. 3 of the Electricity Act, 1947 (40 Halsbury's Statutes 418), under which the British Electricity Authority and their Area Boards were constituted.

Area Boards.—As to the establishment and general functions of Area Boards, see s. 1, *ante*.

Gas Council.—As to the establishment and general functions of the Gas Council, see s. 2, *ante*.

Licence in Mortmain.—As to licence in mortmain, see the Mortmain and Charitable Uses Acts, 1888 and 1891 (2 Halsbury's Statutes (2nd Edn.) 910, 920), as amended by the Mortmain and Charitable Uses Act Amendment Act, 1892 (2 Halsbury's Statutes (2nd Edn.) 923), which prohibit the assurance of land to corporations except under Royal Licence or with statutory authority.

Organisation of workers.—Note that sub-s. (2), *supra*, requires persons experienced in the organisation of workers generally, and not necessarily of workers in the gas industry. Although workers in the gas industry, and their trade union representatives, may be appointed as members of Area Boards, there is no compulsion on the Minister to appoint any such person to all or any of the Boards.

Gas Consultative Council.—As to the Gas Consultative Council, see s. 9, *post*.

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

Vesting date.—May 1, 1949; see S.I. 1949 No. 392, made under s. 17, *post*.

Regulations.—See the Gas (Area Boards and Gas Council) Regulations, 1948 (S.I. 1948 No. 2233), as amended by S.I. 1948 No. 2465. As to regulations, generally, see s. 71, *post*.

Definition.—For definition of "pension", see s. 74 (1), *post*.

6. Definition of and variation of areas.—(1) The Minister shall before the vesting date by order define the areas for which Area Boards are established under this Act, and each area shall be so defined by reference to a map, and copies of the map of each area shall be available for inspection at such places and at such times as may be specified in a notice published by the Minister in the London Gazette and, in the case of the area of the Scottish Gas Board, the Edinburgh Gazette, and (in all cases) in such newspapers circulating in the area as the Minister thinks fit. [1270]

(2) The Minister may by order vary the areas for which Area Boards are established under this Act, and such variation may involve not only the variation of the boundaries of existing areas but also the formation of a new area from any part of an existing area or parts of existing areas or the amalgamation of an existing area with any other such area or part thereof.

Any such order shall define by reference to a map the new areas or new boundaries constituted by the order, and copies of any such map shall be available for inspection in the like manner as copies of the maps defining the original areas. [1271]

(3) If any question arises as to the exact boundary of any area, as defined by any order made under this section, it shall be determined by the Minister, after giving to the Area Boards concerned an opportunity to make representations on that question. [1272]

(4) An order made under subsection (2) of this section the effect of which is to increase or reduce the total number of such areas as aforesaid, or to constitute a new area for which a new Area Board is required to be established under the next following subsection, shall not be made unless a draft thereof has been laid before Parliament and has been approved by resolution of each House of Parliament. [1273]

(5) An order made under subsection (2) of this section shall state whether the areas affected by the order are to be regarded as the areas of existing Area Boards, or whether any such area is to be regarded as a new area for which a new Area Board is required to be established, and in the latter case a new Board shall be established in accordance with the preceding provisions of this Act and those provisions shall apply to that Board accordingly, and it shall be known by such name as may be specified in the order. [1274]

(6) An order made under subsection (2) of this section shall, if and so far as it appears to the Minister to be necessary or expedient in consequence of the variation of areas or the establishment of a new Area Board, provide—

(*a*) for the transfer of property, rights, liabilities and obligations from one Area Board to another;

(*b*) for the modification of agreements for the purpose of giving effect to the transfer of rights, liabilities and obligations thereunder from one Area Board to another and, in a case where part only of the rights, liabilities and obligations under any agreement are transferred, for substituting for that agreement separate agreements in the requisite terms, and for any apportionments and indemnities consequent thereon;

(*c*) for the purpose of transferring part of the land comprised in any lease vested in any such Board to another such Board, for the

severance of that lease, and for apportionments and indemnities consequent thereon ;

(*d*) for dissolving any Area Board the whole of whose functions are to be exercised by another Area Board or Boards, and for winding up the affairs of the Board to be dissolved ; and

(*e*) for such other financial adjustments between the Boards concerned as may be required in consequence of any such transfer, and for any other matter supplementary to or consequential on the matters aforesaid, including the continuation of proceedings. [1275]

(7) An order under subsection (2) of this section shall not be made save after consultation with the Gas Council and after giving to each Area Board concerned an opportunity to make representations thereon to the Minister. [1276]

General note.—This section may be compared with s. 4 of the Electricity Act, 1947 (40 Halsbury's Statutes 419), which provides for the definition and variation of Electricity Board areas.

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

Vesting date.—May 1, 1949 ; see S.I. 1949 No. 392, made under s. 17, *post*.

Order.—See the Gas (Areas of Area Boards) Order, 1948 (S.I. 1948 No. 2773). As to orders generally, see s. 71, *post*.

Areas for which Area Boards are established under this Act.—As to these areas, see s. 1 (1), *ante*, and Sched. I, *post*, and S.I. 1948 No. 2773 (*supra*).

Area Board.—As to the establishment of Area Boards, see s. 1, *ante*.

Transfer of property, etc. from one Area Board to another.—An order providing for the transfer of property, etc., from one Area Board to another may provide for applying to the transferee Board any local enactment applicable to the transferor Board ; see s. 56 (6), *post*.

Gas Council.—As to the Gas Council generally, see ss. 2 and 5, *ante*.

Definitions.—For definitions of " functions " and " lease ", see s. 74 (1), *post*.

7. Powers of Minister in relation to Area Boards and Gas Council.—(1) The Minister may give to Area Boards generally or to a particular Area Board or to the Gas Council such directions of a general character as to the exercise and performance by those Boards or that Board or the Gas Council of their functions as appear to the Minister to be requisite in the national interest, and they shall give effect to any such directions :

Provided that—

(*a*) before giving any such direction, the Minister shall consult with the Gas Council ; and

(*b*) before giving any such direction to a particular Area Board, the Minister shall consult with that Board. [1277]

(2) The Minister may, after consultation with the Gas Council and the Area Board concerned, give to any Area Board directions as to the use or disposal of any assets vested in the Board by or under this Act which are not connected with the exercise of their powers set out in paragraphs (*a*) to (*e*) of subsection (2) of section one of this Act. [1278]

(3) Every Area Board and the Gas Council shall afford to the Minister facilities for obtaining information with respect to the property and activities of the Board or Council, and furnish him with returns, accounts and other information with respect thereto, and afford to him facilities for the verification of information furnished, in such manner and at such times as he may reasonably require. [1279]

General note.—This section may be compared with ss. 5 and 6 of the Electricity Act, 1947 (40 Halsbury's Statutes 421).

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

Area Boards.—As to Area Boards generally, see ss. 1 and 5, *ante*.

Gas Council.—As to the Gas Council generally, see ss. 2 and 5, *ante*.

Consultation.—Directions to all Area Boards may be given after consultation with the Gas Council and not with those Boards because the chairman of each Area Board is a member of the Gas Council ; see s. 5 (4) (*b*), *ante*.

Assets not connected with the exercise of their powers.—The purpose of sub-s. (2), *supra*, is to enable the Minister to direct Area Boards to divest themselves of water company powers, property, etc., which may accrue to them when composite companies opt to have the whole of

their assets taken over under s. 18 (1), *post*. Although this power is not mandatory, the clear intention is that there should be a divesting.

Returns and accounts.—As to the liability of the Area Boards to render an annual report and annual accounts to the Minister, see ss. 10 and 50, *post*.

Definition.—For definition of "functions", see s. 74 (1), *post*.

8. Duty of National Coal Board to consult Area Boards with respect to carbonization development.—In planning and carrying out any programme of capital development and reorganization of their activities relating to carbonization, the National Coal Board shall consult with the Gas Council and with any Area Board in whose area the activities are carried on. [1280]

National Coal Board.—The National Coal Board was established by the Coal Industry Nationalisation Act, 1946, s. 1 (39 Halsbury's Statutes 256). As to the activities of the Board relating to carbonisation, see ss. 1 (2) and 5 (1) of, and Sched. I, Part I to, that Act.

Gas Council.—As to the Gas Council generally, see ss. 2 and 5, *ante*.

Area Boards.—As to the Area Boards generally, see ss. 1 and 5, *ante*.

9. Consultative Councils.—(1) A Council, to be known as a Gas Consultative Council, shall, not later than six months after the vesting date, be established for the purposes mentioned in this section for the area of every Area Board. [1281]

(2) A Gas Consultative Council shall consist of a chairman appointed by the Minister and not less than twenty nor more than thirty other members appointed by the Minister of whom—

(*a*) not less than half nor more than three-quarters shall be appointed from a panel of persons nominated from amongst members of local authorities in the area by such associations as appear to the Minister to represent those authorities; and

(*b*) the remainder shall be appointed, after consultation with such bodies as the Minister thinks fit, to represent commerce, industry, labour and the general interests of consumers of gas and other persons or organizations interested in the development of gas in the area.

In making the appointments mentioned in paragraph (*b*) of this subsection, the Minister shall have particular regard to any nominations made to him by the bodies aforesaid of persons who are recommended by them as having both adequate knowledge of the requirements of the interests to be represented and also the ability to exercise a wide and impartial judgment on the matters to be dealt with by the Council generally. [1282]

(3) A person shall be disqualified for being appointed or being the chairman of a Gas Consultative Council so long as he is a member of the Commons House of Parliament, but a member of a Gas Consultative Council other than the chairman shall not by reason of his appointment as such a member be disqualified for being elected to, or for sitting or voting as a member of, the Commons House of Parliament. [1283]

(4) The Gas Consultative Council for each area shall be charged with the duties—

(*a*) of considering any matter affecting the supply of gas in the area, including the variation of tariffs and the provision of new or improved services and facilities within the area, being a matter which is the subject of a representation made to them by consumers or other persons requiring supplies of gas in that area, or which appears to them to be a matter to which consideration ought to be given apart from any such representation, and where action appears to them to be requisite as to any such matter, of notifying their conclusions to the Area Board; and

(*b*) of considering and reporting to the Area Board on any such matter which may be referred to them by that Board. [1284]

(5) Each of the Gas Consultative Councils shall be informed by the Area Board of that Board's general plans and arrangements for exercising and

performing their functions under this Act in relation to the supply of gas in their area and may make representations thereon to that Board. [1285]

(6) The Area Board shall consider any conclusions, reports and representations notified or made to them by the Gas Consultative Council for their area under the two last preceding subsections and the Council may, after consultation with the Area Board, make representations to the Minister on matters arising thereout. [1286]

(7) Where representations have been so made to the Minister and it appears to him after consultation with the Gas Council that there may be a defect in that Area Board's general plans and arrangements for exercising and performing their functions under this Act in relation to the supply of gas in their area, the Minister shall refer the representations for inquiry and report by a person appointed by him after consultation with the Lord Chancellor or, in the case of the Scottish Gas Board, after consultation with the Secretary of State, and if the Minister, after considering the report of the said person, is satisfied that there is a defect in the Area Board's general plans and arrangements aforesaid, he shall give to the Area Board such directions as he thinks fit for remedying the defect and the Area Board shall give effect to any such directions, and the Minister shall send a copy of any such directions to the Gas Consultative Council. [1287]

(8) Every Gas Consultative Council shall prepare and submit to the Minister a scheme for the appointment by them of committees or individuals to be local representatives of the Council in such localities as may be specified in the scheme, and it shall be the duty of such committees and individuals to consider the particular circumstances and requirements of those localities with respect to the supply of gas and to make representations to the Council thereon, and to be available for receiving on behalf of the Council representations from consumers in those localities; and, if the scheme is approved by the Minister, the Gas Consultative Council shall put it into effect.

A member of a Gas Consultative Council shall be eligible for appointment under such a scheme, either as a member of a committee or as an individual, but membership of the Council shall not be a necessary qualification for such an appointment. [1288]

(9) A Gas Consultative Council may, subject to the approval of the Minister as to numbers, appoint such officers as appear to the Council to be requisite for the proper exercise and performance of their functions (including functions of any committee or individual appointed under the last preceding subsection), and the Area Board shall pay—

(*a*) to the members of the Council or of any such committee or to any such individual such allowances in respect of any loss of remunerative time and such travelling allowances and allowances in respect of their out-of-pocket expenses; and

(*b*) to the officers of the Council such remuneration (whether by way of salary or fees) and such allowances,

as the Minister may with the approval of the Treasury determine, and shall pay such expenses incurred by the Council or any such committee or individual as the Minister may with such approval determine. [1289]

(10) A Gas Consultative Council shall be furnished by the Area Board concerned with such office accommodation as appears to the Board to be requisite for the proper exercise and performance of their functions (including the functions of any such committee or individual as aforesaid) or as may be directed by the Minister. [1290]

(11) Where, in consequence of the variation of the areas of Area Boards under the preceding provisions of this Part of this Act, it is necessary to establish new Gas Consultative Councils under this section, the Minister may by order provide for dissolving and winding up the affairs of any Gas

Consultative Council who cease to exercise or perform functions by reason of the variation. [1291]

(12) Provision may be made by regulations in relation to Gas Consultative Councils for any matters for which provision may be made by regulations under section five of this Act in relation to Area Boards and the Gas Council, and for the appointment of a deputy chairman of any Consultative Council, and, subject to the provisions of any such regulations, a Consultative Council shall have power to regulate their own procedure. [1292]

General note.—All Acts establishing nationalised industries have provided for bodies similar to the Gas Consultative Councils to be set up under this section: see the Coal Consumers' Councils (Coal Industry Nationalisation Act, 1946, s. 4; 39 Halsbury's Statutes 258), the Air Transport Advisory Council (Civil Aviation Act, 1946, s. 36; 2 Halsbury's Statutes (2nd Edn.) 151), the Transport Users Consultative Committees (Transport Act, s. 6; 40 Halsbury's Statutes 935), and the Electricity Consultative Councils (Electricity Act, 1947, s. 7; 40 Halsbury's Statutes 422).

Vesting date.—May 1, 1949; see S.I. 1949 No. 392, made under s. 17, *post*.

Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante*. For a general description of the areas, see Sched. I, *post*, and for their precise definition, the Gas (Areas of Area Boards) Order, 1948 (S.I. 1948 No. 2773), issued under s. 6 (1), *ante*.

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

Variation of tariffs.—S. 53, *post*, deals with methods of charging and tariffs, including the variation thereof.

Gas council.—As to the Gas Council generally, see ss. 2 and 5, *ante*.

Regulations.—See the Gas (Consultative Council) Regulations, 1949 (S.I. 1949 No. 787). As to regulations generally, see s. 71, *post*.

Definitions.—For "functions", "officer" and "local authority", see s. 74 (1), *post*.

10. Annual reports of Area Boards and Gas Council.—(1) Every Area Board and the Gas Council shall, as soon as possible after the end of each financial year, make to the Minister a report on the exercise and performance by them of their functions during that year and on their policy and programmes, and every Area Board shall, as soon as their report has been made to the Minister, send a copy thereof to the Gas Council. [1293]

(2) Every such report of any Area Board or of the Gas Council for any year required by this section shall set out any direction given by the Minister to the Board or Council during that year unless the Minister has notified the Board or Council of his opinion that it is against the interests of national security to do so. [1294]

(3) The Minister may give directions as to the form of the reports to be made under the preceding provisions of this section, and the Area Boards and the Gas Council shall comply with any such directions. [1295]

(4) A Gas Consultative Council shall, as respects each financial year of the Area Board for their area, make to the Board a report on the exercise and performance by the Consultative Council of their functions during that year, and the said report shall be made to the Board as soon as possible, and in any case not later than three months after the end of the said financial year, and the Board shall include that report in the report made by them under this section. [1296]

(5) The Minister shall lay before each House of Parliament a copy of the report made for each financial year by each Area Board and the Gas Council, and shall at the same time lay before each House of Parliament a report with respect to the exercise of his functions during that year under this Act except as regards matters which in his opinion it is against the interests of national security to disclose. [1297]

General note.—This section corresponds to s. 8 of the Electricity Act, 1947 (40 Halsbury's Statutes 424).

Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante*.

Gas Council.—As to the Gas Council generally, see ss. 2 and 5, *ante*.

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

Copy thereof to the Gas Council.—This is required because of the financial responsibility of the Gas Council; see s. 44, *post*.

Gas Consultative Councils.—As to these Councils, see s. 9, *ante*.

Definitions.—For definitions of "financial year" and "functions", see s. 74 (1), *post*.

11. Compulsory purchase of land.—(1) The Minister may authorise any Area Board to purchase compulsorily any land which they require for the exercise and performance of their functions, and the Acquisition of Land (Authorisation Procedure) Act, 1946 (except section two thereof), shall apply, in relation to any such compulsory purchase, as if the Board were a local authority within the meaning of that Act and as if this Act had been in force immediately before the commencement of that Act. [1298]

(2) In this section the expression "land" includes easements and other rights over land, and an Area Board may be authorised under this section to purchase compulsorily a right to place a gas pipe across land, whether above or below ground, and to repair, maintain and remove the pipe, without purchasing any other interest in the land:

Provided that an Area Board shall not be authorised under this section to purchase compulsorily a right to place a gas pipe above ground unless the Minister is satisfied that it is not reasonably practicable to place it below ground.

In relation to the compulsory purchase of any such right to place a gas pipe across land, the said Acquisition of Land (Authorisation Procedure) Act, 1946 (except section two thereof), and the enactments incorporated therewith shall have effect as if references (whatever the terms used) to the land comprised in the compulsory purchase order were construed, where the context so requires, as references to the land across which the pipe is to be placed, and references to the obtaining or taking possession of the land so comprised were construed as references to the exercise of the said right. [1299]

General note.—This section corresponds to s. 11 of the Electricity Act, 1947 (40 Halsbury's Statutes 426). It should be noted that no power is conferred on the Gas Council by this section.

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante*.

Acquisition of Land (Authorisation Procedure) Act, 1946.—39 Halsbury's Statutes 52. This Act provides a uniform procedure for authorising the compulsory purchase of land by local authorities where power to authorise such a purchase is conferred by an Act (other than certain specified Acts) in force immediately before that Act. S. 2 of the Act of 1946, the application of which is negatived by the present section, provides temporary powers for the speedy acquisition of land in urgent cases.

Pipes.—For the powers relating to the laying of pipes, see s. 56 and Sched. III, paras. 1–7, *post*.

Definition.—For definition of "functions", see s. 74 (1), *post*.

12. Power of Boards and Council to promote and oppose Bills.—Any Area Board and the Gas Council may, with the consent of the Minister, promote Bills in Parliament and may, without any such consent, oppose any Bill in Parliament, and this power shall be in lieu of any power to promote or oppose Bills which an Area Board might otherwise possess under any of the provisions of this Act as successors to any statutory undertakers. [1300]

General note.—This section corresponds to s. 10 of the Electricity Act, 1947 (40 Halsbury's Statutes 426).

Area Board.—As to the Area Boards generally, see ss. 1 and 5, *ante*.

Gas Council.—As to the Gas Council generally, see ss. 2 and 5, *ante*.

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

In lieu of any power.—*I.e.* under any local enactment within s. 56 (2), *post*, or any enactment within s. 56 (3), *post*.

Definition.—For definition of "statutory undertaker", see s. 74 (1), *post*.

13. Boards and Council not to be exempt from taxation, etc.—(1) Subject to the provisions of subsection (2) of this section, nothing in this Act shall be deemed to exempt any Area Board or the Gas Council from any liability for any tax, duty, rate, levy or other charge whatsoever whether general or local. [1301]

(2) For the purposes of section fifty-two of the Finance Act, 1946 (which exempts from stamp duty certain documents connected with nationalisation schemes) any transfer of property from one Area Board to another such Board or from the Gas Council to an Area Board, being a transfer effected by an

order made under this Act, shall be deemed to be part of the initial putting into force of such a scheme. [1302]

General note.—This section corresponds to s. 11 of the Electricity Act, 1947 (40 Halsbury's Statutes 427).
Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante*.
Gas Council.—As to the Gas Council generally, see ss. 2 and 5, *ante*.
Finance Act, 1946, *s.* 52.—39 Halsbury's Statutes 751.
Transfer of property.—Transfers of property may be effected by order between Area Board and Area Board under ss. 6 (6), *ante*, and 24, *post*, and from the Gas Council to an Area Board under s. 24, *post*.

14. Liability of Boards and Council in actions, etc.—(1) The Public Authorities Protection Act, 1893, and section twenty-one of the Limitation Act, 1939, shall not apply to any action, prosecution or proceeding against any Area Board or the Gas Council or in respect of any act, neglect or default done or committed by a servant or agent of any such Board or the Gas Council in his capacity as a servant or agent of theirs. [1303]

(2) In their application to any such action as aforesaid sections two and three of the Limitation Act, 1939 (which relate to limitation of actions of contract and tort and certain other actions), shall have effect with the substitution therein for references to six years of references to three years. [1304]

General note.—This section corresponds to s. 12 of the Electricity Act, 1947 (40 Halsbury's Statutes 427).
Public Authorities Protection Act, 1893.—13 Halsbury's Statutes 456.
Limitation Act, 1939, *ss.* 2, 3 *and* 21.—32 Halsbury's Statutes 225, 226, 235.

PART II

ACQUISITION OF GAS UNDERTAKINGS

Vesting of assets

15. Undertakers to whom Part II of Act applies.—(1) Subject to the provisions of this and the next following section, this Part of this Act applies to—

(*a*) every person who carries on a gas undertaking authorised by any enactment;

(*b*) every person who carries on a gas undertaking not authorised by any enactment but providing supplies of gas the whole or main part of which was, during the year nineteen hundred and forty-seven, consumed by persons other than the undertaker, any subsidiary or holding company of the undertaker, and any subsidiary of a holding company of the undertaker; and

(*c*) every company, not being a private company, which—

(i) had, at the date of the last audited balance sheet of the company before the first day of January, nineteen hundred and forty-eight, one or more subsidiaries, being statutory undertakers or non-statutory undertakers (as hereinafter defined); and

(ii) at the said date held securities of, or rights in respect of loans made to, the said subsidiaries, the value of which as shown in that balance sheet, amounted to not less than seventy-five per cent. of the total amount of all the assets of the holding company as so shown;

and references to an undertaker to whom this Part of this Act applies shall be construed as referring to such a person or company as aforesaid:

Provided that this Part of this Act shall not apply to the National Coal Board or the British Transport Commission. [1305]

(2) In this Act—

(*a*) any such person as is mentioned in paragraph (*a*) of the preceding subsection is referred to as a " statutory undertaker " ;

(*b*) any such person as is mentioned in paragraph (*b*) of that subsection, being a person whose gas undertaking is the whole or main part of his business, is referred to as a " non-statutory undertaker " ;

(*c*) any such company as is mentioned in paragraph (*c*) of that subsubsection, not being a statutory or a non-statutory undertaker, is referred to as a " gas holding company " ; and

(*d*) any such person as is mentioned in paragraph (*b*) of that subsection, not being a non-statutory undertaker or a gas holding company, is referred to as an " ancilliary gas undertaker ". [1306]

(3) Any company, not being a statutory or non-statutory undertaker or a gas holding company, but holding securities of, or rights in respect of loans made to, any statutory undertaker or non-statutory undertaker which amount to a substantial proportion of the assets of the company, may serve on the Minister not later than four months after the passing of this Act a notice stating that the company wishes to be treated as a gas holding company, and the Minister may, on the service of such a notice, if he thinks fit, by order direct that this Act shall have effect, and be deemed to have always had effect, as if the company were a gas holding company, and this Act shall have effect accordingly. [1307]

(4) Any ancillary gas undertaker may serve on the Minister not later than four months after the passing of this Act a notice stating that, owing to the special character of the business of the undertaker, this Part of this Act ought not to apply to him or the application thereof ought to be postponed and the Minister may, on the service of such a notice, if he thinks fit, by order direct that this Part of this Act shall not apply, and shall be deemed never to have applied, to that undertaker or that the vesting date shall, in relation to that undertaker, be postponed for such period as the Minister may direct, and this Act shall have effect accordingly. [1308]

(5) For the purposes of paragraph (*c*) of subsection (1) of this section where the value of any such securities or rights as are therein mentioned is not separately shown in the balance sheet therein mentioned, by reason that they are grouped with other assets of the company and the balance sheet shows the value of the groups as a whole, the value placed on the said securities or rights in the books of the company and used in arriving at the value of the group of assets as so shown shall have effect as if it had been shown separately in the balance sheet. [1309]

General note.—This section corresponds to s. 13 of the Electricity Act, 1947 (40 Halsbury's Statutes 427).

National Coal Board.—The National Coal Board was established by the Coal Industry Nationalisation Act, 1946, s. 1 (30 Halsbury's Statutes 256).

British Transport Commission.—The British Transport Commission was established by the Transport Act, 1947, s. 1 (40 Halsbury's Statutes 925).

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

Passing of this Act.—July 30, 1948.

Notice.—As to the service of notices, see s. 70, *post*.

Order.—As to orders generally, see s. 71, *post*.

Vesting date.—May 1, 1949 ; see S.I. 1949 No. 392, made under s. 17, *post*.

Definitions.—For definitions of " company ", " enactment ", " gas undertaking ", " holding company ", " loan ", " private company ", " securities ", " subsidiary ", see s. 74 (1), *post* ; for " ancillary gas undertaker ", " gas holding company ", " non-statutory undertaker " and " statutory undertaker ", see sub-s. (2), *supra*.

16. Determination of questions as to application of Part II of Act.—(1) The Minister shall, within the prescribed period, serve on every person who in his opinion is an undertaker to whom this Part of this Act applies other than a statutory undertaker a notice stating that that person is in his opinion

such an undertaker and also stating in which of the categories mentioned in subsection (2) of the last preceding section that person in the Minister's opinion is included, and—

(*a*) unless that person contends by a counter notice served on the Minister, within two months after the service of the Minister's notice, that in his opinion this Part of this Act does not apply to him and the counter notice is not withdrawn, this Part of this Act shall be deemed to apply to him; and

(*b*) unless that person contends by a counter notice served as aforesaid (and not withdrawn) that in his opinion he is included in a different category of undertaker, he shall (subject to any contention that this Part of this Act does not apply to him) be deemed to be included in the category stated in the notice of the Minister. [1310]

(2) Where any person (other than a statutory undertaker) on whom the Minister has not served a notice under the last preceding subsection within the period prescribed therefor is of the opinion that he is an undertaker to whom this Part of this Act applies, he may within two months after the expiration of the period aforesaid, serve a notice on the Minister in the prescribed form stating that in his opinion this Part of this Act applies to him and also stating in which of the said categories in his opinion he is included, and—

(*a*) unless the Minister contends by a counter notice served on the said person within such period as may be prescribed that in the Minister's opinion this Part of this Act does not apply to the said person and the counter notice is not withdrawn, this Part of this Act shall be deemed to apply to him; and

(*b*) unless the Minister contends by a counter notice served as aforesaid (and not withdrawn) that the said person is included in a different category of undertaker, he shall (subject to any contention that this Part of this Act does not apply to him) be deemed to be included in the category stated in the notice served by the said person. [1311]

(3) The serving of a notice under subsection (4) of the last preceding section shall not be taken as prejudicing the right of the person serving the notice to contend, by means of a counter notice served under this section, that this Part of this Act does not apply to him. [1312]

(4) Where, in the case of any person other than a statutory undertaker, no notice has been served by the Minister or by that person in accordance with the preceding provisions of this section, this Part of this Act shall be deemed not to apply to that person. [1313]

(5) Where a counter notice is served in accordance with the preceding provisions of this section and is not withdrawn, any question raised by the counter notice whether this Part of this Act applies to the person by or on whom the counter notice was served or as to the category of undertaker in which the said person is included shall, in default of agreement between him and the Minister, be determined by arbitration under this Act. [1314]

(6) Where a question has been referred to arbitration in accordance with the last preceding subsection, then, unless the arbitration tribunal determine that this Part of this Act does not apply to that person, the tribunal may, and if the vesting date has already occurred shall, fix a later date which, in relation to that person, shall be deemed to be, and always to have been, the vesting date for the purposes of this Act. [1315]

General note.—This section corresponds to s. 34 of the Electricity Act, 1947 (40 Halsbury's Statutes 459).

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

Undertakers to whom this Part applies.—See s. 15, *ante*.

Notice.—As to the service of notices, see s. 70, *post*.

Prescribed period.—The prescribed period for the purposes of sub-s. (1), *supra*, was the

period ending on November 13, 1948. The prescribed period within which the Minister may serve a counter-notice is two months from the service of the notice on him (see the Gas (Notices) Regulations, 1948 ; S.I. 1948 No. 2242).

Prescribed form.—The prescribed form of notice under sub-s. (2), *supra*, is contained in the Schedule to the above Regulations.

Arbitration under this Act.—See s. 63, *post*.

Vesting date.—May 1, 1949 ; see S.I. 1949 No. 392, made under s. 17, *post*.

Definitions.—For definitions of "arbitration tribunal", "prescribed", and "statutory undertaker", see s. 74 (1), *post*.

17. Vesting of assets.—(1) Subject to the provisions of this Part of this Act, all property, rights, liabilities and obligations which, immediately before such date as may be appointed by order of the Minister (in this Act referred to as "the vesting date"), were property, rights, liabilities and obligations of an undertaker to whom this Part of this Act applies, shall on the vesting date vest by virtue of this Act and without further assurance in such Area Board as may be determined by order of the Minister :

Provided that in the case of a gas holding company the Minister may by order provide that the said property, rights, liabilities and obligations of the company, or such part thereof as may be specified in the order, shall, pending the transfer thereof under the following provisions of this Part of this Act to one or more Area Boards, vest in the Gas Council and not in an Area Board. [1316]

(2) The vesting date shall not be less than three months after the establishment of the Gas Council and all the Area Boards and the definition by order made under Part I of this Act of all the areas for which those Boards are established, and shall not be earlier than the first day of April, nineteen hundred and forty-nine. [1317]

(3) Subject to the provisions of this Part of this Act, every agreement to which any undertaker to whom this Part of this Act applies was a party immediately before the vesting date, whether in writing or not, and whether or not of such a nature that rights, liabilities and obligations thereunder could be assigned by the undertaker, shall, unless its terms or subject matter make it impossible that it should have effect as modified in manner provided by this subsection, have effect as from the vesting date as if—

(*a*) the appropriate Board had been a party to the agreement ;

(*b*) for any reference (however worded and whether express or implied) to the undertaker there were substituted, as respects anything falling to be done on or after the vesting date, a reference to the appropriate Board ;

(*c*) in the case of an undertaker being a company, for any reference (however worded and whether express or implied) to the directors or any director of the company there were substituted, as respects anything falling to be done on or after the vesting date, a reference to such person as the appropriate Board may direct ;

(*d*) for any reference (however worded and whether express or implied) to any officer of the undertaker not being a party to the agreement and beneficially interested therein there were substituted, as respects anything falling to be done on or after the vesting date, a reference to such person as the appropriate Board may appoint or, in default of appointment, to the officer of the Board who corresponds as nearly as may be to the first mentioned officer ;

(*e*) in the case of an agreement for the rendering of personal services to the undertaker, the services to which the agreement relates were, on and after the vesting date, any services under the appropriate Board, to be selected by that Board, which are reasonably equivalent services ; and

(*f*) save as provided by the three last preceding paragraphs, for any reference (however worded and whether express or implied) to the

undertaking of the undertaker or any part of that undertaking or to the limits of supply of the undertaker or any part thereof there were substituted, as respects anything falling to be done on or after the vesting date, a reference to so much of the business carried on by the appropriate Board as corresponds to the undertaking or part of the undertaking of the undertaker or, as the case may be, a reference to the area comprised in the said limits immediately before the vesting date or part thereof. [1318]

(4) Every agreement, whether in writing or not, and every document (not being an agreement or a document to which the last preceding subsection applies or an enactment) which refers whether specifically or generally to any such undertaker shall be construed in accordance with the provisions of the last preceding subsection, so far as applicable. [1319]

(5) Without prejudice to the generality of the preceding provisions of this section, where any right, liability or obligation vests by virtue of this Act, the appropriate Board and all other persons shall, as from the vesting date, have the same rights, powers and remedies (and in particular the same rights as to the taking or resisting of legal proceedings or the making or resisting of applications to any authority) for ascertaining, perfecting or enforcing that right, liability or obligation as they would have had if it had at all times been a right, liability or obligation of the Board, and any legal proceedings or applications to any authority pending on the vesting date by or against the undertaker, in so far as they relate to any property, right, liability or obligation vested by virtue of this Act or to any agreement or document which has effect in accordance with subsection (3) or subsection (4) of this section or to any enactment applied by or under this Act, shall be continued by or against the appropriate Board to the exclusion of the undertaker. [1320]

(6) Notwithstanding anything in this section—

(*a*) there shall not, by reason of the vesting of property, rights, liabilities or obligations of any undertaker to whom this Part of this Act applies in any Area Board or in the Gas Council, be transferred to the Board or the Council any right, liability or obligation of the undertaker in respect of any securities issued by the undertaker;

(*b*) where any agreement provides for the borrowing of money by any such undertaker or the raising of money by the issue of securities of any such undertaker and the money has not been borrowed or raised before the vesting date, no right, liability or obligation under the agreement shall be transferred to any Area Board or to the Gas Council; and

(*c*) no right, liability or obligation under any agreement for the rendering by any person of services to any such undertaker as a director (other than a managing director or a director whose functions are substantially those of an employee) shall be transferred to any such Board or to the Gas Council, except any liability in respect of fees earned or expenses incurred before the vesting date. [1321]

(7) Regulations may provide for the registration of the title of any Area Board or of the Gas Council to assets vesting in them by virtue of this Act, being assets of a kind subject to provision for the registration of title thereto, and for any matters for which provision appears to the Minister to be necessary or expedient for the purpose of securing the effective transfer of any assets vesting in any such Board or in the Gas Council by virtue of this Act. [1322]

(8) In this section the expression "the appropriate Board" means—

(*a*) in relation to any property, rights, liabilities and obligations which vest by virtue of this Act in an Area Board or any agreement or other document which relates to any such property, rights, liabilities or obligations, that Board; and

(*b*) in relation to any property, rights, liabilities and obligations which vest by virtue of this Act in the Gas Council or any agreement or other document which relates to any such property, rights, liabilities or obligations, that Council. [1323]

(9) Subject to the next following section, every undertaker to whom this Part of this Act applies, being a body corporate, shall be dissolved on the vesting date. [1324]

General note.—This section corresponds to s. 14 of the Electricity Act, 1947 (40 Halsbury's Statutes 429).

"*Subject to the provisions of this Part of this Act.*"—As to property not vesting in an Area Board or the Gas Council, see ss. 18 and 22, *post.*

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

Undertaker to whom this Part applies.—See s. 15, *ante.* See also the application of sub-ss. (3)–(8), *supra*, to gas and coke associations by s. 62 (2), *post.*

Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante.*

Order under proviso to sub-s. (1).—See the Gas (Allocation of Undertakings to Area Boards and Gas Council) Order, 1949 (S.I. 1949 No. 742).

Gas Council.—As to the Gas Council generally, see ss. 2 and 5, *ante.*

Vesting date.—May 1, 1949; see the Gas (Vesting Date) Order, 1949 (S.I. 1949 No. 392). Sub-s. (2), *supra*, was inserted to ensure that the machinery for operating the gas industry under the Act was in existence before the vesting date; cf. the Electricity Act, 1947, s. 14 (5).

Definition of areas.—See s. 6 (1), *ante.*

Agreements.—For agreements excluded by the provisions of this Part of the Act from sub-s. (3), *supra*, see s. 22, *post.*

Registration of title.—For the registration of title to property, see the Land Registration Acts, 1925 and 1936 (15 Halsbury's Statutes 434; 20 Halsbury's Statutes 725).

Regulations.—See the Gas (Vesting of Assets) Regulations, 1949 (S.I. 1949 No. 815). As to orders and regulations generally, see s. 71, *post.*

Definitions.—For definitions of "appropriate Board", "company", "functions", "gas holding company", "officer" and "securities", see s. 74 (1), *post.*

Transfer of local authorities' undertakings.—The Local Government Act, 1948, s. 138 (title ELECTRICITY SUPPLY, *ante*), empowers local authorities whose gas undertakings have been transferred to other bodies under the present Act to enter into agreements for the limited continuance of specified functions by such local authorities on an agency basis. Ministerial consent may be necessary, and it is submitted that agreements under the section should be under seal.

18. Provisions as to undertakers whose gas undertakings only are taken over.—(1) In a case where an undertaker to whom this Part of this Act applies—

(*a*) is a local authority; or

(*b*) is a company (in this Act referred to as a "composite company") which supplies water as well as gas under the authority of an enactment; or

(*c*) is an ancillary gas undertaker; or

(*d*) is not a body corporate; or

(*e*) is an Electricity Board;

the provisions of the last preceding section shall only apply to property held or used by the undertaker wholly or mainly for the purposes of his gas undertaking or wholly or mainly in his capacity as a gas undertaker, and to rights, liabilities and obligations acquired or incurred, and agreements made, by the undertaker wholly or mainly for those purposes or in that capacity, and to documents, legal proceedings and applications relating to the purposes of the gas undertaking or to the undertaker in his capacity as a gas undertaker, and references in that section to the property, rights, liabilities and obligations of an undertaker to whom this Part of this Act applies, or to any agreement to which any such undertaker was a party, or to documents referring to any such undertaker or to legal proceedings or applications by or against any such undertaker, shall be construed accordingly, and subsection (9) of the last preceding section shall not apply to any such undertaker;

Provided that this section shall not apply to any undertaker being a composite company, if that undertaker serves on the Minister, not later than four months after the passing of this Act, a notice stating that the undertaker does not wish this section to apply to him, and references in this Act to a composite company shall not be construed as referring to any undertaker who has served such a notice. [1325]

(2) Regulations shall provide—

(*a*) for the determination of the question whether any property is or was held or used by the undertaker wholly or mainly for the purposes of his gas undertaking, or wholly or mainly in his capacity as a gas undertaker, or whether any rights, liabilities, or obligations were acquired or incurred, or any agreement was made, by the undertaker wholly or mainly for the said purposes or in that capacity, or whether any documents relate to the purposes of the gas undertaking or to the undertaker in his capacity as a gas undertaker ;

(*b*) for excluding from or including in the property, rights, liabilities and obligations which vest in an Area Board by virtue of this Act and the agreements which have effect in accordance with subsection (3) of the last preceding section such property, rights, liabilities and obligations held, used, acquired or incurred, and such agreements made, by any undertaker to whom this section applies partly for the purposes of his gas undertaking and partly for other purposes, or partly in his capacity as a gas undertaker and partly in any other capacity, on such terms (which may include the payment of money), as may be determined in accordance with the regulations ;

(*c*) for requiring any Area Board, as respects property which vests in them by virtue of this Act, being property held or used by any undertaker to whom this section applies partly for the purposes of his gas undertaking and partly for other purposes, or partly in his capacity as a gas undertaker and partly in any other capacity, to grant to the undertaker such interests in the property or rights over or attaching to the property or in respect of the user thereof, on such terms (which may include the payment of money) as may be determined in accordance with the regulations, or for requiring the similar grant of interests or rights by the undertaker to the Area Board in a case where such property does not vest in the Board ;

(*d*) for conferring on any Area Board in whom land of any undertaker to whom this section applies is vested easements and other rights over or attaching to other land of the undertaker, being easements and rights which are required to enable land which is so vested to be used for the purposes of the Board, on such terms (which may include the payment of money) as may be determined in accordance with the regulations ;

(*e*) for the severance of leases comprising land of which part only vests in an Area Board by virtue of this Act, and for apportionments and indemnities consequent on such severance ;

(*f*) for substituting for any agreement entered into by any undertaker to whom this section applies partly for the purposes of his gas undertaking and partly for other purposes or partly in his capacity as a gas undertaker and partly in any other capacity separate agreements in the requisite terms, and for any apportionments and indemnities consequent thereon ;

(*g*) for the apportionment of, and the making of financial adjustments with respect to, any liabilities incurred by any undertaker to whom this section applies partly for the purposes of his gas undertaking and partly for other purposes, or partly in his capacity as a gas undertaker and partly in any other capacity, and for any necessary variation of mortgages and encumbrances relating to such liabilities ; and

(*h*) for any other matters supplementary to or consequential on the matters aforesaid for which provision appears to the Minister to be necessary or expedient.

For the purposes of this subsection, any property which is held or used by any undertaker to whom this section applies temporarily for the purposes of his gas undertaking and normally for other purposes, or normally for the purposes of his gas undertaking and temporarily for other purposes, shall be deemed to be property held or used by the undertaker partly for the purposes of his gas undertaking and partly for other purposes. [1326]

(3) Where at any time before the expiration of three months beginning with the vesting date any undertaker to whom this section applies has served on the Area Board concerned, or the Area Board has served on the undertaker, a notice in the prescribed form stating that a question has arisen under this section or under any regulations made thereunder as to—

(*a*) whether any property is or was held or used by the undertaker wholly or mainly for the purposes of his gas undertaking or in his capacity as a gas undertaker and accordingly vests in the Area Board by virtue of this Act;

(*b*) whether any property of the undertaker ought to be excluded from or included in the property which so vests; or

(*c*) whether interests in any property of the undertaker, or rights over or attaching to such property or in respect of the user thereof, ought to be granted by the undertaker to the Area Board or by the Board to the undertaker;

and the question has not been determined before the vesting date, the property concerned shall not, pending such determination, vest in the Area Board by virtue of this Act and, if the notice is given after the vesting date, shall be deemed not to have so vested, but the property shall, so far as it is so to vest having regard to the determination, vest on such date as may be determined, and pending the determination of the said question and, if any property is to vest or any interests or rights are to be granted in accordance therewith, pending the vesting or granting thereof, the Area Board shall be entitled and shall be deemed to have been entitled as from the vesting date to use the property for the like purposes and to the like extent as it was used, immediately before that date, by the undertaker for the purposes of his gas undertaking, on such terms (which may include the payment of money) as may be determined in accordance with the regulations. [1327]

(4) Nothing in the preceding provisions of this Part of this Act shall have effect so as to vest in any Area Board or provide for the apportionment to any Area Board of any liabilities or obligations of any local authority in respect of any loan raised by the authority, or any property forming part of a sinking fund established for the redemption of any such loan. [1328]

(5) No part of the cash and investments of a composite company shall vest in an Area Board under the preceding provisions of this Part of this Act, but regulations shall, subject to the provisions of this Part of this Act with respect to the final payment of dividends and interest, provide for the apportionment, as between the Board and the company, of the whole of the cash and investments of the company, together with any income accruing thereon pending such apportionment, in such shares as may be determined in accordance with the regulations.

Any references in the following provisions of this Act to property which vests by virtue of this Act shall include a reference to property apportioned to an Area Board under this section. [1329]

(6) No cash or investments of an ancillary gas undertaker or an undertaker who is not a body corporate shall vest in an Area Board under the preceding provisions of this Part of this Act. [1330]

(7) Any property of any undertaker to whom this section applies which vests in an Area Board, being property subject to a mortgage or encumbrance created for securing the payment of any debt which does not vest in the Board by virtue of this Act and is not apportioned as between the Board and the undertaker, shall vest free of the mortgage or encumbrance. [1331]

(8) Regulations made under this section shall provide that any questions to be determined in accordance with the regulations shall be determined by agreement between the Area Board and the undertaker concerned, or in default of agreement shall—

(*a*) in a case where the undertaker concerned is a local authority, be determined by the Minister of Health; and

(*b*) in any other case, be determined by arbitration under this Act. [1332]

(9) In relation to undertakers to whom this section applies or any class of such undertakers, references in the following provisions of this Part of this Act to an undertaker to whom this Part of this Act applies (not being references which expressly exclude undertakers to whom this section applies or that class of those undertakers) shall be construed as referring to those undertakers in their capacity as gas undertakers and in that capacity only. [1333]

General note.—This section, so far as local authorities are concerned, corresponds to s. 15 of the Electricity Act, 1947 (40 Halsbury's Statutes 433).

Undertaker to whom this Part applies.—See s. 15, *ante*.

"*Wholly or mainly in his capacity as a gas undertaker*".—These words, and the words "wholly or mainly in that capacity" were inserted *passim* in this section to cover such agreements as that made by the Blackpool Corporation in 1938, on the ultimate dismantling of its gas works, for the transfer of the land to the railway company, not for the benefit of the gas undertaking but for town-planning purposes.

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

Notice.—As to the service of notices, see s. 70, *post*. As to disposal of assets, etc., other than those connected with the gas undertaking of a gas company opting under the proviso to sub-s. (1), *supra*, see s. 7 (2), *ante*.

Passing of this Act.—July 30, 1948.

Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante*. As to the property, etc., vesting in an Area Board, see s. 17, *ante*.

Vesting date.—May 1, 1949; see S.I. 1949 No. 392, made under s. 17, *ante*.

Final payment of dividends and interest.—See s. 34, *post*.

Free of the mortgage.—Sub-s. (7), *supra*, which is primarily required for local authority loans which may be charged on the gas undertaking, leaves a theoretical gap whereby creditors may be deprived of their security; but see ss. 30 (6) (*c*) and 31 (3), *post*.

Arbitration under this Act.—See s. 63, *post*.

Compensation.—As to compensation to local authorities, see ss. 28, 29, *post*; to composite companies, s. 30, *post*; to ancillary gas undertakers and non-corporate undertakers, s. 31, *post*; and to Electricity Boards, s. 32, *post*.

Regulations.—See the Gas (Vesting of Assets) Regulations, 1949 (S.I. 1949 No. 815). As to regulations generally, see s. 71, *post*.

Definitions.—For definitions of "ancillary gas undertaker", "company", "composite company", "Electricity Board", "enactment", "gas undertaking", "lease", "loan", "local authority" and "prescribed", see s. 74 (1), *post*.

19. Adjustment of matters outstanding as between accounts of gas undertaking and other accounts of local authority.—(1) Where a local authority have before the vesting date made arrangements for the making of financial adjustments, as between the accounts of the gas undertaking of the local authority and any other account of the local authority, in respect of any transaction or matter affecting both their functions as a gas undertaker and other functions of the authority, and in pursuance of those arrangements any amounts would, but for this Act, have fallen on or after the vesting date properly to be debited or credited in the accounts of the gas undertaking of the local authority and credited, or, as the case may be, debited, in some other account of the local authority, the Area Board in whom property, rights, liabilities and obligations of the local authority vest by virtue of this Act shall, subject as hereinafter provided, pay those amounts to the local authority or be entitled to receive those amounts from the authority, as the case may be, at the times at which, but for this Act, those amounts would have fallen to be

debited or credited in the accounts of the gas undertaking of the local authority :

Provided that this subsection shall not apply in relation to any apportionment of establishment charges between the accounts of the gas undertaking and other accounts of the local authority. [1334]

(2) The said Area Board and the local authority may agree or the Minister of Health may, on the application of either party in default of such agreement, determine that, having regard to the circumstances in which any such arrangements were made and the circumstances arising under this Act, the last preceding subsection shall not apply to those arrangements or shall apply thereto with such modifications as to the payments to be made by the Board or the local authority as may be so agreed or determined, and the said subsection shall have effect subject to any such agreement or determination.

Any other question arising under the last preceding subsection as to the payments to be made thereunder shall, in default of agreement, be determined by the Minister of Health. [1335]

(3) Any payment made by the said Area Board or the local authority under the preceding provisions of this section which would, but for this Act, have been debited or credited as a capital payment shall be deemed to be a capital payment, and any other such payment shall be deemed to be an annual payment. [1336]

(4) Nothing in this section shall apply to any arrangements made with respect to any loan raised or advance made for the purposes of the gas undertaking of the local authority. [1337]

Vesting date.—May 1, 1949 ; see S.I. 1949 No. 302, made under s. 17, *ante*.
Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante*. As to the property, etc., of local authorities vesting in an Area Board, see s. 18, *ante*.
Definitions.—For definitions of "functions", "gas undertaking", "loan" and "local authority", see s. 74 (1), *post*.

20. Payments in respect of reserves of composite companies.—(1) Where, in the case of a composite company, a reserve is shown in the last audited balance sheet of the company before the vesting date, and either—

(*a*) the reserve or a part thereof is derived from profits made by such part of the company's undertaking as is not included in the gas undertaking or from other assets held for the purposes of that part of the company's undertaking but is represented immediately before the vesting date by assets (other than cash or investments) which will vest by virtue of this Act in an Area Board ; or

(*b*) the reserve or a part thereof is derived from profits made by the gas undertaking of the company or from other assets held for the purposes of the gas undertaking but is represented immediately before the said date by assets (other than cash or investments) which will not vest as aforesaid,

the Area Board shall, in the first mentioned case, pay to the company, and, in the second mentioned case, be entitled to receive from the company, a sum equal to the amount of the reserve or part thereof. [1338]

(2) Any question arising under the preceding subsection shall, in default of agreement, be determined by arbitration under this Act. [1339]

(3) This section shall apply in relation to any provision (within the meaning of paragraph 1 of Part IV of the Eighth Schedule to the Companies Act, 1948) shown in the said balance sheet and in relation to any undistributed profits so shown as it applies in relation to a reserve so shown. [1340]

(4) Any payment made by an Area Board or composite company under this section shall be deemed to be a capital payment. [1341]

General note.—This section is designed to adjust the position where an Area Board comes into possession of an asset purchased from a reserve built up out of the profits of the water side

of the undertaking and, conversely, where the company retains an asset purchased from reserves accumulated from gas profits.

Vesting date.—May 1, 1949; see S.I. 1949 No. 392, made under s. 17, *ante*.

Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante*. As to the vesting of assets in Area Boards, see s. 18, *ante*.

Arbitration under this Act.—See s. 63, *post*.

Companies Act, 1948, *Sched. VIII, Part IV, para.* 1.—11 & 12 Geo. 6, c. 38. The reference should presumably be to sub-para. (1) of para. 27, since there is no para. 1 to Part IV of the said Schedule.

Definitions.—For definitions of "composite company" and "gas undertaking", see s. 74 (1), *post*.

21. Right of pre-emption for local authorities and composite companies in respect of land vested in an Area Board.—(1) Where any land of a local authority or composite company vests by virtue of this Act in an Area Board, the authority or company shall, for a period of ten years from the date of the vesting of the land, have the right of pre-emption conferred by the subsequent provisions of this section. [1342]

(2) If the Area Board in whom the land vests by virtue of this Act, or any other Area Board to whom it is subsequently transferred, desire within the said period of ten years, to dispose to any person other than an Area Board, whether absolutely or for a term of years, of any of that land as being land not required by the Board for the discharge of their functions under this Act, they shall before disposing of it give to the local authority or composite company at least three months' notice, stating whether they desire to dispose of it absolutely and, if not, stating the term of years for which they desire to dispose of it. [1343]

(3) Where the local authority or composite company receive a notice under subsection (2) of this section and notify the Board, before the expiration of the period of three months from the date of the Board's notice, that they desire to acquire the land either absolutely or for the term of years specified in the Board's notice, as the case may be, they shall have the right and be under an obligation to acquire that land on such terms as may be agreed between the Board and the authority or company or, in default of agreement, as may be determined by arbitration to be fair and reasonable having regard to all the circumstances of the case. [1344]

(4) The right of pre-emption conferred upon the local authority or composite company by this section shall be deemed to be an estate contract within the meaning of section ten of the Land Charges Act, 1925, and that Act and the Land Registration Act, 1925, shall have effect accordingly. [1345]

General note.—This section corresponds to s. 16 of the Electricity Act, 1947 (40 Halsbury's Statutes 435).

Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante*. As to the vesting in a Board of land belonging to a local authority or composite company, see ss. 17 (1), 18 (1), *ante*. As to the date of vesting, see s. 17 (1), *ante*, and S.I. 1949 No. 392 made thereunder, and s. 18 (3), *ante*.

Other Area Board to whom transferred.—As to the transfer of property from one Area Board to another, see ss. 6 (6), *ante*, and 24, *post*.

Notice.—As to the service of notices, see s. 70, *post*.

Arbitration.—Arbitration under sub-s. (2), *supra*, is not "arbitration under this Act" and is accordingly outside the jurisdiction of the Gas Arbitration Tribunal established under s. 63, *post*. Arbitration here will be under the Arbitration Acts, 1889 to 1934 (2 Halsbury's Statutes (2nd Edn.) 4–39); see s. 24 of the Act of 1889 (2 Halsbury's Statutes (2nd Edn.) 17).

Land Charges Act, 1925, s. 10.—15 Halsbury's Statutes 531. That section defines an "estate contract" as any contract by an estate owner or by a person entitled at the date of the contract to have a legal estate conveyed to him to convey or create a legal estate, including a contract conferring either expressly or by statutory implication a valid option of purchase, a right of pre-emption or any other like right.

Land Registration Act, 1925.—15 Halsbury's Statutes 434.

Definitions.—For definitions of "composite company", "functions" and "local authority", see s. 74 (1), *post*.

22. Disclaimer of agreements and leases.—(1) Where there are vested in any Area Board or in the Gas Council the rights, liabilities and obligations of any undertaker to whom this Part of this Act applies, being rights, liabilities and obligations under an agreement made or varied on or after the nineteenth

day of November, nineteen hundred and forty-five, and the Board or Council are of opinion that the making or the variation of that agreement was not reasonably necessary for the purposes of the activities of the said undertaker or that the agreement was made or varied with an unreasonable lack of prudence on the part of the said undertaker, the Board or Council may, by notice in writing given to the other parties to the agreement before the expiration of three months from the vesting date, disclaim the agreement:

Provided that any of the said parties may, within the prescribed period from the date on which the notice is served, refer to arbitration under this Act the question whether or not the agreement ought to be disclaimed. [1346]

(2) On such arbitration, the arbitration tribunal, if satisfied that the agreement or variation was not reasonably necessary as aforesaid or was made with unreasonable lack of prudence, shall confirm the notice and if not so satisfied shall revoke it:

Provided that, if the arbitration tribunal are satisfied that the agreement or variation thereof was made in the ordinary course of business and was in no way connected with any provision made by this Act, or with any anticipation of the making of any such provision, the tribunal shall revoke the notice. [1347]

(3) Where a notice is so given by an Area Board or by the Gas Council with respect to any agreement and is not revoked by the arbitration tribunal—

(*a*) subsection (3) of section seventeen of this Act shall be deemed never to have applied to the agreement;

(*b*) the agreement shall be deemed to have been frustrated on the vesting date and the parties thereto for that reason to have been discharged from the further performance thereof; and

(*c*) the like consequences shall follow as between the Board or Council and any party to the agreement who, before the date on which the notice of disclaimer becomes final, has in pursuance of the agreement, supplied goods or rendered services to the Board or Council which they have accepted, or to whom, before the said date, the Board or Council have, in pursuance of the agreement, supplied goods or rendered services which he has accepted, as would have followed if those goods or services had been supplied or rendered at the request of the Board or Council or of that party, as the case may be, apart from the agreement, and any payments by or to the Board or Council before the said date shall be adjusted accordingly.

For the purposes of this subsection a person who permits another to use or enjoy any property or rights shall be deemed to render a service to him. [1348]

(4) Subsections (1) and (2) of this section, but not subsection (3), shall apply to leases, and where a notice of disclaimer is given by an Area Board or by the Gas Council under subsection (1) with respect to any lease and is not revoked by the arbitration tribunal, the lease shall be deemed to be surrendered on the date on which the notice of disclaimer becomes final. [1349]

(5) Where any lease is disclaimed under this section the arbitration tribunal may, on the application of the Board or Council who gave the notice or the other party to the lease, make such modifications (if any) of the provisions of the lease relating to repairing obligations or any other provisions taking effect on or within a limited time before the determination of the lease as they think just. [1350]

(6) Where any agreement (other than a lease) is disclaimed under this section, then, for the purposes of the Law Reform (Frustrated Contracts) Act, 1943, the Area Board or the Gas Council, as the case may be, shall be deemed to have been a party to the agreement in lieu of the undertaker from

whom rights, liabilities or obligations thereunder were or would, but for the frustration, have been transferred. [1351]

(7) For the purposes of this section a notice of disclaimer which is not revoked shall be deemed to become final on the following date, that is to say,—

(*a*) if no reference to arbitration is made under subsection (1) of this section, the date on which the period for making such a reference expires;

(*b*) in any other case, the date on which the notice is confirmed by the arbitration tribunal. [1352]

(8) This section shall not apply to any agreement or lease made or varied with the previous consent of the Minister of Health given for the purpose of any enactment other than this section nor shall it apply to any agreement or lease the making or variation of which has been approved in writing by the Minister, either generally or specially and whether before or after the date of the making or variation of the agreement or lease. [1353]

General note.—This section corresponds to s. 18 of the Electricity Act, 1947 (40 Halsbury's Statutes 438). It should be read in conjunction with s. 36, *post*, providing for the re-opening of transactions that have resulted in the dissipation of assets.

Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante*.

Gas Council.—As to the Gas Council generally, see ss. 2 and 5, *ante*.

Undertaker to whom this Part applies.—See s. 15, *ante*.

Prescribed period.—See reg. 18 of the Gas (Vesting of Assets) Regulations, 1949 (S.I. 1949 No. 815).

Notice.—As to the service of notices, see s. 70, *post*.

Vesting date.—May 1, 1949; see S.I. 1949 No. 392, made under s. 17, *ante*.

Arbitration under this Act.—See s. 63, *post*. As to the production of documents for the purpose of deciding whether a question is to be referred to arbitration under the present section, see s. 39 (3) (*a*), *post*.

Frustrated.—For the law relating to frustration as a ground of discharge of contract, see 7 Halsbury's Laws (2nd Edn.) 215 *et seq.*

Law Reform (Frustrated Contracts) Act, 1943.—4 Halsbury's Statutes (2nd Edn.) 662.

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

Definitions.—For definitions of "arbitration tribunal", "enactment", "lease" and "prescribed", see s. 74 (1), *post*.

23. Provisions as to undertakings carried on in areas of different Area Boards.—(1) Where any undertaker to whom this Part of this Act applies was, immediately before the vesting date, giving a supply of gas outside the area of the Area Board in whom the property, rights, liabilities and obligations of the undertaker vest by virtue of this Act, the Area Board shall, if necessary, make arrangements with the Area Board in whose area the said supply was being given for the continuance by the first-mentioned Board of the said supply and, if the Boards concerned fail to make such arrangements, the Minister shall give directions requiring the first-mentioned Board to continue the said supply of gas. [1354]

(2) The first-mentioned Area Board shall have power in accordance with any arrangements made or directions given under this section to continue the said supply of gas, but such arrangements and directions shall only have effect pending the transfer under the next following section to the Area Board in whose area the gas is so supplied, of the property, rights, liabilities and obligations used for the purposes of or arising in connection with such supply. [1355]

Undertaker to whom this Part applies.—See s. 15, *ante*.

Vesting date.—May 1, 1949; see S.I. 1949 No. 392, made under s. 17, *ante*.

Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante*. As to their areas, see ss. 1 (1) and 6, *ante*, and Sched. I, *post*, and S.I. 1948 No. 2773, made under s. 6, *ante*.

Property vesting by virtue of this Act.—This includes property apportioned to an Area Board under s. 18, *ante* (see s. 18 (5), *ante*).

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

24. Subsequent transfer of property from the Gas Council to an Area Board or from one Area Board to another.—(1) The Minister shall as soon as practicable provide by order—

(*a*) for the transfer of property, rights, liabilities and obligations vested under this Part of this Act in the Gas Council, including any sums paid or liabilities passing to the Council under any of the following provisions of this Part of this Act, to such Area Board or Boards as he thinks fit; and

(*b*) for the transfer to the Area Board in whose area gas is supplied under the last preceding section of the property, rights, liabilities and obligations referred to in subsection (2) of that section. [1356]

(2) The Minister may provide by order for the transfer to any Area Board of any property, rights, liabilities or obligations vested by virtue of this Act in another such Board. [1357]

(3) Any order made under this section may make provision—

(*a*) for the modification of agreements so far as necessary for giving effect to any transfer of rights, liabilities and obligations made by the order and, in a case where part only of the rights, liabilities and obligations under any agreement are transferred, for substituting for the agreement separate agreements in the requisite terms, and for any apportionments and indemnities consequent thereon;

(*b*) for the purpose of transferring part of the land comprised in any lease vested in any Area Board, for the severance of that lease, and for apportionments and indemnities consequent thereon;

(*c*) for such other financial adjustments between the parties to any such transfer as may be required in consequence of the transfer, and for any other matters supplementary to or consequential on the matters aforesaid for which provision appears to the Minister to be necessary or expedient, including the continuation of proceedings. [1358]

(4) An order under this section shall not be made except after consultation with the Gas Council and any Area Board concerned. [1359]

General note.—This section corresponds to s. 19 of the Electricity Act, 1947 (40 Halsbury's Statutes 439).

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

Gas Council.—As to the Gas Council generally, see ss. 2 and 5, *ante*.

Property, etc., vested in the Gas Council.—This section is confined to property, etc., vested in the Gas Council under this Part of the Act (*i.e.* under the proviso to s. 17 (1), *ante*, as modified by s. 18, *ante*), to enable the Gas Council to continue to hold the property of those associations vested in it by s. 62 (1), *post*.

Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante*.

Sums paid, etc., under the following provisions.—As to sums paid to the Gas Council, see s. 34 (9), *post*, and as to liabilities incurred, see s. 36 (4), *post*.

Orders.—The making of orders to cover the two cases specified in sub-s. (1) is obligatory; the making of orders under sub-s. (2) is discretionary. An order under sub-s. (2) may provide for applying to the transferee Board any local enactment applicable to the transferor Board (see s. 56 (6), *post*).

As to orders generally, see s. 71, *post*. No orders under this section had been made at the date of going to press.

Definition.—For definition of "lease", see s. 74 (1), *post*.

Compensation to holders of securities

25. Compensation to holders of securities.—(1) Every holder of securities of any undertaker to whom this Part of this Act applies, not being an undertaker to whom section eighteen of this Act applies, shall be entitled to be compensated by the issue to him by the Gas Council, in accordance with the provisions of the Second Schedule to this Act, of British Gas Stock of such amount as in the opinion of the Treasury is at the vesting date of a value equal to the value of the said securities held by him, regard being had (in estimating the value of the stock so issued) to the market value of government securities at or about the vesting date:

Provided that—

(*a*) if the whole of the beneficial interest in any such securities was, immediately before the vesting date, vested in any undertaker to whom this Part of this Act applies, other than a composite company, an ancillary gas undertaker or an undertaker who is not a body corporate, no compensation shall be payable in respect of those securities and the securities shall be extinguished on the vesting date; and

(*b*) if the holder of any such securities was such an undertaker as aforesaid, but the whole of the beneficial interest was not so vested, the stock issued as aforesaid in respect of those securities shall be held by the appropriate Board, and the said Schedule shall have effect as if the said Board were the holders of those securities. [1360]

(2) Where securities of any class were quoted in the Stock Exchange Official Daily List on all six of the following dates, that is to say, the thirteenth, fourteenth, fifteenth, sixteenth, seventeenth and twentieth days of October, nineteen hundred and forty-seven, and were also quoted in the said list or in the Stock Exchange Daily Supplementary List on any of the following dates, that is to say, the fifteenth day of February, the fifteenth day of March, the sixteenth day of April, the fifteenth day of May, the fifteenth day of June and the sixteenth day of July, nineteen hundred and forty-five, the value of securities of that class for the purposes of this section shall, subject to the provisions of this section and the next following section, be deemed to be either—

(*a*) the average of the mean of the quotations for securities of that class appearing in the said Stock Exchange Official Daily List on the said dates in the year nineteen hundred and forty-seven, or

(*b*) the average of the mean of the quotations for securities of that class appearing in the said Stock Exchange Official Daily List or the said Stock Exchange Daily Supplementary List on the said dates in the year nineteen hundred and forty-five on which a quotation therefor so appeared,

whichever is the higher, such addition, if any, being made to the higher average as is necessary to make it a complete multiple of one penny:

Provided that a quotation appearing in any of the said lists shall be disregarded for the purposes of this section unless business is recorded in that list as having been done at any time during the six months immediately before the date of that list. [1361]

(3) Where, in the case of any class of securities to which the last preceding subsection applies, there has been at any time after the last relevant quotation date a fresh issue of securities of that class, the value of every security of that class for the purposes of this section shall, instead of being determined under the last preceding subsection, be deemed to be the average of the values of all the securities of that class calculated on the basis that—

(*a*) the value of each of the securities comprised in that issue is the price at which it was issued, and

(*b*) the value of the remaining securities is the value which those securities had or would have had for the purposes of this section immediately before the issue took place. [1362]

(4) Where, at any time after the last relevant quotation date any securities to which subsection (2) or subsection (3) of this section applies have been converted into securities of a different nominal value—

(*a*) the value of those securities as so converted shall, for the purposes of this section, be deemed to be a value bearing to the value which the

securities had or would have had for the purposes of this section immediately before the conversion took place the same proportion as the nominal value of the securities as converted bears to the nominal value of the securities immediately before the conversion took place; and

(*b*) the last preceding subsection shall apply to any fresh issue of securities which have been converted as aforesaid, but if a part only of a class of securities has been converted as aforesaid, the converted securities shall, for the purposes of the last preceding subsection, be treated as securities of a different class from that of the unconverted securities. [1363]

(5) Subject to the next following subsection, where a new class of securities has been issued at any time after the twentieth day of October, nineteen hundred and forty-seven, the value of securities of that class for the purposes of this section shall be deemed to be the price at which they were issued, and the last two preceding subsections shall apply to any fresh issue or conversion of securities of that class. [1364]

(6) Subsections (2), (3) and (5) of this section shall not apply to any securities issued at any time after the thirty-first day of December, nineteen hundred and forty-five, on terms and conditions approved by the Minister and for the purpose of raising money for purposes so approved, and the value of any such securities for the purposes of this section shall be deemed to be the price at which they were issued, and subsection (4) of this section shall apply to any conversion of those securities. [1365]

(7) If securities to which either of the two last preceding subsections applies have been disposed of by public auction or tender, the price of issue of those securities shall for the purposes of this section be deemed—

(*a*) if the holder of the securities is the person who originally acquired them or his successor in title other than a purchaser for value, to be the price which he originally paid for them;

(*b*) in any other case, to be the average gross price obtained by the undertaker for securities of that class so disposed of. [1366]

(8) If all the securities of any issue were originally disposed of to a person who did not become the registered holder of those securities, the price of issue of each of those securities shall for the purposes of this section be deemed to be either—

(*a*) the price paid for that security by the first registered holder thereof; or

(*b*) the price received by the company for the security plus an amount equal to two and a half per cent. of that price;

whichever is the lower. [1367]

(9) If any question arises under any of the last seven preceding subsections as to the value of any securities, it shall be settled by agreement between the Minister and the stockholders' representative appointed under the following provisions of this Part of this Act, or, in default of such agreement, determined by arbitration under this Act. [1368]

(10) For the purposes of this section, the value of any securities, not being securities to which subsection (2), (3), (4), (5) or (6) of this section applies, shall be such value as may be agreed between the Minister and the said stockholders' representative or, in default of such agreement, as may be determined by arbitration under this Act, and the arbitration tribunal, in determining the value of those securities, shall have regard to all relevant factors including, as far as may be, the value of securities to which subsection (2) of this section applies (as determined under that subsection), being securities which, as respects all matters affecting their value, are most nearly comparable to the first mentioned securities, and if, in relation to any class of

securities to which this subsection applies, such a fresh issue or conversion of securities as is mentioned in subsection (3) or subsection (4) of this section has occurred, the arbitration tribunal shall also have regard, as far as may be, to the manner in which the value of securities is to be determined in cases to which the said subsection (3) or subsection (4) applies. [1369]

(11) In this section—

the expression "the Stock Exchange Official Daily List" means the publication known as the Stock Exchange Daily List of Officially Quoted Securities which is published by and under the authority of the Council of the Stock Exchange, London;

the expression "the Stock Exchange Daily Supplementary List" means the publication known as the Stock Exchange Daily Supplementary List of Securities not Officially Quoted which was published by and under the authority of the Council of the Stock Exchange, London;

the expression "quotation" has the same meaning as in the Stock Exchange Official Daily List or the Stock Exchange Daily Supplementary List, as the case may be, and, accordingly, does not include the statements of the business that was done;

the expression "the mean of quotations" means the average of the two figures shown in the Stock Exchange Official Daily List or the Stock Exchange Daily Supplementary List, as the case may be, on the date in question in respect of the security in question under the heading "Quotations" or "Nominal Quotations";

the expression "the last relevant quotation date", in relation to any securities to which subsection (2), (3) or (4) applies, means the last of the dates mentioned in the said subsection (2) on which a quotation for securities of that class appeared in either of the said lists, being a quotation by reference to which the value of securities of that class is determined for the purposes of this section. [1370]

(12) For the purposes of this section and the following provisions of this Part of this Act, securities to which the same rights attach shall be deemed to constitute a class of securities. [1371]

General note.—This section corresponds to s. 20 of the Electricity Act, 1947 (40 Halsbury's Statutes 440).

Undertaker to whom this Part applies.—See s. 15, *ante*.

Gas Council.—As to the Gas Council generally, see ss. 2 and 5, *ante*.

British Gas Stock.—As to British Gas Stock, see s. 43, *post*.

Vesting date.—May 1, 1949; see S.I. 1949 No. 392, made under s. 17, *ante*.

October 20, 1947.—This was the date on which the text of the Bill was published.

Sub-s. (6).—This subsection implements an undertaking given by the Minister to the Cheltenham Gas Company in respect to an issue approved by him before January 1, 1946, but not fully taken up until after that date. It will, of course, also cover any other case of an incompletely taken-up issue.

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

Stockholders' representative.—For the appointment of stockholders' representatives, see s. 27, *post*.

Arbitration under this Act.—See s. 63, *post*.

Definitions.—For definitions of "ancillary gas undertaker", "appropriate Board", "arbitration tribunal", "composite company" and "securities", see s. 74 (1), *post*.

26. Increase of value of securities of companies suffering loss of revenue from war causes.—(1) If it appears to the Minister, on representations made by the stockholders' representative for any company, within the prescribed period, that

(*a*) the total sales of gas by the company in the year nineteen hundred and forty-three or in either of the two succeeding years, as shown in the annual returns furnished to the Board of Trade or, as the case may be, the Minister under section fifteen of the Gas Regulation Act, 1920 or section eleven of the Gas Undertakings Act, 1934, excluding sales to any other person carrying on a gas undertaking, were, by reason of any war damage (within the meaning of section two of the

War Damage Act, 1943) suffered by the company or by reason of any transfer of population from any part of the area supplied by the company caused by circumstances arising out of the war, substantially lower than in the year nineteen hundred and thirty-eight; and

(*b*) as a result, the quotations in the Stock Exchange Official Daily List or in the Stock Exchange Daily Supplementary List (as defined in the last preceding section) on the dates referred to in subsection (2) of the last preceding section for any class of securities of the company other than debentures, debenture stock and mortgages, were lower than they would otherwise have been,

the Minister shall direct that the values of those securities for the purposes of the last preceding section shall be increased by such amount as may be agreed between him and the stockholders' representative to be necessary to offset the said depreciation in the said quotations. [1372]

(2) If the Minister refuses, after representations have been made to him by a stockholders' representative, to give a direction under the preceding subsection, or if the Minister and a stockholders' representative are unable to agree on the amount of the increase to be made in the value of any securities, the stockholders' representative may refer the matter to the arbitration tribunal and the tribunal shall—

(*a*) if, in a case where the Minister has refused to give a direction, they are satisfied with respect to the matters referred to in the preceding subsection, direct such increase as they think necessary to offset the depreciation aforesaid; or

(*b*) in a case where the only question is as to the amount of the increase, fix that amount. [1373]

(3) On a reference under this section, the arbitration tribunal may, if they think it just to do so, having regard to the principles on which costs are awarded in the High Court, direct that, in the case of any securities to which the reference relates, the total compensation payable in respect thereof shall be reduced by an amount determined by the tribunal, not exceeding the costs incurred by all parties to the arbitration proceedings, and the amount of the reduction of the total compensation aforesaid shall be apportioned among such of the said securities in respect of which compensation is payable, and in such manner, as the tribunal may determine. [1374]

(4) Where the value of any securities falls to be determined under subsection (10) of the last preceding section and, if those securities had been quoted in the said Stock Exchange Official Daily List or in the said Stock Exchange Daily Supplementary List on the dates referred to in subsection (2) of that section, the value thereof would have been increased under this section, then, in determining their value under the said subsection (10), a corresponding increase shall be made in the value thereof. [1375]

(5) This section shall apply to a holding company, being an undertaker to whom this Part of this Act applies, with the modification that for the references in paragraph (*a*) of subsection (1) to the company there shall be substituted references to a subsidiary of the company, and where a reference is made under subsection (2) of this section in the case of a holding company and a subsidiary thereof, the proceedings shall be heard together. [1376]

Prescribed period.—The prescribed period is six months from March 16, 1949 (see the Gas (Increase of Security Values) Regulations, 1949; S.I. 1949 No. 398).

Stockholders' representatives.—As to their appointment, see s. 27, *post*.

Gas Regulation Act, 1920, *s.* 15.—8 Halsbury's Statutes 1290. This Act is repealed as from the vesting date (May 1, 1949) by s. 76 (1) and Sched. IV, *post*.

Gas Undertakings Act, 1934, *s.* 11.—27 Halsbury's Statutes 313. This Act is repealed as from the vesting date (May 1, 1949) by s. 76 (1) and Sched. IV, *post*.

War Damage Act, 1943.—36 Halsbury's Statutes 334. For the definition of "war damage", see s. 2 thereof.

Arbitration tribunal.—The Gas Arbitration Tribunal (see s. 63, *post*).

Costs.—As to costs, see the Supreme Court of Judicature (Consolidation) Act, 1925, s. 50 (13 Halsbury's Statutes 236).

Definitions.—For definitions of "company", "holding company", "prescribed", "securities" and "subsidiary", see s. 74 (1), *post*.

27. Appointment of stockholders' representative.—(1) In the case of any undertaker in respect of whose securities compensation is payable under the preceding provisions of this Part of this Act, there shall be appointed, before such date not later than the vesting date as may be prescribed, an individual, in this Act referred to as the "stockholders' representative", to represent the interests of all holders of securities of that undertaker in connection with the determination of the amount of compensation payable in respect of those securities or of any payment made after the vesting date of interest or dividend in respect of those securities, and any other matters arising under this Part of this Act affecting the interests of the holders of those securities, and it shall be the duty of the stockholders' representative, in carrying out his functions under this Part of this Act, to represent the interest of the holders of those securities. [1377]

(2) The stockholders' representative shall be appointed, in the prescribed manner, by the holders of the securities of the undertaker in question:

Provided that—

(*a*) if those holders of securities fail to appoint a stockholders' representative before the prescribed date, the Minister shall appoint such a representative;

(*b*) in the case of securities issued by any undertaker other than a company, the stockholders' representative shall be appointed by the Minister. [1378]

(3) The Minister shall pay out of moneys provided by Parliament to a stockholders' representative such remuneration (whether by way of salary or fees) and such allowances, and such expenses incurred by him in the exercise of his functions, as may be determined by the Minister with the approval of the Treasury, and any sums paid by the Minister under this subsection shall be repaid to him by the appropriate Board on demand. [1379]

(4) Regulations shall make provision—

(*a*) as to the mode of appointment of a stockholders' representative and the notices to be given thereof;

(*b*) as to tenure and vacation of office by a stockholders' representative and the appointment, where the office falls vacant, of a new stockholders' representative;

(*c*) for any other matters relating to the office of stockholders' representative for which provision appears to the Minister to be necessary or expedient, including the exercise of functions through agents.

The regulations made with respect to the matters mentioned in paragraphs (*a*) and (*b*) hereof shall be made not less than three months before the date prescribed for the purposes of subsection (1) of this section, but without prejudice to the varying of any such regulations to such extent as may subsequently appear to the Minister to be necessary. [1380]

(5) Where any property, rights, liabilities or obligations of any undertaker vest by virtue of this Act in an Area Board or the Gas Council, the Board or Council and any person to whom any such property, rights, liabilities or obligations which have so vested have been subsequently disposed of, shall make available to the stockholders' representative such facilities for the examination of and the making of extracts from or copies of books, accounts

and documents of the undertaker as he may reasonably require for the purposes of his duties, and such services of persons who were officers of the undertaker and are in the employment of the Board or Council or the said person as the stockholders' representative may reasonably require for those purposes. [1381]

General note.—This section corresponds to s. 21 of the Electricity Act, 1947 (40 Halsbury's Statutes 442).

Compensation payable for undertakers' securities.—For the provisions as to the payment of compensation in respect of securities, see ss. 25, 26, *ante*.

Vesting date.—May 1, 1949; see S.I. 1949 No. 392, made under s. 17, *ante*.

Payments after vesting date.—For the provisions as to the payment of interest or dividends after the vesting date, see s. 34, *post*.

Functions of stockholders' representatives.—See ss. 25 (9), (10), 26 (1), (2), *ante*; and ss. 34 (1), (2), (3), (5), (9), and 35 (2), *post*.

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

Notices.—As to the service of notices, see s. 70, *post*.

Regulations.—See the Gas (Stockholders' Representative) Regulations, 1948 (S.I. 1948 No. 2709). As to regulations generally, see s. 71, *post*.

Property, etc. vesting by virtue of this Act.—This includes property apportioned to an Area Board under s. 18, *ante* (see s. 18 (5), *ante*).

Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante*.

Gas Council.—As to the Gas Council generally, see ss. 2 and 5, *ante*.

Definitions.—For definitions of "appropriate Board", "officer", "prescribed" and "securities", see s. 74 (1), *post*.

Compensation to local authorities

28. Compensation to local authorities.—(1) An Area Board in whom property and rights of a local authority are vested by virtue of this Act shall, by way of compensation for the vesting in them of the said property and rights, and in lieu of any other compensation therefor, make payments to the authority in accordance with this and the next following section. [1382]

(2) Where the local authority have raised a loan wholly or partly for the purposes of their gas undertaking or have advanced money for those purposes out of any consolidated loans fund or mortgage loans pool established by them or out of any other moneys held by them, and, in pursuance of the arrangements in force immediately before the vesting date for the redemption of the loan and the payment of interest thereon or, as the case may be, for the repayment of the advance and the payment of interest thereon, any amounts would, but for this Act, have fallen, on or after the vesting date, to be debited in the accounts of the gas undertaking of the local authority, the Area Board shall, subject to the provisions of this section, pay those amounts to the local authority at the times at which, but for this Act, those amounts would have fallen to be debited in the said accounts of the gas undertaking of the local authority, and, in calculating the amounts that would have fallen to be debited as aforesaid in respect of any loan, regard shall be had to the income earned by any sinking fund established for the redemption of the loan.

Any question arising under this subsection as to the payments to be made thereunder shall, in default of agreement, be determined by the Minister of Health. [1383]

(3) The arrangements referred to in the last preceding subsection shall be deemed to include arrangements in force immediately before the vesting date for defraying any management expenses incurred by the local authority in respect of any such loan or advance as aforesaid. [1384]

(4) Where a local authority have issued annuities by way of compensation for the acquisition of any gas undertaking, this section shall have effect as if those annuities had been issued for the purpose of raising a loan for the purposes of the gas undertaking of the authority, and any reference in this Act to any such loan or the redemption thereof or the payment of interest thereon shall be construed as including a reference to such annuities or the redemption or payment thereof:

Provided that nothing in subsection (2) of this section shall be taken as preventing the local authority from entering into an agreement with the holder of any such annuities for the redemption of those annuities, but any such agreement shall be subject to the consent of the Area Board concerned, and, if such an agreement is made with such consent, the said subsection (2) shall have effect subject to such modifications (if any) as may be agreed between the local authority and the Area Board or, in default of such agreement, determined by the Minister of Health to be necessary in consequence of the said agreement for the redemption of those annuities. [1385]

(5) Any payment made by an Area Board under the preceding provisions of this section in respect of the liability for the redemption of a loan or the repayment of an advance shall be deemed to be a capital payment, and any other such payment shall be deemed to be an annual payment. [1386]

General note.—This section corresponds to s. 22 of the Electricity Act, 1947 (40 Halsbury's Statutes 443).

Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante*.

Property, etc. vesting by virtue of this Act.—This includes property apportioned to an Area Board under s. 18, *ante* (see s. 18 (5), *ante*).

Vesting date.—May 1, 1949; see S.I. 1949 No. 392, made under s. 17, *ante*.

Payment by an Area Board.—As to the borrowing powers of Area Boards for discharging their functions under this Act, see s. 42 (1), *post*. Sums payable by way of compensation to local authorities in respect of any loan, whether of an annual or a capital nature, are chargeable to revenue account under s. 49, *post*. British Gas Stock may not be issued by the Gas Council for payments by Area Boards to local authorities in respect of loans or advances; see s. 42 (2) (*d*), *post*.

Definitions.—For definitions of "gas undertaking", "loan" and "local authority", see s. 74 (1), *post*.

29. Further compensation to local authorities in respect of severance.—There shall be paid to local authorities, by way of compensation in respect of the severance of their gas undertakings from their other activities, the sum of two million five hundred thousand pounds, and the said sum shall be divided among such of the said local authorities as satisfy the prescribed conditions, and the amounts to be paid to the individual authorities shall be determined in such manner and in accordance with such principles as may be prescribed, and the obligations to make such payments shall be allocated to the Area Boards accordingly. [1387]

General note.—This section corresponds to s. 23 of the Electricity Act, 1947 (40 Halsbury's Statutes 445).

Area Boards.—As to Area Boards generally, see ss. 1 and 5, *ante*.

Definitions.—For definitions of "gas undertaking", "local authority" and "prescribed", see s. 74 (1), *post*.

Compensation to composite companies, ancillary gas undertakers, non-corporate undertakers and Electricity Boards

30. Compensation to composite companies.—(1) Every composite company shall be entitled to be paid, by way of compensation for the vesting in an Area Board by virtue of this Act of property and rights of the company, and in lieu of any other compensation therefor, an amount calculated as follows:—

(*a*) the aggregate value of all the securities of the company shall be ascertained in accordance with sections twenty-five and twenty-six of this Act, subject to the modification that for any references in those sections to the stockholders' representative there shall be substituted references to the company;

(*b*) there shall be ascertained the proportion which the average net revenue earned by the gas undertaking of the company in respect of the last three complete financial years before the first day of January, nineteen hundred and forty-eight, bears to the average net revenue earned in respect of those years by the company's undertaking as a whole;

(*c*) the amount of the compensation shall be the aggregate of the following amounts—

(i) an amount bearing to the aggregate value of the said securities the same proportion as the said average net revenue of the gas undertaking bears to the said average net revenue of the company's undertaking as a whole, and

(ii) an amount, by way of compensation in respect of the severance of the gas undertaking from the remainder of the company's undertaking, consisting of a sum of three pounds and ten shillings for each complete one thousand of the therms which, in accordance with the annual return made by the company under section fifteen of the Gas Regulation Act, 1920, were sold by the company during the year nineteen hundred and forty-seven. [1388]

(2) Any question arising under paragraph (*b*) of the last preceding subsection shall, in default of agreement between the company and the Minister, be determined by arbitration under this Act. [1389]

(3) The right of a composite company to compensation under this section shall be satisfied by the issue to the company by the Gas Council of British Gas Stock of such amount as in the opinion of the Treasury is at the vesting date of a value equal to the amount calculated under subsection (1) of this section, regard being had (in estimating the value of the stock so issued) to the market value of government securities at or about the vesting date. [1390]

(4) If, in the case of any composite company, the amount of compensation payable to the company under this section has been determined before the vesting date, the British Gas Stock to be issued in respect thereof shall be issued on that date, and in any other case the British Gas Stock shall be issued as soon as the amount of that compensation has been determined. [1391]

(5) Interest on any stock so issued after the vesting date shall begin to accrue as from the vesting date, and the Gas Council shall, on such dates as the Minister may direct, make to the company payments of interest not exceeding the amount which, in the opinion of the Gas Council, will be found to have accrued on the British Gas Stock ultimately issued in satisfaction of the compensation.

If the amounts paid to any company by the Gas Council under this subsection are equal to or greater than the amount of interest which is found to have accrued on the said stock for the period beginning with the vesting date and ending immediately before the date of the issue of the stock, the interest so found to have accrued shall be treated as discharged, and if the amount paid as aforesaid is less than the amount found to have accrued as aforesaid, the amount so found to have accrued shall be treated as discharged to the extent of the amount so paid, and the balance shall be added to and treated as part of the interest (being interest accruing on and after the issue of the stock) which first falls to be paid after the issue of that stock. [1392]

(6) Regulations may provide—

(*a*) for conferring a right on the holder of any debentures or debenture stock of a composite company, or on the company, by notice given within the prescribed period to the other party, to require the transfer to the holder of such amount of the British Gas Stock issued to the company under this section as is attributable to the value of the said securities held by him, and for the cancellation of those securities to a proportionate extent;

(*b*) for enabling a composite company, notwithstanding anything in any enactment, by agreement with the holder of any debentures or debenture stock of the company, to redeem them by means of the

transfer to the holder of such amount of British Gas Stock issued to the company under this section as may be agreed with the holder; and

(*c*) for the protection of mortgagees and encumbrancers in cases where the debt secured by the mortgage or encumbrance does not vest in an Area Board or is apportioned as between an Area Board and the company, and the debt or, as the case may be, the part therof not apportioned to the Area Board was, immediately before the vesting date, secured on property which vests in the Board. [1393]

(7) A composite company, notwithstanding any limitation imposed by any enactment on their powers of investment, may hold any British Gas Stock issued to them under this section, and, for the purposes of any enactment limiting the amount of investments that may be held by the company, any such stock shall be disregarded, and the company may sell any such stock and apply the proceeds of sale for any purpose for which they are authorised to apply capital moneys. [1394]

General note.—This section corresponds to s. 25 of the Electricity Act, 1947 (40 Halsbury's Statutes 446).

Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante*.

Property vesting by virtue of this Act.—This includes property apportioned to an Area Board under s. 18, *ante* (see s. 18 (5), *ante*).

Stockholders' representative.—As to the appointment of stockholders' representatives, see s. 27, *ante*. No stockholders' representative is needed in the case of composite companies, as they are not dissolved but continue in existence shorn of their gas undertakings (see s. 18 (1), *ante*).

Gas Regulation Act, 1920, s. 15.—8 Halsbury's Statutes 1290. This Act is repealed as from the vesting date (May 1, 1949) by s. 76 (1) and Sched. IV, *post*.

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

Arbitration under this Act.—See s. 63, *post*.

Gas Council.—As to the Gas Council generally, see ss. 2 and 5, *ante*.

British Gas Stock.—As to British Gas Stock, see s. 43, *post*.

Regulations.—See the Gas (Vesting of Assets) Regulations, 1949 (S.I. 1949 No. 815). As to regulations generally, see s. 71, *post*.

Definitions.—For definitions of "company", "composite company", "enactment", "financial year", "gas undertaking", "local authority", "net revenue", "prescribed", "securities", and "therm", see s. 74 (1), *post*.

31. Compensation to ancillary gas undertakers and non-corporate undertakers.—(1) There shall be paid by the Area Board in whom are vested by virtue of this Act property and rights of any ancillary gas undertaker or any undertaker to whom this Part of this Act applies who is not a body corporate, by way of compensation for the vesting of that property and those rights of the undertaker and in lieu of any other compensation therefor, such amount as the gas undertaking of the undertaker might have been expected to realise if—

(*a*) it had been sold as a going concern on the vesting date in the open market by a willing seller to a willing buyer;

(*b*) the effect of the sale had been to transfer to the buyer the property, rights, liabilities and obligations which vest by virtue of this Act in the Area Board, except any property, rights, liabilities or obligations which so vest on terms agreed or determined in accordance with regulations; and

(*c*) this Act had not been passed. [1395]

(2) Any question as to the amount of compensation to be paid by an Area Board under this section shall, in default of agreement between the Board and the undertaker, be determined by arbitration under this Act. [1396]

(3) Regulations may provide for the protection of mortgagees and encumbrancers in cases where the debt secured by the mortgage or encumbrance does not vest in an Area Board or is apportioned as between an Area

Board and the undertaker, and the debt or, as the case may be, the part thereof not apportioned to the Area Board was, immediately before the vesting date, secured on property which vests in the Board. [1397]

Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante.*
Property vesting by virtue of this Act.—This includes property apportioned to an Area Board under s. 18, *ante* (see s. 18 (5), *ante*).
Undertaker to whom this Part applies.—See s. 15, *ante.*
Vesting date.—May 1, 1949; see S.I. 1949 No. 392, made under s. 17, *ante.*
Regulations.—See the Gas (Vesting of Assets) Regulations, 1949 (S.I. 1949 No. 815). As to regulations generally, see s. 71, *post.*
For the power to make the regulations referred to in sub-s. (1) (*b*), *supra*, see s. 18 (2), *ante.*
Arbitration under this Act.—See s. 63, *post.*
Definitions.—For definitions of "ancillary gas undertaker" and "gas undertaking", see s. 74 (1), *post.*

32. Compensation to Electricity Boards.—There shall be paid to the British Electricity Authority by the Area Board in whom any property and rights of an Electricity Board vest by virtue of this Act such compensation as may be agreed between the said Authority and the said Area Board or, in default of such agreement, be determined by the Minister, having regard to the amount of compensation paid by the said Authority under the Electricity Act, 1947, in respect of the vesting in an Electricity Board of any such property and rights. [1398]

British Electricity Authority.—This authority was established under the Electricity Act, 1947, s. 1 (1) (40 Halsbury's Statutes 414).
Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante.*
Property vesting by virtue of this Act.—This includes property apportioned to an Area Board under s. 18, *ante* (see s. 18 (5), *ante*).
The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).
Electricity Act, 1947.—40 Halsbury's Statutes 409. For the compensation provisions of that Act, see ss. 20–25 (40 Halsbury's Statutes 440–446).
Definition.—For definition of "Electricity Board", see s. 74 (1), *post.*

Control of dividends and interest and safeguarding of assets pending transfer

33. Control of dividends, interest and other payments.—(1) Where any company, being an undertaker to whom this Part of this Act applies but not an ancillary gas undertaker, have paid pursuant to a resolution passed after the twenty-third day of January, nineteen hundred and forty-eight, interest or a dividend on any of their securities in respect of the last complete financial year before the said day or any subsequent period, being payments which, regard being had to any interest or interim dividend paid before the said day in respect of that year or period, are in excess of the payments of interest or dividend permitted under this section, all persons who were directors of the company at the time when the resolution of the directors was passed authorising or recommending the payments shall, subject to the provisions of this section, be liable to pay to the appropriate Board an amount equal to the total amount of the excess:

Provided that this subsection shall not apply to any payment approved by the Minister, whether before or after the making of the payment, being a payment made in pursuance of a recommendation of the directors of the company made on or before the said twenty-third day of January, nineteen hundred and forty-eight. [1399]

(2) The payments of interest or dividend permitted under this section are as follows:—

(*a*) in the case of securities in respect of which rates of interest are fixed, payments at those rates;
(*b*) in the case of preference stock, payments at the preferential rates; or
(*c*) in the case of any other class of securities, payments of dividend at a rate not exceeding four per cent. per annum or the rate, calculated as a rate per annum, paid on that class of securities in respect of the

last complete financial year in respect of which a final dividend was paid before the said twenty-third day of January, nineteen hundred and forty-eight, whichever is the higher :

Provided that—

(i) where any local enactment applicable to any such company provides for regulating dividends payable by the company by reference to a basic price or standard price and the relationship thereto of the prices charged, or the highest price charged, by the company for gas supplied by the company, paragraph (*c*) hereof shall not apply to that company and, in the case of any securities of a class mentioned in that paragraph, the payments of dividend that the company is entitled to make apart from this Act shall be deemed to be the payments of dividend permitted under this section, and if the company has made, at any time after the said day and before the nineteenth day of July, nineteen hundred and forty-eight, any payments of dividend which were less than the payments aforesaid, the amount of the deficiency may, notwithstanding any local enactment, be declared and paid by way of dividend at any time before the vesting date ;

(ii) where any local enactment applicable to any such company, other than such an enactment as aforesaid, restricts the dividends payable by the company in respect of the last complete financial year before the said day or any subsequent period to amounts less than the payments permitted under paragraph (*c*) hereof, those amounts shall be deemed to be the payments of dividend permitted under this section in respect of that year or period in the case of any securities of the company of a class mentioned in that paragraph ;

(iii) the payments permitted under this section shall only be made out of the net revenue of the company for the period in respect of which the payment is made, or out of any funds applicable in accordance with the normal practice for the purpose of maintaining interest payments and equalising rates of dividend, and any payment shall, so far as it is made otherwise than out of that revenue, or out of those funds, not be permitted under this section ;

(iv) where a fresh issue has been made after the said day of securities of a class mentioned in paragraph (*c*) hereof, being a class on which the annual rate of dividend paid in respect of the said last complete financial year exceeded four per cent. per annum, the payments of dividend permitted under this section on the securities so issued shall not, except with the approval of the Minister, exceed a rate of four per cent. per annum ; and

(v) in the case of any securities of a class mentioned in paragraph (*c*) hereof, being a class on which a final dividend was never paid before the said day, the Minister may approve a rate exceeding four per cent. as the rate at which payments of dividend are permitted under this section. [1400]

(3) Where any such company as aforesaid have, without the approval of the Minister, paid after the twenty-third day of January, nineteen hundred and forty-eight, a dividend in respect of any period prior to the last complete financial year before the said day, all persons who were directors of the company at the time when the resolution of the directors was passed authorising or recommending the payments shall, subject to the provisions of this section, be liable to pay to the appropriate Board an amount equal to the total amounts of the payments :

Provided that this subsection shall not apply to payments of dividend on cumulative preference stock, being payments which are required to be made in priority to the payment of any dividend on ordinary capital and are made out of the net revenue of the company for the said last complete financial year or any subsequent period. [1401]

(4) Where, at any time after the twenty-third day of January, nineteen hundred and forty-eight, any such company as aforesaid have, without the approval of the Minister,—

(*a*) made any payments to their members for the purpose of reducing the share capital of the company otherwise than by redemption of any redeemable preference stock;

(*b*) made any other payments to their members out of capital moneys; or

(*c*) distributed assets other than money to their members,

all persons who were directors of the company at the time when the resolution of the directors was passed authorising or recommending the payments or distribution shall, subject to the provisions of this section, be liable to pay to the appropriate Board an amount equal to the total amount of the payments or, as the case may be, the total value of the assets distributed:

Provided that this subsection shall not apply to any such payment or distribution to any such member otherwise than in his capacity as a member. [1402]

(5) Where, at any time after the said day, any such company as aforesaid have redeemed any securities which the company were not under an obligation to redeem before the vesting date, or made payments in respect of the redemption of any securities which exceed the minimum payments required to satisfy the rights existing on the said day of the holders of the securities, all persons who were directors of the company at the time when the resolution of the directors authorising or recommending the redemption or the payments in respect thereof was passed shall, subject to the provisions of this section, be liable to pay to the appropriate Board—

(*a*) in the case of securities which the company were not obliged to redeem, the amount (if any) by which the sums paid in respect of the redemption of those securities exceed the compensation which would have been payable under this Part of this Act (but for the redemption) to the holders of those securities; or

(*b*) in the case of securities which the company were obliged to redeem but for which the payments made exceeded the said minimum payments, an amount equal to the total amount of the excess. [1403]

(6) For the purposes of this section—

(*a*) any payment by a company to its members in their capacity as members out of the net revenue of the company shall be deemed to be a payment of dividend; and

(*b*) any transaction the effect of which is that assets of a company are transferred to any person otherwise than in the capacity of a member of the company, and the consideration for such transfer is given to the members of the company or any class thereof, shall be deemed to be a distribution of those assets to the members of the company or that class thereof. [1404]

(7) Any claim under this section by the appropriate Board against the directors of any such company as aforesaid shall be made before the expiration of a period of twelve months beginning with the vesting date, and if so made and not settled by agreement, shall be determined by arbitration under this Act, and, if the arbitration tribunal decide the claim in favour of the appropriate Board, the tribunal shall make such orders against all or any of the

said directors in respect of their liability on the claim as the tribunal think just, having regard to all the circumstances. [1405]

(8) References in this section to any payments of interest or dividend made or permitted to be made by any company shall be construed as references to the gross amounts of those payments, that is to say, to the amounts thereof before any deduction is made therefrom in respect of income tax, and, if any such payment has been made by a company without deduction of income tax, the amount paid shall be deemed for the purposes of this section to be a net amount paid after deduction of income tax, and the gross amount of that payment for the purposes of this section shall be calculated accordingly :

Provided that, in determining the amount recoverable under this section from the directors of any company in respect of payments of interest or dividend made by that company, there shall be deducted from the amount which would, but for this proviso, be so recoverable a sum equal to the income tax chargeable on that amount at the standard rate for the year in which the payments became due. [1406]

(9) This section shall, in relation to any composite company, have effect subject to the following modifications :—

(*a*) subsections (1), (3), (4) and (5) shall only apply to payments and distributions made, and redemptions carried out, before the vesting date ;

(*b*) any liabilities arising under this section shall be liabilities of the company and not of the directors ; and

(*c*) any such liability shall be reduced by applying thereto the proportion ascertained under paragraph (*b*) of subsection (1) of section thirty of this Act. [1407]

General note.—This section corresponds to s. 26 of the Electricity Act, 1947 (40 Halsbury's Statutes 447).

Undertaker to whom this Part applies.—See s. 15, *ante*.

January 23, 1948.—This is the date on which the text of the Bill was published.

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

Basic or standard prices.—The reference in the first proviso to sub-s. (2), *supra*, is to "basic price" and "sliding scale" companies. In a "sliding scale" company, an increase in dividend was permitted proportionate to the amount, less than a certain price known as the standard price, which was charged to consumers for gas. The "basic price" company adopted a variation of the sliding scale. First, a calculation was made at the end of each financial period of what the consumers would have paid if all the gas supplied, otherwise than in bulk, had been supplied at the basic price. From this was deducted the actual amount charged to the consumers, and the difference was known as the consumers' share. Then, so far as after paying the preference and ordinary basic dividend, the net profits permitted, the directors might pay a sum not exceeding one-third of the consumers' share equally in payment of increased dividends and for the benefit of the employees of the company.

Vesting date.—May 1, 1949 ; see S.I. 1949 No. 392, made under s. 17, *ante*.

Arbitration under this Act.—See s. 63, *post*. As to the production by the Area Board concerned of documents required by a party to a claim under this section, see s. 39 (3) (*b*), *post*.

Definitions.—For definitions of "ancillary gas undertaker", "appropriate Board", "arbitration tribunal", "company", "final dividend", "financial year", "interim dividend", "local enactment", "net revenue", "preference stock" and "securities", see s. 74 (1), *post*.

34. Final payment of dividends and interest.—(1) As soon as possible after the vesting date, there shall, in the case of any undertaker to whom this Part of this Act applies other than an undertaker to whom section eighteen of this Act applies, be ascertained and certified by an auditor appointed by the President of the Institute of Chartered Accountants in England and Wales after consultation with the appropriate Board and the stockholders' representative—

(*a*) the net revenue of the undertaker for the final financial period ;

(*b*) the total gross amounts paid by the undertaker by way of interest or interim dividend on any securities in respect of the final financial period ; and

(*c*) the amount (if any) by which the said net revenue exceeds the said total amounts ;

and the appropriate Board shall pay to the stockholders' representative the amount referred to in paragraph (*c*) hereof.

There shall be paid to the auditor out of moneys provided by Parliament such remuneration (whether by way of salary or fees) and such allowances as the Minister may, with the approval of the Treasury, determine, and the amount of the remuneration and allowances shall be repaid to the Minister by the appropriate Board on demand. [1408]

(2) The appropriate Board, if they think fit, may, before the auditor's certificate is given, make payments to the stockholders' representative on account. [1409]

(3) The stockholders' representative shall apply the sums paid to him under the preceding provisions of this section (so far as they will go) for the following purposes and in the following order of priority :—

(*a*) in making interest payments on any debentures or debenture stock of the undertaker, which have accrued up to the vesting date and have not been paid, at the rates permitted under the last preceding section ;

(*b*) in making such a distribution as is mentioned in the next following subsection to the holders of other securities, if any, of the undertaker ; and

(*c*) in repaying the balance, if any, to the appropriate Board. [1410]

(4) The distribution falling to be made under paragraph (*b*) of the last preceding subsection shall be a distribution under which the holders of the securities there referred to become entitled to the same gross amounts as they would have become entitled to if—

(*a*) the statutory or other provisions relating to the undertaker had permitted payments of interest or dividend in respect of the final financial period ;

(*b*) the undertaker had had available for distribution the sums paid to the stockholders' representative under this section less the amount applied in making the payments mentioned in paragraph (*a*) of the last preceding subsection ; and

(*c*) the undertaker had applied the amount so available for distribution, or so much thereof as was required for the purpose, in making payments of interest or dividend for the final financial period, at the rates permitted under the last preceding section, to the holders of the securities in question, in the proper order of priority, and according to their respective rights, due regard being had to any interest or interim dividend already paid in respect of the final financial period and all necessary adjustments being made where the said period is not a period for which interest or dividend would be payable under the statutory or other provisions relating to those securities :

Provided that the amounts to which the holders would have become entitled by way of interest or dividend for the final financial period in the event contemplated by paragraph (*c*) of this subsection shall be computed as if the amounts deducted in respect of income tax from the payments mentioned in paragraph (*a*) of the last preceding subsection and from any payments made under paragraph (*b*) of that subsection in respect of any securities were not available for paying any other interest or dividend. [1411]

(5) Where the sums paid to the stockholders' representative under the preceding provisions of this section are insufficient to enable him—

(*a*) to make the interest payments referred to in paragraph (*a*) of subsection (3) of this section at the maximum rates permitted under the last preceding section ; and

(*b*) to distribute to the holders of the securities referred to in paragraph (*b*) of that subsection gross amounts equal to payments of interest or dividend on those securities at the maximum rates so permitted,

and the undertaker possessed immediately before the vesting date funds applicable in accordance with the normal practice for the purpose of maintaining payments of interest and equalising rates of dividend, the appropriate Board shall pay to the stockholders' representative an additional amount equal to the total amount of the said funds so possessed or to the total amount of the said deficiency, whichever is the less, and the stockholders' representative shall apply that amount in like manner as the other sums paid to him under this section. [1412]

(6) The persons who receive any payment made by a stockholders' representative under the preceding provisions of this section, shall, subject to the provisions of the next following subsection, hold the payment in the same right and on the same trusts and subject to the same powers, privileges, charges and liabilities as those in, on, or subject to which any payment of interest or dividend in respect of the securities in question would have been held by them. [1413]

(7) Where any undertaker to whom this Part of this Act applies, other than an ancillary gas undertaker or an undertaker who is not a body corporate, was the holder of, or had any interest in, any securities of an undertaker in respect of whose securities payments are made under this section, the appropriate Board (in relation to the first-mentioned undertaker) shall have the like right to receive and hold, or benefit from, a payment under paragraph (*a*) or paragraph (*b*) of subsection (3) of this section as they would have had if they had been the holder of, or had had that interest in, those securities :

Provided that, except where the undertaker by whom the securities or interest therein were or was held is an undertaker to whom section eighteen of this Act applies, the gross amounts of any such payments or of the benefit therefrom shall be included in the net revenue of the undertaker for the final financial period for the purposes of this section. [1414]

(8) Where, before the vesting date, there became due from any undertaker to whom this Part of this Act applies, other than an undertaker to whom section eighteen of this Act applies, any payment by way of interest or dividend or any payment by way of a redemption of any security, and, by reason only that it was not possible to discover the person entitled thereto, or that the title to the payment had not been established, or that a cheque or warrant issued for the purpose of effecting the payment had not been encashed, that payment was not made before the vesting date, the liability in respect of that payment shall pass to the appropriate Board. [1415]

(9) Where the stockholders' representative is for any reason unable to effect payment of any sum falling to be paid by him under this section, or where a receipt cannot effectively be given for any such sum, the stockholders' representative may pay that sum to the appropriate Board and, on the said sum being so paid, the liability of the stockholders' representative for the payment of that sum shall pass to the appropriate Board. [1416]

(10) The following provisions shall have effect in the case of a composite company, that is to say :—

(*a*) there shall be ascertained and certified as soon as possible after the vesting date by an auditor appointed by the Minister, after consultation with the appropriate Board, the net revenue of the company for the final financial period ;

(*b*) there shall be ascertained and certified by the said auditor as soon as possible after the vesting date the amount required to enable the company to make payments of interest or dividend in respect of the final financial period on all their securities at the full rates permitted

under the last preceding section, assuming that the statutory or other provisions relating to the company permitted payments of interest or dividend in respect of that period and due regard being had to any interest or interim dividend already paid in respect of that period; and

(*c*) the said net revenue shall not, except to the extent (if any) to which it exceeds the amount ascertained and certified under paragraph (*b*) hereof, be subject to apportionment as between the company and the appropriate Board concerned under the provisions of section eighteen of this Act relating to the apportionment of the cash and investments of composite companies.

There shall be paid to the auditor out of moneys provided by Parliament such remuneration (whether by way of salary or fees) and such allowances as the Minister may with the approval of the Treasury determine, and the amount of the remuneration and allowances shall be repaid to the Minister by the appropriate Board on demand. [1417]

(11) In this section the expression "final financial period" means such part of the financial year of the undertaker during which the vesting date occurs as precedes that date:

Provided that, where any undertaker has not made the payments of interest or dividends permitted under section thirty-three of this Act in respect of the last complete financial year before the vesting date, or has not made those payments in respect of either that year or the immediately preceding financial year, being a year ending after the first day of January, nineteen hundred and forty-eight, the said expression means that year or, as the case may be, those years together with such part of the financial year during which the vesting date occurs as precedes the vesting date. [1418]

General note.—This section corresponds to s. 27 of the Electricity Act, 1947 (40 Halsbury's Statutes 450).

Vesting date.—May 1, 1949; see S.I. 1949 No. 392, made under s. 17, *ante*.

Undertaker to whom this Part applies.—See s. 15, *ante*.

Stockholders' representative.—As to the appointment of stockholders' representatives, see s. 27, *ante*.

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

Gross amount.—This means before deduction of income tax (see s. 35 (4), *post*).

Apportionment between the company and the appropriate Board.—See s. 18 (5), *ante*.

Definitions.—For definitions of "ancillary gas undertaker", "appropriate Board", "company", "composite company", "financial year", "interim dividend", "net revenue" and "securities", see s. 74 (1), *post*; for "final financial period", see sub-s. (11), *supra*.

35. Income tax provisions.—(1) This section shall be construed as one with the Income Tax Acts. [1419]

(2) The gross amounts of any payments made by a stockholders' representative under the last preceding section shall be deemed to be income for all the purposes of the Income Tax Acts, and the stockholders' representative making the payments shall deduct income tax therefrom at the standard rate for the year in which the payments become due and any amounts so deducted shall, notwithstanding anything in the Income Tax Acts, be paid over to the appropriate Board for their own use and benefit. [1420]

(3) If—

(*a*) the payments of any interest of money, annuity or other annual payment charged with tax under Schedule D made by an undertaker to whom this Part of this Act applies, other than an undertaker to whom section eighteen of this Act applies, in the year or years of assessment falling wholly or partly within the final financial period as defined by the last preceding section; plus

(*b*) any payments made by the stockholders' representative to the holders of securities of the undertaker under the last preceding section being securities bearing interest,

together exceed—

(i) the total income of the undertaker for the said year or years ; plus

(ii) the total of the assessments made for the said year or years under Rule 21 of the General Rules in respect of payments by the undertaker,

the said Rule 21 shall have effect as if a payment of a gross amount equal to the excess had been made by the appropriate Board, as if that payment were a payment of interest of money charged with tax under Schedule D not payable out of profits or gains brought into charge to tax and as if the appropriate Board had deducted tax at the appropriate rates in making that payment :

Provided that, in calculating whether there is such an excess as aforesaid or the extent thereof, any payment which has been reimbursed to the undertaker by any person or is charged to capital shall be disregarded, but the said Rule 21 shall have the like effect in relation to the whole of any such payment as it has effect, or would have effect, under this subsection in relation to such an excess as aforesaid.

In this subsection, the expression " the appropriate rates " means the rates which were applied in making deductions of income tax from the payments referred to in paragraph (*b*) of this subsection, the lowest rate being taken first and applied to an amount of the excess equal to the amount to which it was applied as aforesaid, and then so with the next lowest rate, and so on. [1421]

(4) Any reference in this section or in the last preceding section to the gross amount of any payment shall be construed as a reference to the amount of that payment before any deduction is made therefrom in respect of income tax. [1422]

General note.—This section corresponds to s. 28 of the Electricity Act, 1947 (40 Halsbury's Statutes 453).

Stockholders' representative.—As to the appointment of stockholders' representatives, see s. 27, *ante* ; as to payments by them, see s. 34 (3), (5), *ante*.

Income Tax Acts.—S. 28 of the Finance Act, 1919 (9 Halsbury's Statutes 616) provides that in Part II of that Act and in any subsequent enactment relating to income tax, except where otherwise expressly provided, the expression " the Income Tax Acts " means the Income Tax Act, 1918 (9 Halsbury's Statutes 426), and any other enactments relating to income tax.

Undertaker to whom this Part applies.—See s. 15, *ante*.

General Rules.—The General Rules referred to are the General Rules applicable to Schedules A, B, C, D and E, contained in Sched. I to the Income Tax Act, 1918 (9 Halsbury's Statutes 587).

Definitions.—For definitions of " appropriate Board " and " securities ", see s. 74 (1), *post*.

36. Re-opening of transactions resulting in dissipation of assets.—(1) This section shall apply in any case where on or after the twenty-third day of January, nineteen hundred and forty-eight, any company, being an undertaker to whom this Part of this Act applies and not being an ancillary gas undertaker, have—

(*a*) made any payment to any person without consideration or for an inadequate consideration ;

(*b*) sold or disposed of any of its property or rights without consideration or for an inadequate consideration ;

(*c*) acquired any property or rights for an excessive consideration ;

(*d*) entered into or varied any agreement so as to require an excessive consideration to be paid or given by the company ; or

(*e*) entered into any other transaction of such an onerous nature as to cause a loss to or impose a liability on the company substantially exceeding any benefit accruing to the company,

and the payment, sale, disposal, acquisition, agreement or variation thereof, or other transaction was not reasonably necessary for the purposes of the company or was made with an unreasonable lack of prudence on the part of the company :

Provided that this section shall not apply—

(i) to any payment or other transaction to which section thirty-three of this Act applies ;

(ii) to any payment or other transaction made or entered into for any charitable purpose ;

(iii) to any payment or other transaction made or entered into in connection with the determination of any question, dispute or matter falling to be determined under any provision of this Part of this Act or any regulations made thereunder ; or

(iv) to any payment or other transaction which has been approved in writing by the Minister, either generally or specially, and whether before or after the date of the payment or other transaction. [1423]

(2) The appropriate Board may, at any time before the expiration of a period of twelve months beginning with the vesting date, make an application to the arbitration tribunal in respect of any transaction to which in the opinion of the Board this section applies, and all parties to the transaction, and all persons who were directors of the company at the date when the transaction was entered into shall, unless the tribunal otherwise direct, be made parties to the application. [1424]

(3) Where the arbitration tribunal are satisfied that the transaction in respect of which an application is made is a transaction to which this section applies, then, unless they are also satisfied that the transaction was in the ordinary course of business and was in no way connected with any provision made by this Act or with any anticipation of the making of any such provision, the tribunal shall determine the extent of the net loss or liability caused to or imposed on the company by the transaction, and shall make such orders against all or any of the parties to the application (other than the appropriate Board) as the tribunal think just, having regard to the extent to which the parties were respectively responsible for the transaction or benefited from it, for the payment by them to the appropriate Board of sums sufficient to enable the net loss or liability, or such part thereof as the tribunal think just, to be made good or met. [1425]

(4) Where the appropriate Board have disclaimed an agreement or lease by a notice under this Part of this Act, being an agreement or lease entered into or varied on or after the twenty-third day of January, nineteen hundred and forty-eight, the Board may make an application to the arbitration tribunal under this section in respect of any loss or liability caused to or imposed on the company before the vesting date and, in the case of a lease, any loss or liability caused to or imposed on the Board between the vesting date and the disclaimer of the lease, in consequence of the onerous nature of the agreement or lease. [1426]

(5) Where any application is made to the arbitration tribunal under this section in respect of any transaction, or a reference is made to that tribunal with respect to any notice given under this Part of this Act disclaiming an agreement or lease, the tribunal shall have exclusive jurisdiction—

(*a*) to determine claims arising in respect of the transaction or under the lease or agreement ; and

(*b*) if the notice disclaiming any such agreement is confirmed by the tribunal, to determine any claims arising with respect to the agreement under the Law Reform (Frustrated Contracts) Act, 1943. [1427]

(6) In the case of a composite company, the company, and not the directors, shall be made parties to applications under this section. [1428]

General note.—This section corresponds to s. 29 of the Electricity Act, 1947 (40 Halsbury's Statutes 454). It should be read in conjunction with s. 22, *ante*, providing for the disclaimer of agreements and leases.

January 23, 1948.—This is the date on which the text of the Bill was first published.
Undertaker to whom this Part applies.—See s. 15, *ante*.
The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).
Vesting date.—May 1, 1949; see S.I. 1949 No. 392, made under s. 17, *ante*.
Arbitration tribunal.—The Gas Arbitration Tribunal (s. 63 (1), *post*). As to the production by the Area Board concerned of documents required by a party to a claim or application under this section, see s. 39 (3) (*b*), *post*.
Disclaimer.—As to the disclaimer of agreements and leases, see s. 22, *ante*.
Notice.—As to the service of notices, see s. 70, *post*.
Law Reform (Frustrated Contracts) Act, 1943.—4 Halsbury's Statutes (2nd Edn.) 662.
Definitions.—For definitions of "ancillary gas undertaker", "appropriate Board", "company", "composite company" and "lease", see s. 74 (1), *post*.

37. Recovery of sums transferred from accounts of gas undertaking of a local authority to other accounts.—(1) Where at any time after the tenth day of February, nineteen hundred and forty-eight, a local authority have, without the approval of the Minister of Health, debited any amount in the accounts of the gas undertaking of the authority and credited that amount in any other account of the authority, the local authority shall be liable to pay that amount to the appropriate Board, except in so far as it is properly so debited and credited by way of an adjustment of the accounts of the authority in respect of any transaction carried out or service provided partly for the purposes of the gas undertaking and partly for other purposes. [1429]

(2) Any claim under this section by the appropriate Board against the local authority shall be made before the expiration of a period of twelve months beginning with the vesting date, and if so made and not settled by agreement, shall be determined by the Minister of Health. [1430]

February 10, 1948.—This is the date of the Minister of Fuel and Power's announcement, on the Second Reading of the Bill, of his intention to introduce this section.
Discounts and rebates.—The Gas Charges Order, 1948 (S.I. 1948 No. 300), *post*, which was made under the Defence (General) Regulations, 1939, and came into operation on February 23, 1948, prohibited most reductions in gas prices and in general negatived the introduction or increase of discounts or rebates.
Vesting date.—May 1, 1949; see S.I. 1949 No. 392, made under s. 17, *ante*.
Definitions.—For definitions of "appropriate Board", "gas undertaking" and "local authority", see s. 74 (1), *post*.

38. Provisions as to foreign investments.—(1) It shall not be lawful for any company, being an undertaker to whom this Part of this Act applies and not being an ancillary gas undertaker, to acquire any foreign investments except with the approval of the Minister. [1431]

(2) Every such company shall, within such period as may be prescribed, supply to the Minister and the appropriate Board particulars in the prescribed form of all foreign investments of the company, and shall dispose of those investments in such manner and within such period as may be prescribed. [1432]

(3) If any such company contravene or fail to comply with the provisions of this section or any regulation made thereunder, all persons who were directors of the company at the time when the contravention or failure occurred shall, subject to the next following subsection, be liable to make good any loss suffered by the appropriate Board in consequence of the contravention or failure. [1433]

(4) Any claim under this section by the appropriate Board against the directors of any such company shall be made before the expiration of a period of twelve months beginning with the vesting date and shall be determined by arbitration under this Act, and all persons who were directors of the company at the time when the alleged contravention or failure occurred shall, unless the arbitration tribunal otherwise direct, be made parties to the proceedings, and, if the arbitration tribunal decide the claim in favour of the appropriate Board, the tribunal shall make such orders against all or any of the said directors in respect of their liability under this section as the tribunal think just, having regard to all the circumstances. [1434]

(5) In this section the expression " foreign investments " means any assets the transfer of which is governed otherwise than by the law of any part of Great Britain. [1435]

(6) If it appears to the Minister to be necessary or expedient, for the purpose of securing the disposal of foreign investments of any company under this section, to postpone the vesting date in relation to that company, he may direct that the vesting date for the purposes of this Act shall, in relation to that company, be such date, later than the date which would otherwise be appointed or fixed, as may be specified in the direction. [1436]

General note.—This section corresponds to s. 30 of the Electricity Act, 1947 (40 Halsbury's Statutes 456).

Undertaker to whom this Part applies.—See s. 15, *ante*.

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*.

Vesting date.—May 1, 1949; see S.I. 1949 No. 392, made under s. 17, *ante*.

Arbitration under this Act.—See s. 63, *post*. As to the production by the Area Board concerned of documents required by a party to a claim under this section, see s. 39 (3) (*b*), *post*.

Regulations.—See the Gas (Investment and Information) Regulations, 1949 (S.I. 1949 No. 568). As to regulations generally, see s. 71, *post*.

Definitions.—For definitions of " ancillary gas undertaker ", " appropriate Board ", " arbitration tribunal ", " company " and " prescribed ", see s. 74 (1), *post*.

Supplemental

39. Power to obtain information.—(1) Regulations may require any person who is or may be an undertaker to whom this Part of this Act applies to produce such books of account, records and documents, to supply copies of and extracts from such books, records and documents, and to furnish such other information as may reasonably be required—

(*a*) by the Minister for the purpose of ascertaining whether or not the person is an undertaker to whom this Part of this Act applies or in what category of undertaker he is included;

(*b*) by any Area Board or by the Gas Council for the purpose of facilitating the taking over of the business of the person by them on the vesting date; or

(*c*) by the Minister or by any Area Board or by the Gas Council for other purposes arising out of the provisions of this Part of this Act,

and to provide facilities for the examination of any such books, records and documents, and the taking of copies thereof and extracts therefrom, and facilities for the verification of other information furnished under the regulations; and such regulations may make provision as to the manner, time and place in or at which any requirement under the regulations is to be complied with. [1437]

(2) Regulations made under this section shall make provision for the payment to any such person of expenses reasonably incurred by him in complying with any requirements made by or under the regulations. [1438]

(3) Regulations shall require the Area Board concerned or, as the case may be, the Gas Council to produce such books of account, records and documents as may reasonably be required—

(*a*) by any person who is a party to any agreement or lease disclaimed by the Board or Council, for the purpose of deciding whether to refer to arbitration under this Act any question arising with respect to that agreement or lease under section twenty-two of this Act, or for the purpose of preparing his case on any such reference; or

(*b*) by any person who is a party to any claim or application by the Board or Council under section thirty-three, section thirty-six or thirty-eight of this Act, for the purpose of preparing his case in connection with that claim or application;

and to provide facilities for the examination of any such books, records and documents, and the taking of copies thereof and extracts therefrom; and the

regulations may provide, in cases where any material documents remain after the vesting date in the possession of an undertaker to whom secton eighteen of this Act applies or come into the possession of any person to whom property which vests by virtue of this Act has subsequently been transferred, for extending the requirements aforesaid to that undertaker or person. [1439]

(4) The Area Board in whom property, rights, liabilities and obligations of any undertaker to whom section eighteen of this Act applies vest by virtue of this Act shall make available to the undertaker such facilities for the examination of, and making of extracts from or copies of, books, records and documents relating to the gas undertaking of the undertaker as he may reasonably require for the purposes of any arbitration proceedings under that section or for purposes arising out of the carrying on of the business of the undertaker, and such services of officers of the Board as the undertaker may reasonably require to enable him to make use of those facilities. [1440]

General note.—This section corresponds to s. 35 of the Electricity Act, 1947 (40 Halsbury's Statutes 460).

Undertaker to whom this Part applies.—See s. 15, *ante.*

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante.*

Gas Council.—As to the Gas Council generally, see ss. 2 and 5, *ante.*

Vesting date.—May 1, 1949; see S.I. 1949 No. 392, made under s. 17, *ante.*

Regulations.—See the Gas (Investment and Information) Regulations, 1949 (S.I. 1949 No. 568). As to regulations generally, see s. 71, *post.*

Arbitration under this Act.—See s. 63, *post.*

Definitions.—For definitions of "lease" and "officers", see s. 74 (1), *post.*

40. Modification of enactments in relation to undertakers pending transfer.—(1) Notwithstanding anything in section one hundred and forty-nine of the Companies Act, 1948, and the Eighth Schedule to that Act, the accounts to be laid before a company in general meeting may, in the case of an undertaker to whom this Part of this Act but not section eighteen thereof applies, be in the same form as the last accounts of the company so laid before the first day of July, nineteen hundred and forty-eight. [1441]

(2) Section one hundred and fifty of the Companies Act, 1948 (which requires that, in the case of a company having subsidiaries at the end of its financial year, group accounts within the meaning of that section shall be laid before the company) shall not apply in the case of an undertaker to whom this Part of this Act but not section eighteen thereof applies; and the group accounts of a holding company, not being an undertaker to whom this Part of this Act applies, need not deal with a subsidiary which is an undertaker to whom this Part of this Act but not section eighteen thereof applies. [1442]

(3) The Minister may by order provide for the modification of any local enactment which—

(*a*) requires the number of directors of any company, being an undertaker to whom this Part of this Act applies, to be not less than a specified number;

(*b*) specifies the number of directors of any such company required to constitute a quorum; or

(*c*) requires a director of any such company to hold securities of the company. [1443]

Companies Act, 1948.—11 & 12 Geo. 6, c. 38.

Undertaker to whom this Part applies.—See s. 15, *ante.* For the excepted undertakers to whom s. 18, *ante*, applies, see s. 18 (1), *ante.*

July 1, 1948.—This was the day on which the Companies Act, 1948, *supra*, came into force.

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

Order.—Under sub-s. (3), *supra*, the Minister has made the Gas (Corbridge Directors) Order, 1949 (S.I. 1949 No. 431). As to orders generally, see s. 71, *post.*

Definitions.—For definitions of "company", "holding company", "local enactment", "securities" and "subsidiary", see s. 74 (1), *post.*

PART III

FINANCIAL PROVISIONS

41. Revenues of Area Boards and Gas Council to be sufficient to meet outgoings.—(1) It shall be the duty of each Area Board so to exercise and perform their functions under this Act as to secure that the revenues of the Board are not less than sufficient to meet their outgoings properly chargeable to revenue account, taking one year with another; and, if and so long as they exercise their powers to manufacture plant, gas fittings or coke fittings, they shall so exercise those powers as to secure that the revenues arising from such exercise are not less than sufficient to meet their outgoings in respect thereof properly chargeable to revenue account, taking one year with another. [1444]

(2) Each Area Board shall, at such times as the Gas Council may direct, furnish to the Gas Council for their information periodical estimates of the Board's revenue and expenditure. [1445]

(3) The Gas Council, if and so long as they exercise their powers to manufacture plant, gas fittings or coke fittings, shall so exercise those powers as to secure that the revenues arising from such exercise are not less than sufficient to meet their outgoings in respect thereof properly chargeable to revenue account, taking one year with another. [1446]

General note.—This section corresponds to s. 36 of the Electricity Act, 1947 (40 Halsbury's Statutes 461).

Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante*.

Chargeable to revenue account.—For the sums so chargeable, see s. 46, *post*.

Taking one year with another.—Area Boards are independent accounting units, and as such should adjust their affairs to make revenue and outgoings balance. The position of units within the Areas is left entirely to the Areas themselves. A deficit or profit in one year is to be carried forward to another, but over a period of years the accounts must balance.

Gas Council.—As to the Gas Council generally, see ss. 2 and 5, *ante*.

Power to manufacture plant, etc.—As to the power of Area Boards and the Gas Council to manufacture plant, etc., see ss. 1 (2) (e) and 2 (3), *ante*, respectively.

Definitions.—For definitions of "coke fittings", "functions", "gas fittings" and "plant", see s. 74 (1), *post*.

42. Borrowing powers of Area Boards and Gas Council.—(1) Each Area Board and the Gas Council may, with the consent of the Minister and with the approval of the Treasury or in accordance with the terms of any general authority issued by the Minister with the approval of the Treasury, borrow temporarily, by way of overdraft or otherwise, such sums as the Board or Council, as the case may be, may require for meeting their obligations or discharging their functions under this Act. [1447]

(2) The Gas Council may, with the consent of the Minister and the approval of the Treasury, borrow money by the issue of British Gas Stock, for all or any of the following purposes, that is to say—

(*a*) the redemption of any British Gas Stock;

(*b*) the provision of money for meeting any expenditure incurred by any Area Board or by the Gas Council in connection with any works the cost of which is properly chargeable to capital account;

(*c*) the provision of any working capital required by any Area Board or by the Gas Council;

(*d*) the provision of money required for the payment of compensation by Area Boards under this Act, except payments to local authorities in respect of loans and advances;

(*e*) any other purpose for which capital moneys are properly applicable by any Area Board or the Gas Council, including the repayment of any money temporarily borrowed under the last preceding subsection for any of the purposes mentioned in this subsection; and

(*f*) any other payment which any Area Board or the Gas Council are authorised to make and which ought in the opinion of the Gas Council to be spread over a term of years. [1448]

(3) The aggregate of the amounts outstanding in respect of the principal of any stock issued by the Gas Council, otherwise than for the purpose of paying compensation under Part II of this Act whether in stock or in cash, and in respect of any temporary loans raised by the Gas Council or any Area Board, shall not at any time exceed the sum of two hundred and fifty million pounds :

Provided that nothing in this subsection shall prevent the Gas Council from borrowing in excess of the said sum for the purpose of redeeming any British Gas Stock which they are required or entitled to redeem, or of repaying any money temporarily borrowed under subsection (1) of this section. [1449]

(4) Save as aforesaid, neither an Area Board nor the Gas Council shall borrow any money. [1450]

General note.—This section corresponds to s. 39 of the Electricity Act, 1947 (40 Halsbury's Statutes 463).

Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante*.

Gas Council.—As to the Gas Council generally, see ss. 2 and 5, *ante*.

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

Obligations.—For the financial obligations of Area Boards and the Gas Council, see s. 6 (6), *ante* (adjustment between Area Boards on variation of areas); s. 11 (1), *ante* (acquisition of land by Area Boards); s. 20 (1), *ante* (payment by Area Boards in respect of reserves of composite companies); s. 24, *ante* (adjustments on transfer of property from the Gas Council to Area Boards or from one Area Board to another); s. 25 (1), *ante* (payment of compensation by the Gas Council to undertakers to whom Part II of this Act applies, not being undertakers to whom s. 18, *ante*, applies); ss. 28 (1), 29, *ante* (payment by Area Boards of compensation to local authorities); s. 30 (3), *ante* (payment of compensation by Gas Council to composite companies); s. 31 (1), *ante* (payment of compensation by Area Boards to ancillary gas undertakers, etc.); s. 32, *ante* (payment of compensation to the British Electricity Authority by Area Boards); s. 34 (1), (2), (5), (9), *ante* (payment of, or on account of, final dividend, etc., by the Gas Council or Area Board concerned); s. 51 (6) (*b*), *post* (compensation to the National Coal Board by Area Boards).

British Gas Stock.—See s. 43, *post*.

Properly chargeable to capital account.—For chargeability to revenue account of annual sums, including certain capital payments, see s. 49, *post*, and as to the standard of accounting of the Gas Council and Area Boards, s. 50 (1), *post*.

Payments to local authorities.—See s. 28, *ante*.

Definitions.—For definitions of "functions", "loan" and "local authority", see s. 74 (1), *post*.

43. British Gas Stock.—(1) The Gas Council—

(*a*) may create and issue any stock required for the purpose of exercising their powers under the last preceding section ;

(*b*) shall create and issue such stock as is required for the purpose of satisfying any right to compensation which, under any provision of this Act, is expressly required to be satisfied by the issue of stock ;

and the stock so created and issued is in this Act referred to as "British Gas Stock". [1451]

(2) Subject to the provisions of this section and of the Second Schedule to this Act, British Gas Stock shall be issued, transferred, dealt with and redeemed upon such terms and in accordance with such provisions as may be prescribed by regulations made by the Minister with the approval of the Treasury, and any such regulations may, in relation to any such stock, apply with or without modifications any provisions of the Local Loans Act, 1875, or of any enactments relating to stock issued by a local authority. [1452]

(3) Any British Gas Stock in which no person other than an Area Board or the Gas Council has any beneficial interest shall be cancelled. [1453]

(4) If any British Gas Stock has through inadvertence been issued in respect of securities the whole of the beneficial interest in which was vested immediately before the vesting date in an undertaker to whom Part II of this Act applies, not being an undertaker to whom section eighteen of this Act

applies, the stock shall be deemed to be held on behalf of the Gas Council. [1454]

General note.—This section corresponds to s. 40 of the Electricity Act, 1947 (40 Halsbury's Statutes 463).
Gas Council.—As to the Gas Council generally, see ss. 2 and 5, *ante*.
Regulations.—See the Gas (Stock) Regulations, 1949 (S.I. 1949 No. 751). As to regulations generally, see s. 71, *post*.
The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).
Local Loans Act, 1875.—12 Halsbury's Statutes 242.
Vesting date.—May 1, 1949; see S.I. 1949 No. 392, made under s. 17, *ante*.
Undertaker to whom Part II applies.—See s. 15, *ante*. For the excepted undertakers to whom s. 18, *ante*, applies, see s. 18 (1), *ante*.
Definitions.—For definitions of "prescribed" and "securities", see s. 74 (1), *post*.

44. Estimates of Area Boards' requirements and allocation to them of liabilities in respect of stock.—(1) Each Area Board shall submit to the Gas Council, at such times as the Gas Council may direct, periodical estimates of the sums that they will require to be provided by means of borrowing by the issue of British Gas Stock, and shall furnish therewith such information as the Gas Council may require as to the purposes for which those sums will be required, and the Gas Council shall not proceed to exercise their powers of borrowing for the purpose of defraying expenditure incurred by an Area Board in carrying out reorganization or development unless the Council are satisfied that the reorganization or development will be in accordance with the general programme settled by the Board with the approval of the Minister under Part I of this Act. [1455]

(2) Where the Gas Council issue British Gas Stock for the purpose of satisfying rights to compensation or borrow money by the issue of British Gas Stock, they shall determine, in accordance with a scheme from time to time settled by the Council with the Minister after giving to each Area Board an opportunity to make representations thereon to him, the shares in which the ultimate responsibility for meeting obligations in respect of that issue of stock is to be borne, and the scheme shall provide—

(*a*) for allocating to the Area Boards responsibility in respect of any stock issued for the purpose of satisfying rights to compensation, having regard to the extent to which the assets in respect of which the compensation is payable vest by virtue of this Act in, or are subsequently transferred to, the respective Boards;

(*b*) for allocating to the Gas Council responsibility in respect of stock issued for the provision of money required by the Council for the exercise and performance of their functions, and for allocating to the Area Boards responsibility in respect of all other stock issued for the purposes of borrowing money, having regard to the extent to which the money is borrowed for the purposes of the respective Boards;

(*c*) for allocating to the Area Boards and the Gas Council responsibility in respect of any stock issued for the purpose of redeeming or converting British Gas Stock, in the same proportions as responsibility was allocated in respect of the stock to be redeemed or converted. [1456]

(3) Each Area Board shall, at such times as may be directed by the Gas Council, pay to the Council—

(*a*) such sums as may be necessary to enable the Council to make any payments, or to refund to themselves any payments made, in respect of interest on or the redemption of British Gas Stock, including payments into a sinking fund, so far as the payments are attributable to stock for which the Area Board are ultimately responsible under this section; and

(*b*) such contributions towards the expenses incurred by the Gas Council in issuing any British Gas Stock and in managing that stock as bear to the total expenses so incurred the same proportion as the amount of the stock in respect of which the Area Board are ultimately responsible under this section bears to the total amount of the stock.

Any sums paid by an Area Board under this subsection to enable the Gas Council to make payments in respect of interest on British Gas Stock shall be deemed to be annual payments, and any sums so paid to enable the Council to make payments in respect of the redemption of such stock shall be deemed to be capital payments. [1457]

General note.—This section corresponds to s. 41 of the Electricity Act, 1947 (40 Halsbury's Statutes 464).

Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante*.

Gas Council.—As to the Gas Council generally, see ss. 2 and 5, *ante*.

British Gas Stock.—See s. 43, *ante*.

Reorganisation or development.—S. 1 (5), *ante*, requires reorganisation and development involving substantial capital outlay to be carried out only in accordance with a general programme approved by the Minister after consultation with the Gas Council.

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

Definition.—For definition of "functions", see s. 74 (1), *post*.

45. Treasury guarantees.—(1) The principal of and the interest on any British Gas Stock created and issued for the purpose of satisfying any right to compensation which, under any provision of this Act, is expressly required to be satisfied by the issue of stock, shall be guaranteed by the Treasury, and the Treasury may guarantee, in such manner and on such conditions as they think fit, the redemption or repayment of, and the payment of any interest on, any other British Gas Stock or any temporary loan raised by the Gas Council or any Area Board. [1458]

(2) Any sums required by the Treasury for fulfilling any such guarantee as is provided for by the last preceding subsection shall be charged on and issued out of the Consolidated Fund of the United Kingdom or the growing produce thereof (hereinafter referred to as "the Consolidated Fund"), and any such sums shall be repaid together with interest thereon at such rate as the Treasury may determine by the Gas Council to the Treasury in such manner and over such period as the Treasury may, after consultation with the Minister, determine. [1459]

(3) Immediately after a guarantee is given under this section, the Treasury shall lay a statement of the guarantee before each House of Parliament. [1460]

(4) Where any sum is issued out of the Consolidated Fund under this section, the Treasury shall forthwith lay before each House of Parliament a statement that that sum has been issued. [1461]

General note.—This section corresponds to s. 42 of the Electricity Act, 1947 (40 Halsbury's Statutes 465).

British Gas Stock.—See s. 43, *ante*.

Compensation expressly required to be satisfied by the issue of stock.—See ss. 25 (1), 30 (3), *ante*.

Gas Council.—As to the Gas Council generally, see ss. 2 and 5, *ante*.

Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante*.

Interest.—For payment of interest on gas stock, see s. 43 (2), *ante*.

Any other British Gas Stock.—For powers to issue gas stock otherwise than for compensation purposes, see s. 42 (2), *ante*.

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

46. Central guarantee fund.—(1) The Gas Council shall establish and maintain a fund, which shall be known as the central guarantee fund, for the following purposes—

(*a*) in the event of any Area Board or the Gas Council being unable temporarily to discharge their obligations in respect of the payment of interest on, or the redemption or repayment of, any British Gas Stock or any temporary loan, or in respect of any payment by way

of compensation to a local authority, for enabling those payments to be made out of the fund ;

(*b*) for repaying to the Treasury any payments made by them for the purposes of fulfilling any guarantee given by them under the last preceding section ;

and the moneys in the central guarantee fund shall be applied by the Gas Council for those purposes only. [1462]

(2) The Area Boards shall in each financial year, and the Gas Council shall in any financial year in which they are required to make any payments in respect of British Gas Stock issued for the provision of money for the manufacture of plant, gas fittings or coke fittings by the Council or in respect of any temporary loan raised by the Council for the purpose of such manufacture, contribute to the central guarantee fund such sums as the Gas Council, with the approval of the Minister and the Treasury, from time to time determine, including any sums required to make good payments made out of the fund for the purposes mentioned in the preceding subsection.

Provided that—

(*a*) the aggregate of the sums standing to the credit of the central guarantee fund shall not at any time exceed the sum of five million pounds ;

(*b*) the aggregate of the sums contributed as aforesaid to the central guarantee fund, excluding any sums required to make good payments made out of the fund for the purposes mentioned in the preceding subsection, shall not in any financial year exceed the sum of one million pounds ;

(*c*) if the Minister and the Treasury do not approve any such determination, the Minister may himself with the approval of the Treasury determine the sums to be contributed as aforesaid. [1463]

(3) The Gas Council, for the purpose of correcting from time to time, having regard to changed circumstances, the extent of the contributions made by the various Area Boards and the Gas Council to the central guarantee fund under the last preceding subsection, may, with the approval of the Minister and the Treasury, repay out of the fund to any Area Board or to themselves any part of those contributions previously made by the Board or Council. [1464]

(4) All moneys in the central guarantee fund which are not for the time being required to be applied for the purposes of the fund shall be invested in such securities of the Government of the United Kingdom or such securities guaranteed by the Treasury as may be determined by the Gas Council with the approval of the Minister and the Treasury. [1465]

(5) Any interest arising from the investment of moneys in the fund shall be paid into the fund, except when the sums standing to the credit of the fund have reached the sum of five million pounds, and shall in that case be distributed to the Area Boards and the Gas Council in such shares as may be determined by the Gas Council, having regard to the extent of their respective contributions to the fund. [1466]

(6) Where any Area Board fail to discharge their obligations in respect of any such payments as are referred to in paragraph (*a*) of subsection (1) of this section or in respect of contributions which they are required to make to the central guarantee fund, the Gas Council may, with the approval of the Minister, give directions to the Area Board with respect to the management or policy of the Board, including tariffs and other financial matters, during such period as the Minister after consultation with the Gas Council and the Area Board may determine, being a period which extends at least until the said obligations (including any contributions required to be made to the

central guarantee fund in respect of the default) have been met, and the Area Board shall give effect to any such directions. [1467]

Gas Council.—As to the Gas Council generally, see ss. 2 and 5, *ante.*

Area Board.—As to the Area Boards generally, see ss. 1 and 5, *ante.*

Obligations in respect of interest, redemption, etc., of British Gas Stock.—For the obligations of the Area Boards and the Gas Council, see ss. 44 (2), 45 (2), *ante*, and s. 48, *post.* As to British Gas Stock, see s. 43, *ante.*

Temporary loan.—For the power of Area Boards and the Gas Council to borrow temporarily by way of overdraft or otherwise, see s. 42 (1), *ante.*

Compensation to a local authority.—See ss. 28, 29, *ante.*

Treasury guarantee.—The Treasury must guarantee the principal and interest of British Gas Stock issued to satisfy any right to compensation which is required to be satisfied by the issue of stock, and may guarantee other British Gas Stock; see s. 45 (1), *ante.*

Manufacture by the Gas Council of plant, etc.—The powers of the Gas Council to manufacture plant, gas fittings and coke fittings are given under s. 2 (3), *ante.*

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

Tariffs and other financial matters.—As to methods of charging, etc., see s. 53, *post.*

Definitions.—For definitions of "coke fittings", "financial year", "gas fittings", "local authority" and "securities", see s. 74 (1), *post.*

47. Reserve funds of Area Boards and Gas Council.—(1) Each Area Board and, if and so long as they exercise their powers to manufacture plant, gas fittings or coke fittings, the Gas Council shall establish and maintain a general reserve fund for the purposes of the Area Board or the Gas Council as the case may be. [1468]

(2) The Area Board or the Gas Council, as the case may be, shall contribute to the said fund to such extent as they may determine, and the management of the said fund and the application of the moneys comprised therein shall be such as they may determine:

Provided that—

(*a*) no part of the reserve fund so established by an Area Board shall be applied otherwise than for the purposes of the Board and no part of the reserve fund so established by the Gas Council shall, so long as it is required to be maintained, be applied otherwise than for purposes connected with the manufacture of plant or fittings by them; and

(*b*) the power of the Minister to give directions to any Area Board and to the Gas Council shall extend to the giving to them with the approval of the Treasury of directions as to any matter relating to the establishment of a reserve fund by the Board or Council under this section, the management thereof, the carrying of sums to the credit thereof or the application thereof, notwithstanding that the directions may be of a specific character. [1469]

(3) The preceding provisions of this section shall be without prejudice to the power of Area Boards and of the Gas Council to make appropriate provision for replacements or other purposes. [1470]

General note.—This section corresponds to s. 43 of the Electricity Act, 1947 (40 Halsbury's Statutes 465).

Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante.*

Gas Council.—As to the Gas Council generally, see ss. 2 and 5, *ante.* For their power to manufacture plant, etc., see s. 2 (3), *ante.*

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

Definitions.—For definitions of "coke fittings", "gas fittings" and "plant", see s. 74 (1), *post.*

48. Contributions by Area Boards to Council's expenses.—(1) The Gas Council may require any Area Board from time to time to contribute such sums as the Council, with the approval of the Minister, may determine, towards meeting the expenses of the Council, other than expenses in respect of the manufacture of plant, gas fittings or coke fittings, and the Area Board shall comply with that requirement. [1471]

(2) Any sums contributed by an Area Board under this section towards meeting the expenses of the Gas Council in respect of interest on any British

Gas Stock or any temporary loan shall be deemed to be annual payments, and any sums so contributed towards meeting the expenses of the Council in respect of the redemption of any such stock or loan shall be deemed to be capital payments. [1472]

Gas Council.—As to the Gas Council generally, see ss. 2 and 5, *ante*.
Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante*.
The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).
British Gas Stock.—See s. 43, *ante*.
Definitions.—For definitions of "coke fittings", "gas fittings", "loan" and "plant", see s. 74 (1), *post*.

49. Sums which are to be chargeable to revenue account.—Each Area Board and the Gas Council shall charge to revenue account in every year all charges which are proper to be made to revenue account, including, in particular, proper allocations to the central guarantee fund and to any reserve fund kept by the Board or Council under section forty-seven of this Act, proper provision for the redemption of capital and proper provision for depreciation of assets or for renewal of assets, and all payments (including the payments which are by the relevant provisions of this Act, or by any other relevant enactment, to be deemed to be capital payments) which fall to be made in that year to any local authority under Part II of this Act in respect of any loan or advance of that local authority, and references in this Act to outgoings properly chargeable to revenue account shall be construed accordingly. [1473]

General note.—This section corresponds to s. 45 of the Electricity Act, 1947 (40 Halsbury's Statutes 466).
Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante*.
Gas Council.—As to the Gas Council generally, see ss. 2 and 5, *ante*.
Central guarantee fund.—As to the central guarantee fund, see s. 46, *ante*.
Payments to be made to any local authority.—For capital payments to be made under Part II of this Act to local authorities, see s. 28 (2), (4), (5), *ante*. The effect of this provision is that such capital payments are to be charged to the revenue account of the Area Board or the Gas Council.
Definitions.—For definitions of "enactment", "loan" and "local authority", see s. 74 (1), *post*.

50. Accounts and audit of Area Boards and Gas Council.—(1) Each Area Board and the Gas Council shall keep proper accounts and other records in relation to the business of that Board or the Council, as the case may be, and shall prepare in respect of each financial year a statement of accounts in such form as the Minister, with the approval of the Treasury, may direct, being a form which shall conform with the best commercial standards. [1474]

(2) The form of the said statement shall be such as to secure the provision of separate information as respects each of the main activities of the Board concerned or of the Council, and to show as far as may be the financial and operating results of each such activity. [1475]

(3) The accounts of every Area Board and of the Gas Council shall be audited by auditors to be appointed in respect of each financial year by the Minister:

Provided that no person shall be qualified to be so appointed unless he is a member of one or more of the following bodies:—

The Institute of Chartered Accountants in England and Wales;
The Society of Incorporated Accountants and Auditors;
The Society of Accountants in Edinburgh;
The Institute of Accountants and Actuaries in Glasgow;
The Society of Accountants in Aberdeen;
The Association of Certified and Corporate Accountants;
The Institute of Chartered Accountants in Ireland. [1476]

(4) Every Area Board and the Gas Council shall as soon as their accounts have been audited, send a copy of the statement thereof referred to in subsection (1) of this section to the Minister together with a copy of any report

made by the auditors on that statement or on those accounts, and copies of those statements and of every such report shall be made available to the public at a reasonable price. [1477]

(5) The Minister shall lay a copy of every such statement and report before each House of Parliament. [1478]

General note.—This section corresponds to s. 46 of the Electricity Act, 1947 (40 Halsbury's Statutes 467).
Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante*.
Gas Council.—As to the Gas Council generally, see ss. 2 and 5, *ante*.
The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).
Definition.—For definition of " financial year ", see s. 74 (1), *post*.

PART IV

MISCELLANEOUS AND GENERAL

Schemes relating to carbonization activities of National Coal Board and Area Boards

51. Schemes relating to carbonization activities of National Coal Board and Area Boards.—(1) The National Coal Board and any Area Board in whose area the National Coal Board are engaged in activities relating to carbonization shall consult together with a view to the submission to the Minister of an agreed scheme or schemes for securing the co-ordination in the national interest of the activities of the two Boards relating to carbonization and any such scheme may provide for co-ordinating arrangements for the marketing of products of those activities, and for any incidental and supplementary matters, including financial arrangements, for which provision appears to the Boards to be necessary or expedient. [1479]

(2) If the National Coal Board and any such Area Board fail to reach agreement on a scheme to be submitted to the Minister under the preceding subsection, the Minister may direct the two Boards to submit separate schemes, and he may approve one or other of those separate schemes, with or without modification, or may, after considering the said schemes, himself make a scheme providing for the matters aforesaid. [1480]

(3) The Minister may, if and in so far as it appears to him to be necessary or expedient for the purpose of giving effect to any agreed scheme submitted to him under subsection (1) of this section or any scheme approved or made by him under the last preceding subsection, make provision by order for imposing duties or conferring powers on the two Boards or on either of them or for any other matters for which provision appears to the Minister to be necessary or expedient for the purpose aforesaid :

Provided that an order made under this subsection shall not provide for the transfer of any property or rights, unless the transfer is agreed to by both Boards. [1481]

(4) The two Boards concerned may at any time submit to the Minister an agreed scheme for amending any scheme having effect under this section and, if it appears to the Minister that any scheme having such effect requires amendment and that the two Boards are unable to reach agreement with respect to the amendment thereof, he may direct them to submit separate amending schemes, and he may approve one or other of those separate schemes, with or without modification, or may, after considering the said schemes, himself make an amending scheme ; and the last preceding subsection shall apply for the purpose of giving effect to any amending scheme agreed, approved or made under this subsection. [1482]

(5) Before giving their agreement to any scheme to be submitted to the Minister under subsection (1) or subsection (4) of this section the Area Board concerned shall consult with the Gas Council. [1483]

(6) Where it appears to the Minister with respect to any property used for the purposes of any activity to which a scheme under this section applies, that it is expedient in the national interest that the property should be transferred from one of the Boards concerned to the other and that the agreement of both Boards to that transfer cannot be obtained, he may cause an inquiry to be held into the matter by a competent and impartial person or committee of persons, and after considering the report of that person or committee, which shall be published by the Minister, he may by order provide—

(*a*) for the transfer from one Board to the other of the property in question and of such rights, liabilities and obligations acquired or incurred in connection with the use of that property as may be specified in the order or determined thereunder;

(*b*) for the payment of compensation by the Board to whom the property is transferred to the other Board;

(*c*) for any supplementary or consequential matters for which provision appears to the Minister to be necessary or expedient, including any of the matters for which provision may be made on the transfer by order of property, rights, liabilities and obligations from one Area Board to another. [1484]

(7) An order made under this section shall not be made unless a draft thereof has been laid before Parliament and has been approved by resolution of each House of Parliament. [1485]

National Coal Board.—The National Coal Board was established by the Coal Industry Nationalisation Act, 1946, s. 1 (39 Halsbury's Statutes 256).

Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante*. As to their areas, see Sched. I, *post*, and s. 6, *ante*, and the Gas (Areas of Area Boards) Order, 1948 (S.I. 1948 No. 2773) made under that section.

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

Carbonisation.—Area Boards may engage in carbonisation either in direct fulfilment of their duty to manufacture gas (see as to gas supply, s. 1 (1) (*a*), *ante*), or indirectly in the production of unsaleable water-gas or the treatment of solid fuels within their powers under s. 1 (2) (*a*), (*c*), *ante*.

As to the duty of Area Boards to consult with the National Coal Board in matters relating to carbonisation, see s. 1 (6), *ante*.

Order.—As to orders generally, see s. 71, *post*. No orders under this section had been made up to the date of going to press.

Gas Council.—As to the Gas Council generally, see ss. 2 and 5, *ante*.

Inquiry.—As to the Minister's general power of instituting inquiries, see s. 73, *post*.

Payment of compensation.—For the power of the Gas Council to issue British Gas Stock where compensation is ordered to be paid under sub-s. (6) (*b*), *supra*, see s. 42 (2) (*d*), *ante*, and for the Area Boards' power to borrow for this purpose, see s. 42 (1), *ante*.

Transfer from one Area Board to another.—Cf. ss. 6 (6), 24 (2), *ante*, and see s. 56 (6), *post*.

Provisions as to supply of gas by persons other than Area Boards

52. Provisions as to supply of gas by persons other than Area Boards.—(1) No person shall, after the vesting date, commence to supply gas to any premises which he was not supplying at that date, except with the consent of the Area Board in whose area the premises are situated and in accordance with such conditions as may be attached to that consent. [1486]

(2) Any person, other than an Area Board, who is engaged after the vesting date in the manufacture of gas may by notice require the Area Board in whose area the gas is manufactured to buy all or part of the gas manufactured by him which he does not require for his own use, and the Area Board shall, if and so far as it is reasonably practicable and economical for them to do so, comply with that requirement. [1487]

(3) The Area Board in whose area gas is manufactured by any such person as aforesaid may, if it appears to them to be necessary for the proper performance of their duties under paragraph (*a*) of subsection (1) of section one of this Act, require that person to sell to the Board all or part of the

gas manufactured by him which he does not require for his own use, and the said person shall comply with that requirement. [1488]

(4) Where the Area Board makes such a requirement as aforesaid, the rights and obligations, if any, of the person upon whom it is made which relate to the supply of gas after the date on which the requirement takes effect shall be transferred to the Area Board, and any agreement relating to such supply shall have effect accordingly:

Provided that the Area Board shall not be under any liability by reason of any failure to provide a supply in pursuance of any such obligation, if the failure is due to any deficiency in the quantity or quality of the gas supplied in pursuance of the said requirement. [1489]

(5) Where any requirement is made under subsection (2) or subsection (3) of this section, any pipes or other plant or gas fittings which the person who is to sell gas to the Area Board uses or holds for the purpose of or in connection with the supply of gas manufactured by him and which will, in consequence of the said requirement, no longer be required by him, but not including any pipes, plant or fittings which it is not reasonably practicable and economical for the Area Board to take over, shall, if either the Area Board or the said person so requires, be transferred to the Area Board. [1490]

(6) Any question arising under this section as to whether, or as to the extent to which, it is reasonably practicable and economical for an Area Board to buy a supply of gas, or as to the terms and conditions on which the supply is to be given, or as to whether, or as to the extent to which, pipes, plant or gas fittings are to be transferred to an Area Board, or as to the terms and conditions on which they are to be transferred, shall be referred for inquiry and report to a person appointed by the Minister after consultation with the Lord Chancellor or, in the case of the Scottish Gas Board, after consultation with the Secretary of State, and shall be determined by the Minister after considering the report of the said person. [1491]

(7) For the purposes of this section,—

(*a*) a person providing gas for his own use shall not in so doing be deemed to be supplying gas, and gas provided by a company for the use of any subsidiary or holding company of that company, or of any subsidiary of a holding company of that company, shall be deemed to be provided for the use of that company;

(*b*) a person providing, for use in a flat or part of a building let by him, gas supplied to him shall not in so doing be deemed to be supplying gas. [1492]

(8) This section shall not affect the supply of gas by any person otherwise than through pipes. [1493]

Vesting date.—May 1, 1949; see S.I. 1949 No. 392, made under s. 17, *ante*.

Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante*.

Notice.—As to the service of notices, see s. 70, *post*.

Premises.—This is not defined in this Act, but the position of landlords and hotel keepers who let flats or rooms containing a meter by which tenants or visitors pay for gas used is safeguarded by sub-s. (7) (*b*). As to charges for resale of gas supplied by an Area Board, see Sched. III, para. 17, *post*.

Pipes, plant or gas fittings.—Where an Area Board requires surplus gas to be sold to it, the Board must pay for the pipes, etc., transferred to it. Where a supplier unloads his surplus on an Area Board, the value of pipes, etc., would be part of the settlement under sub-s. (2). In either case an appeal lies under sub-s. (6).

Otherwise than through pipes.—This means gas supplied in cylinders or gas bottles. The fact that such gas is fed to the consuming apparatus through tubes or pipes does not render it gas supplied through pipes.

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

Definitions.—For definitions of "company", "gas fittings", "holding company", "plant" and "subsidiary", see s. 74 (1), *post*.

Gas charges, meters, and other provisions relating to gas supply

53. Methods of charge and tariffs.—(1) Subject to the following provisions of this section, every Area Board shall charge for the gas supplied by them according to the number of therms supplied, such number to be calculated in the prescribed manner on the basis of the declared calorific value of the gas. [1494]

(2) Where, immediately before the vesting date, charges for gas supplied from any gasworks belonging to any undertaker to whom Part II of this Act applies were being made by some method other than according to the number of therms supplied, the Area Board may, for a period not exceeding five years from the vesting date, continue to charge for gas supplied from those gasworks by that other method, and the Minister may, if it appears to him that it would be impracticable or uneconomical to require the Area Board to adopt the method of charge specified in the preceding subsection in relation to gas supplied from any such gasworks, authorise the Board to continue to use the said other method of charge after the expiration of the said five years. [1495]

(3) Regulations shall—

(*a*) make provision as to the time when and the manner in which the calorific value of gas supplied by Area Boards is to be declared and is to be brought to the notice of consumers and as to the time when any such declaration is to take effect; and

(*b*) provide for the adjustment of charges for gas in cases where an alteration in the declared calorific value occurs in the course of a period for which such charges are made:

Provided that any declaration of the calorific value of gas supplied from any gasworks of an undertaker to whom Part II of this Act applies, being a declaration in force immediately before the vesting date, shall continue in force in relation to gas supplied from those gasworks until it is replaced by a declaration made under the said regulations. [1496]

(4) Subject to the following provisions of this subsection, the prices to be charged by an Area Board for the supply of gas by them shall be in accordance with such tariffs as may be fixed from time to time by them, and those tariffs shall be so framed as to show the methods by which and the principles on which the charges are to be made as well as the prices which are to be charged, and shall be published in such manner as in the opinion of the Area Board will secure adequate publicity for them:

Provided that—

(*a*) the tariffs in force immediately before the vesting date in respect of gas supplied from any gasworks of an undertaker to whom Part II of this Act applies shall remain in force in respect of gas supplied by an Area Board from those gasworks, until varied or replaced by tariffs fixed in accordance with this section; and

(*b*) nothing in this subsection shall affect any special agreement for the supply of gas in force immediately before the vesting date. [1497]

(5) A tariff fixed by an Area Board under the last preceding subsection may include a standing charge in addition to the charge for the actual gas supplied and may also include a rent or other charge in respect of any gas meter or gas fittings provided by the Board on the premises of the consumer. [1498]

(6) Notwithstanding anything in the preceding provisions of this section, an Area Board may enter into a special agreement with any consumer for the supply of gas to him on such terms as may be specified in the agreement:

Provided that an Area Board shall not enter into such agreements except

in cases where the tariffs in force are not appropriate owing to special circumstances. [1499]

(7) An Area Board, in fixing tariffs and making agreements under this section, shall not show undue preference to any person or class of persons and shall not exercise any undue discrimination against any person or class of persons. [1500]

General note.—This section corresponds to s. 37 of the Electricity Act, 1947 (40 Halsbury's Statutes 461).

Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante*.

Vesting date.—May 1, 1949; see S.I. 1949 No. 392, made under s. 17, *ante*.

Undertaker to whom Part II applies.—See s. 15, *ante*.

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

Calorific value of the gas.—Prior to the passing of this Act, only statutory undertakers and undertakers supplying more than a certain quantity of gas could charge on a thermal basis under the Gas Regulation Act, 1920, s. 3 (8 Halsbury's Statutes 1282), the Gas Undertakings Act, 1929, s. 6 (8 Halsbury's Statutes 1295), and the Gas Undertakings Act, 1934, s. 9 (27 Halsbury's Statutes 310); these Acts are repealed by s. 76 and Sched. IV, *post*. Other undertakers supplied gas in accordance with its volumetric capacity.

Regulations.—See the Gas (Declaration of Calorific Value) Regulations, 1949 (S.I. 1949 No. 788). As to regulations generally, see s. 71, *post*.

Special agreement.—The Gas Undertakings Act, 1934, s. 7 (27 Halsbury's Statutes 309) (repealed by s. 76 and Sched. IV, *post*), permitted special contracts for the supply of gas, including in particular a two-part tariff for domestic consumers, to be entered into in variation of the fixed tariff published by the undertaker.

Undue preference.—See also s. 1 (8), *ante*.

Definitions.—For definitions of "calorific value", "gas fittings", "gasworks" and "therm", see s. 74 (1), *post*.

54. Meter testing and stamping.—(1) As from the vesting date, no meter shall be used for the purpose of ascertaining the quantity of gas supplied to any person unless it is stamped by a meter examiner appointed under this section, and no such meter examiner shall stamp a meter unless he is satisfied that it is of such pattern and construction and is marked in such manner as is approved by the Minister and that the meter conforms to such standards as may be prescribed. [1501]

(2) The Minister shall appoint competent and impartial persons as meter examiners for the purposes of this section, and it shall be the duty of such an examiner, on being required to do so by any person and on payment of the prescribed fee, to examine any meter used or intended to be used for ascertaining the quantity of gas supplied to any person, and to stamp that meter if the examiner is satisfied of the matters aforesaid, and the meter examiners shall comply with any directions given by the Minister as to the exercise and performance of their functions. [1502]

(3) There shall be paid out of moneys provided by Parliament to meter examiners such remuneration (whether by way of salaries or fees) and such allowances as may be determined by the Minister with the approval of the Treasury, and such pensions may be paid out of moneys provided by Parliament to or in respect of any such meter examiner as may be so determined. [1503]

(4) All fees payable in respect of the examination of meters by meter examiners shall be paid to the Minister. [1504]

(5) Regulations may make provision—

(*a*) for re-examining meters already stamped, and for cancelling the stamp on any meters which no longer conform with the prescribed standards;

(*b*) for requiring meters to be periodically overhauled;

(*c*) for the revocation of any approval given by the Minister to any particular pattern or construction of meter and for requiring existing meters of that pattern or construction to be replaced within such period as may be prescribed;

(*d*) for determining the fees to be paid for examining, stamping and re-examining meters, and the persons by whom they are to be paid; and

(*e*) for any matters supplementary or incidental to the matters aforesaid and to the provisions of this section for which provision appears to the Minister to be necessary or expedient. [1505]

(6) If any person supplies gas through a meter which has not been stamped under this section, he shall be liable on summary conviction to a fine not exceeding one hundred pounds and, if the default in respect of which any person is convicted under this subsection is continued after the conviction, he shall be guilty of a further offence and liable in respect thereof on summary conviction to a fine not exceeding five pounds for each day during which the default is so continued. [1506]

(7) Any meter which has before the vesting date been duly stamped under the enactments then in force shall be deemed to have been stamped under this section. [1507]

(8) All apparatus and equipment used immediately before the vesting date by the council of any county, borough or burgh or by any justices for the purpose of examining and stamping meters used for ascertaining the quantity of gas supplied, including any apparatus or equipment affixed to a building, shall on the vesting date vest by virtue of this Act in the Minister, and there shall be paid out of moneys provided by Parliament such compensation in respect of that vesting as may be agreed or, in default of agreement, settled by arbitration under this Act. [1508]

(9) The Minister shall be entitled to occupy and use, as from the vesting date, any premises used immediately before the vesting date, by any such council or justices wholly or mainly for the purpose aforesaid, for such period, on the payment of such rent and on such other terms and conditions as may be agreed between the Minister and the council or justices, as the case may be, or, in default of agreement, as may be determined by arbitration under this Act to be fair and reasonable in all the circumstances, and, on ceasing to occupy and use any such premises, the Minister shall be entitled to remove any apparatus or equipment vesting in him by virtue of this Act which is affixed to the premises, making good any damage caused by such removal or paying such compensation therefor as may be agreed or determined as aforesaid. [1509]

Vesting date.—May 1, 1949; see S.I. 1949 No. 392, made under s. 17, *ante*.

Meter.—Every consumer may be required by the Area Board supplying him with gas (except gas for public lamps) to take his supply through a meter (see Sched. III, para. 13, *post*).

Meter examiner.—Formerly, inspectors of meters were appointed by the justices in quarter sessions under the Sale of Gas Act, 1859 (8 Halsbury's Statutes 1230), which is repealed by s. 76 and Sched. IV, *post*. These powers of the justices were transferred to the London County Council, by virtue of the Metropolis Gas Act, 1861 (8 Halsbury's Statutes 1253), (which is virtually repealed by s. 56 (2), *post*), and by the Local Government Act, 1888, s. 40 (8) (10 Halsbury's Statutes 718), so far as concerns the Metropolis, and to county councils elsewhere by the Local Government Act, 1888, s. 3 (10 Halsbury's Statutes 688).

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

Regulations.—See the Gas (Meter) Regulations, 1949 (S.I. 1949 No. 790). As to regulations generally, see s. 71, *post*.

Periodic overhaul and replacement.—Regulations made under this section do not override the provisions of Sched. III, paras. 13, 14, *post*, so as to impose any cost of overhaul or replacement on the consumer. Meters belonging to an Area Board and hired to the consumer are maintained by the Board, while a consumer's own meter must be overhauled or replaced at his expense.

Summary conviction.—As to summary liability see the Summary Jurisdiction Act, 1879, s. 51 (1) (11 Halsbury's Statutes 350). The prosecution of an offender under this section does not need the authorisation of the Director of Public Prosecutions or of the Minister under s. 69, *post*.

Stamped under the enactments in force.—The public Acts relating to the stamping of meters (*i.e.* the Sale of Gas Act, 1859 (8 Halsbury's Statutes 1230) and the Gas Regulation Act, 1920 (8 Halsbury's Statutes 1278)) are repealed by s. 76 and Sched. IV, *post*.

Arbitration under this Act.—See s. 63, *post*.

Definitions.—For definitions of "enactment", "functions", "pension" and "prescribed", see s. 74 (1), *post*.

55. Standards of gas quality to be complied with by Area Boards.—(1) The Minister shall, after consultation with the Gas Council, prescribe standards

of pressure, purity and uniformity of calorific value to be complied with by Area Boards in supplying gas, and may, after consultation with the Gas Council, prescribe other standards with respect to the properties, condition and composition of gas supplied by Area Boards, and the regulations may, in the case of such supplies provided for industrial purposes only as may be specified in the regulations and subject to such conditions as may be so specified, provide for granting exemption from the obligation to comply with any such standards. [1510]

(2) The Minister shall appoint competent and impartial persons to carry out tests of the gas supplied by Area Boards for the purpose of ascertaining whether it is of the declared calorific value and conforms with the standards prescribed under this section, and the persons so appointed shall comply with any directions given by the Minister as to the exercise and performance of their functions. [1511]

(3) There shall be paid out of moneys provided by Parliament to the persons so appointed such remuneration (whether by way of salaries or fees) and such allowances as may be determined by the Minister with the approval of the Treasury, and such pensions may be paid out of moneys provided by Parliament to or in respect of any of those persons as may be so determined, and any sums paid by the Minister under this subsection shall be repaid to him by the Gas Council. [1512]

(4) Regulations may provide—

(*a*) for determining the places at which such tests as aforesaid are to be carried out;

(*b*) for requiring premises, apparatus and equipment to be provided and maintained by Area Boards for the purpose of carrying out such tests;

(*c*) for persons representing Area Boards to be present during the carrying out of such tests;

(*d*) for the manner in which the results of such tests are to be made available to the public;

(*e*) for conferring powers of entry on property of Area Boards for the purpose of deciding where tests are to be carried out and otherwise for the purposes of this section;

(*f*) for refunding to consumers or otherwise disposing of any excess revenue obtained by an Area Board by reason of their failure to maintain the calorific value declared in respect of any gas supplied by them; and

(*g*) for any other matters supplementary or consequential on the matters aforesaid for which provision appears to the Minister to be necessary or expedient. [1513]

(5) All moneys standing on the vesting date to the credit of the gas fund established under section seven of the Gas Regulation Act, 1920, shall be paid into the Exchequer. [1514]

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

Gas Council.—As to the Gas Council generally, see ss. 2 and 5, *ante*.

Area Boards.—As to Area Boards generally, see ss. 1 and 5, *ante*.

Regulations.—See the Gas (Testing) Regulations, 1949 (S.I. 1949 No. 789) and the Gas (Quality) Regulations, 1949 (S.I. 1949 No. 792). As to regulations generally, see s. 71, *post*.

Persons to test gas.—The persons appointed under sub-s. (2), *supra*, replace the gas examiners appointed by the Board of Trade under the Gas Regulation Act, 1920, s. 4 (8 Halsbury's Statutes 1282), which is repealed as from the vesting date by s. 76 and Sched. IV, *post*.

The gas fund.—This fund was established by contributions made by gas undertakers to whom that section applied or was by order made applicable (but excluding non-statutory undertakers who became liable to purity and pressure tests by the Gas Undertakings Act, 1934; 27 Halsbury's Statutes 302) by the Gas Regulation Act, 1920, s. 7 (3) (8 Halsbury's Statutes 1285). Both these Acts are repealed as from the vesting date by s. 76 and Sched. IV, *post*.

Definitions.—For definitions of "calorific value", "functions" and "prescribe", see s. 74 (1), *post*.

56. Application of gas supply code and enactments to Area Boards.—(1) As from the vesting date, the Third Schedule to this Act (which contains a code of provisions relating to gas supply) shall apply to Area Boards :

Provided that, if it appears to the Minister, as respects any obligation imposed by the said Schedule, that it is not reasonably practicable to require an Area Board to fulfil that obligation in relation to any part of the area of the Board as respects which the obligation was not imposed on the undertaker supplying gas in that part before the vesting date, he may by order provide for relieving the Area Board from that obligation, in relation to that part of their area, for such period not extending beyond five years from the vesting date as may be specified in the order, on such conditions as may be so specified. [1515]

(2) All local enactments in force at the vesting date and applicable to any statutory undertakers, except enactments applicable to any Electricity Boards, local authorities or composite companies otherwise than in relation to their gas undertakings, shall as from the vesting date have effect—

(*a*) as if for references to the undertaker there were substituted references to the Area Board in whom property, rights, liabilities and obligations of the undertaker vest by virtue of this Act ;

(*b*) as if for any references (however worded and whether expressed or implied) to the gas undertaking or any part thereof or to the limits of supply of the undertaker or any part thereof there were substituted a reference to so much of the business carried on by the Area Board as corresponds to that undertaking or part thereof or, as the case may be, a reference to the area comprised in the said limits of supply immediately before the vesting date or part thereof ;

and shall also have effect, as from such date as may be prescribed, which may be prior to the making of the regulations but not to the vesting date, with such other adaptations and modifications (if any) as may be prescribed, being adaptations and modifications required in consequence of the provisions of this Act :

Provided that any such local enactment which provides for the regulation of charges made by the undertaker and any other such local enactment which is inconsistent with or rendered redundant by the provisions of this Act shall cease to have effect, as from the vesting date, so, however, that this proviso shall not be taken as affecting any local enactment which contains special provisions for the protection of any person or class of persons and is not rendered redundant by the provisions of this Act. [1516]

(3) References in any enactment other than a local enactment to persons carrying on gas undertakings (whatever expression may be used to describe such persons) and to the gas undertakings of such persons shall, as from the vesting date, be construed as references to Area Boards and to the business carried on by those Boards. [1517]

(4) For the purpose of securing, so far as is reasonably practicable, a uniform statutory code applicable throughout the area of each Area Board, the Minister may by order provide for the repeal or amendment of any such local enactment as has effect under subsection (2) of this section or for its extension to the whole or a greater part of the area concerned, and for such matters consequential on or incidental to any such repeal, amendment or extension for which the Minister considers it necessary or expedient to provide.

An order under this subsection shall be subject to special parliamentary procedure. [1518]

(5) If property and rights used by the British Transport Commission for the purposes of any gas undertaking carried on by them are transferred to an Area Board, the Minister may by order provide for the application to the

Board of any local enactment applicable to the Commission, so far as appears to the Minister to be necessary or expedient in consequence of the said transfer. [1519]

(6) Where an order made under this Act provides for the transfer of property, rights, liabilities and obligations from one Area Board to another, that order or a subsequent order may provide for the application to the last named Board of any local enactment applicable to the first named Board, so far as appears to the Minister necessary or expedient in consequence of the said transfer. [1520]

Vesting date.—May 1, 1949; see S.I. 1949 No. 392, made under s. 17, *ante*.
Gas supply code.—All public Acts regulating the supply of gas are repealed by s. 76 and Sched. IV, *post*. Their provisions, as made applicable to Area Boards as the sole public suppliers of gas, are replaced by Sched. III, *post*.
Area Boards.—As to Area Boards generally, see ss. 1 and 5, *ante*.
The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).
Orders and regulations.—As to orders and regulations generally, see s. 71, *post*. No orders or regulations under this section had been made up to the date of going to press.
Property, etc., vesting in Area Boards.—See s. 17 (1), *ante*.
Special parliamentary procedure.—As to special parliamentary procedure, see the Statutory Orders (Special Procedure) Act, 1945 (38 Halsbury's Statutes 439).
British Transport Commission.—The British Transport Commission was established by the Transport Act, 1947, s. 1 (40 Halsbury's Statutes 925).
Transfer from one Area Board to another.—For orders effecting these transfers, see ss. 6 (6), 24 (2) and 51 (6), *ante*.
Definitions.—For definitions of "composite company", "Electricity Board", "enactment", "local authority" and "local enactment", see s. 74 (1), *post*.

Conditions of employment, pension rights and compensation

57. Machinery for settling terms and conditions of employment of staff, etc.—(1) Except so far as they are satisfied that adequate machinery exists for achieving the purposes of this section,—

(*a*) it shall be the duty of the Gas Council to seek consultation with any organization appearing to them to be appropriate with a view to the conclusion between the Gas Council and that organization of such agreements as appear to the parties to be desirable with respect to the establishment and maintenance of machinery for the settlement by negotiation of terms and conditions of employment of persons employed by Area Boards and the Gas Council, with provision for reference to arbitration in default of such settlement in such cases as may be determined by or under the agreements; and

(*b*) it shall be the duty of each Area Board and of the Gas Council to seek consultation with any organization appearing to them to be appropriate with a view to the conclusion between that Area Board or the Gas Council, as the case may be, and that organization of such agreements as appear to the parties to be desirable with respect to the establishment and maintenance of machinery for the promotion and encouragement of measures affecting the safety, health and welfare of persons employed by the Board or Council and the discussion of other matters of mutual interest to the Board or Council and such persons, including efficiency in the operation of the services of the Board or Council. [1521]

(2) It shall be the duty of every Area Board to comply with any agreement made by the Gas Council under paragraph (*a*) of the preceding subsection. [1522]

(3) The Gas Council and every Area Board shall send to the Minister and the Minister of Labour and National Service copies of any agreement made by them under this section and of any instrument varying the terms of any such agreement. [1523]

General note.—This section corresponds to s. 53 of the Electricity Act, 1947 (40 Halsbury's Statutes 474).

Gas Council.—As to the Gas Council generally, see ss. 2 and 5, *ante*.

Area Boards.—As to Area Boards generally, see ss. 1 and 5, *ante*.

Safety, health and welfare.—See also s. 1 (7), *ante*, as to the duties of Area Boards in this respect.

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

Definition.—For definition of " employed ", see s. 74 (1), *post*.

58. Provisions as to pension rights.—(1) The Minister may make regulations for all or any of the following purposes, that is to say—

(*a*) for providing pensions to or in respect of persons who are or have been in the employment of an Area Board, the Gas Council or a Gas Consultative Council, or persons who have been employed by any undertaker to whom Part II of this Act applies or have been employed whole-time for the purpose of administering undertakings or parts of undertakings of such undertakers, but who have not been taken into the employment of an Area Board or the Gas Council as aforesaid ;

(*b*) for the establishment and administration of pension schemes and pension funds for the purposes of the preceding paragraph, for the continuance, amendment, repeal or revocation of existing pension schemes relating in whole or in part to the like purposes and of enactments relating thereto and of trust deeds, rules or other instruments made for the purposes thereof, for the transfer in whole or in part, or for the extinguishment, of liabilities under any such existing pension schemes, and for the transfer in whole or in part, or winding up, of pension funds held for the purposes of any such existing pension schemes, so, however, that nothing in this paragraph shall be construed as authorising the diversion of any such funds to purposes other than those of the preceding paragraph ;

(*c*) for making any provision consequential on any such provision as aforesaid including provision for the dissolution or winding up of bodies, whether incorporated or not, the continued existence whereof is unnecessary having regard to the regulations. [1524]

(2) Where provision is made by any such regulations for the amendment, repeal or revocation of any existing pension scheme or of any enactment relating thereto or any trust deed, rules or other instrument made for the purposes thereof, or for the transfer or extinguishment of any liability under any pension scheme or for the transfer or winding up of any pension fund held for the purposes of any such scheme, the regulations shall be so framed as to secure that persons having pension rights under the scheme, whether such persons are mentioned in paragraph (*a*) of the preceding subsection or not, are not placed in any worse position by reason of the amendment, repeal, revocation, transfer, extinguishment or winding up :

Provided that this subsection shall have effect subject to such limitations as may be prescribed for meeting cases in which, in connection with any provision made by this Act or in anticipation of the making of any such provision, pension rights have been created otherwise than in the ordinary course. [1525]

(3) Regulations made under this section shall not be invalid by reason that in fact they do not secure that persons having pension rights are not placed in any worse position by reason of any such amendment, repeal, revocation, transfer, extinguishment or winding up as is mentioned in the last preceding subsection, but if the Minister is satisfied or it is determined as hereinafter mentioned that any such regulations have failed to secure that result, the Minister shall as soon as possible make the necessary amending regulations.

Any dispute arising as to whether or not the said result has been secured

by any regulations made under this section shall be referred to a referee or board of referees appointed by the Minister of Labour and National Service, after consultation with the Lord Chancellor or, where the proceedings are to be held in Scotland, after consultation with the Secretary of State, for his or their determination thereon, and the decision of that referee or board shall be final. [1526]

(4) Without prejudice to the generality of the preceding provisions of this section, regulations made under this section may contain provisions authorising any person who, being a participant in any pension scheme to which the regulations relate, becomes a member of an Area Board or the Gas Council, being treated as if his service as a member of the Board or Council were service in the employment of the Board or Council, and the pension rights of any such person resulting from the operation of any such provision shall not be affected by any provision of this Act which requires that the pensions, if any, which are to be paid in the case of members of the Board or Council are to be determined by the Minister with the approval of the Treasury. [1527]

(5) Subject to any regulations made under this section, the provisions of this Act under which liabilities and obligations of an undertaker to whom Part II of this Act applies are vested in an Area Board or the Gas Council shall apply in relation to customary obligations of the undertaker in respect of pensions, notwithstanding that the undertaker was under no legal obligation in respect of those pensions, and if any question arises as to the existence or extent of any such customary obligation the question shall, in default of agreement, be referred to a referee or board of referees appointed by the Minister of Labour and National Service, after consultation with the Lord Chancellor, or where the proceedings are to be held in Scotland, after consultation with the Secretary of State, and the decision of that referee or board shall be final and the Area Board or the Gas Council shall give effect to that decision. [1528]

(6) Nothing in this section, and in particular nothing in subsection (2) thereof, shall be taken to derogate from the power conferred by subsection (4) of section sixty-nine of the National Insurance Act, 1946, to make regulations providing for the modifying or winding up of pension schemes in connection with the passing of that Act. [1529]

(7) Regulations made under this section may contain such supplementary and consequential provisions as the Minister thinks necessary, including provisions as to the manner in which questions arising under the regulations are to be determined and provisions adapting, modifying or repealing enactments, whether of general or special application. [1530]

(8) The original regulations made under this section shall be made within twelve months after the vesting date, and any regulations made under this section may be made so as to have effect from a date prior to the making thereof, so, however, that so much of any regulations as provides that any provision thereof is to have effect from a date prior to the making thereof shall not place any person other than an Area Board or the Gas Council in a worse position than he would have been if the regulations had been made to have effect only as from the date of the making thereof. [1531]

General note.—This section, which applies to gas and coke associations by virtue of s. 62 (2), *post*, corresponds to s. 54 of the Electricity Act, 1947 (40 Halsbury's Statutes 475).

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

Regulations.—See the Gas (Pension Scheme) Regulations, 1949 (S.I. 1949 No. 744). As to regulations generally, see s. 71, *post*.

Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante*.

Gas Council.—As to the Gas Council generally, see ss. 2 and 5, *ante*.

Gas Consultative Council.—As to the Gas Consultative Councils, see s. 9, *ante*.

Undertaker to whom Part II applies.—See s. 15, *ante*.

Persons not taken into employment.—As to compensation for officers of undertakers not taken into employment by an Area Board or the Gas Council, see s. 60, *post*.

Referees.—See, also s. 61, *post.*
National Insurance Act, 1946, *s.* 69 (4).—30 Halsbury's Statutes 481.
Definitions.—For definitions of "enactment", "pension fund" and "pension scheme", see s. 74 (1), *post.*

59. Co-partnership Schemes.—(1) Where any scheme in force immediately before the vesting date provides for enabling persons employed by any undertaker to whom Part II of this Act applies, other than an undertaker to whom section eighteen of this Act applies, or any class of persons so employed, to participate in the profits of the undertaking, provision shall be made by regulations for continuing the scheme (including any provisions of the scheme relating to welfare or amenities or the management of the scheme) for such period after the vesting date as may be specified in the regulations, with such adaptations and modifications as appear to the Minister to be necessary or expedient.

The regulations made under this subsection shall be made not less than one month before the vesting date but without prejudice to such variation of any of those regulations as may subsequently appear to the Minister to be necessary. [1532]

(2) If an Area Board or the Gas Council enter into an agreement with any organization with whom they seek consultation under section fifty-seven of this Act for the making of arrangements by the Board or Council in place of any such scheme as aforesaid, or arrangements for continuing any such scheme with modifications and adaptations, regulations shall make such provision (if any) as may be necessary to give effect to those arrangements and, in particular in the case of arrangements made in place of any such scheme, to enable assets held under the said scheme for the benefit of persons to whom the arrangements are to apply to be transferred and held for the benefit of those persons under the arrangements. [1533]

(3) Where any such scheme as aforesaid ceases to have effect, regulations shall make provision for the distribution of any assets held for the purposes of the scheme to the persons beneficially entitled thereto, not being assets transferred and held for the benefit of persons to whom arrangements made under the last preceding subsection apply, and otherwise for winding up the said scheme and for repealing any local enactment relating thereto. [1534]

General note.—The possible eventual winding-up of co-partnership schemes under this section will not affect any associated arrangements. Where, for example, co-partnership is linked with a pensions scheme, the latter is safeguarded by s. 57, *ante*, and where co-partners are entitled to perquisites such as cheap gas and appliances, such rights will either be continued or a claim for compensation for their loss under s. 60, *post*, will lie.
The vesting date.—May 1, 1949; see S.I. 1949 No. 392, made under s. 17, *ante.*
Undertaker to whom Part II applies.—See s. 15, *ante.* For the excepted undertakers to whom s. 18, *ante*, applies, see s. 18 (1), *ante.*
Regulations.—See the Gas (Co-partnership) Regulations, 1949 (S.I. 1949 No. 475).
The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).
Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante.*
Gas Council.—As to the Gas Council generally, see ss. 2 and 5, *ante.*
Definitions.—For definitions of "employed" and "local enactment", see s. 74 (1), *post.*

60. Compensation to officers.—(1) The Minister shall by regulations require every Area Board and the Gas Council to pay, in such cases and to such extent as may be specified in the regulations, compensation to officers of any undertaker some or all of whose property, rights, liabilities and obligations vest by virtue of this Act in the Board or Council and officers employed wholetime for the purpose of administering undertakings or parts of undertakings of undertakers to whom Part II of this Act applies, being officers who suffer loss of employment or loss or diminution of emoluments or pension rights in consequence of the vesting, or in consequence of the subsequent transfer from one Area Board to another or from the Gas Council to an Area Board or the subsequent disposal in any other manner, of any such property, rights, liabilities or obligations, or in consequence of anything done under the last preceding section. [1535]

(2) Regulations shall provide for the payment by the Minister out of moneys provided by Parliament of compensation, in such cases and to such extent as may be specified in the regulations, to any or all of the following persons, that is to say—

(*a*) persons employed whole-time as inspectors of meters under section four of the Sale of Gas Act, 1859;

(*b*) persons whose whole-time employment is made up of employment as inspectors of meters under the said section four and of other employment by a local authority;

(*c*) persons who assist such inspectors as aforesaid and are employed whole-time by a local authority;

(*d*) persons employed whole-time as gas examiners under section thirteen of the Gas Undertakings Act, 1934; and

(*e*) persons whose whole-time employment is made up of employment as gas examiners as aforesaid and of other employment by a local authority,

being persons who suffer loss of employment or loss or diminution of emoluments or pension rights in consequence of the passing of this Act. [1536]

(3) Regulations made under this section shall, in such cases and to such extent as may be specified in the regulations, extend to persons who would have been within this section but for any war service in which they have been engaged.

In this subsection the expression "war service" means service in any of His Majesty's forces and such other employment as may be specified in the regulations. [1537]

(4) Different regulations may be made under this section in relation to different classes of persons, and any such regulations may be so framed as to have effect as from a date prior to the making thereof, so, however, that so much of any regulations as provides that any provision thereof is to have effect as from a date earlier than the making thereof shall not place any person other than an Area Board or the Gas Council in a worse position than he would have been in if the regulations had been made to have effect only as from the date of the making thereof. [1538]

(5) Regulations made under this section—

(*a*) shall prescribe the procedure to be followed in making claims for compensation, and the manner in which and the person by whom the question whether any or what compensation is payable is to be determined; and

(*b*) may in particular contain provisions enabling appeals from any determination as to whether any or what compensation is payable to be brought, in such cases and subject to such conditions as may be prescribed by the regulations, before a referee or board of referees appointed by the Minister of Labour and National Service, after consultation with the Lord Chancellor or, where the proceedings are to be held in Scotland, after consultation with the Secretary of State;

and where any such provision is made as is specified in paragraph (*b*) of this subsection, the decision of the referee or board of referees shall be final. [1539]

(6) No regulations shall be made under this section unless a draft thereof has been laid before Parliament and has been approved by resolution of each House of Parliament, and a draft of the first regulations proposed to be made under this section shall be laid before Parliament not later than six months after the vesting date. [1540]

General note.—This section corresponds to s. 55 of the Electricity Act, 1947 (40 Halsbury's Statutes 476).

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

Regulations.—As to regulations generally, see s. 71, *post*. No regulations under this section had been made at the date of going to press.

Area Boards.—As to Area Boards generally, see ss. 1 and 5, *ante*.

Gas Council.—As to the Gas Council generally, see ss. 2 and 5, *ante*.

"*Some or all of whose property, etc., vest.*"—This wording brings officers of composite companies within the section. As to composite companies, see s. 18 (1), *ante*.

References to property vesting by virtue of this Act include references to property apportioned to Area Boards under s. 18, *ante*; see s. 18 (5), *ante*.

Undertakers to whom Part II applies.—See s. 15, *ante*.

Transfer from one Area Board to another.—Such a transfer may occur under s. 6 (6), *ante* (variation of areas); s. 24 (2), *ante* (general ministerial power); and s. 51 (6), *ante* (transfer consequential on carbonisation scheme).

Transfer from Gas Council to an Area Board.—This will occur under s. 24 (1), *ante*.

Sale of Gas Act, 1859, s. 4.—8 Halsbury's Statutes 1231. This Act is repealed as from the vesting date (May 1, 1949) by s. 76 and Sched. IV, *post*.

Gas Undertakings Act, 1934, s. 13.—27 Halsbury's Statutes 314. This Act is repealed as from the vesting date (May 1, 1949) by s. 76 and Sched. IV, *post*.

Referee.—See also s. 61, *post*.

Definitions.—For definitions of "emoluments", "employed", "local authority", "officer", "pension rights" and "prescribe", see s. 74 (1), *post*.

61. Additional provisions as to referees appointed by Minister of Labour.—(1) The Minister of Labour and National Service may, with the approval of the Treasury, pay out of moneys provided by Parliament—

(*a*) to any referee or to the members of any board of referees appointed by him under sections fifty-eight and sixty of this Act such fees and allowances as he may with the consent of the Treasury determine; and

(*b*) to persons giving evidence before any such referee or board such allowances as he may with the consent of the Treasury determine. [1541]

(2) Nothing in the Arbitration Acts, 1889 to 1934, shall be construed as applying to any proceedings before a referee or board of referees appointed under either of the said sections fifty-eight and sixty by the Minister of Labour and National Service. [1542]

General note.—Sub-s. (1) of this section corresponds to s. 55 (8) of the Electricity Act, 1947, and sub-s. (2) to s. 56 thereof (40 Halsbury's Statutes 478).

Arbitration Acts, 1889 to 1934.—These consist of the Arbitration Act, 1889; the Arbitration Clauses (Protocol) Act, 1924; the Arbitration (Foreign Awards) Act, 1930; and the Arbitration Act, 1934 (2 Halsbury's Statutes (2nd Edn.) 4, 21, 23, 29).

62. Gas and coke associations.—(1) All property, rights, liabilities and obligations which immediately before the vesting date were property, rights, liabilities and obligations of any of the following bodies, that is to say—

(*a*) the British Gas Council;

(*b*) the Federation of Gas Employers;

(*c*) the National Federation of Gas Coke Associations, and every constituent Association of that Federation; and

(*d*) the Association of Gas Corporations,

shall on the vesting date vest by virtue of this Act and without further assurance in the Gas Council. [1543]

(2) Subsections (3) to (8) of section seventeen, section twenty-two, section fifty-eight and section sixty of this Act shall, so far as applicable, apply in relation to every such body as aforesaid as if that body were an undertaker to whom Part II of this Act applies, and the said section sixty shall, in its application to any such body, have effect as if for the words "in consequence of the vesting" there were substituted the words "in consequence of the passing of this Act". [1544]

Vesting date.—May 1, 1949; see S.I. 1949 No. 392, made under s. 17, *ante*.

British Gas Council.—This is a non-statutory body and is not to be confused with the Gas Council established by this Act.

Gas Council.—As to the Gas Council generally, see ss. 2 and 5, *ante*.

Undertaker to whom this Part applies.—See s. 15, *ante*.

Gas Arbitration Tribunal

63. Establishment of Gas Arbitration Tribunal.—(1) For the purpose of determining any question or dispute which by any provision of this Act or any regulations made thereunder is expressly required to be determined by "arbitration under this Act", or any matter in respect of which jurisdiction is given to the arbitration tribunal by any provision of this Act, there shall be established a tribunal called the Gas Arbitration Tribunal (in this Act referred to as "the arbitration tribunal") and the arbitration tribunal shall, subject to the provisions of this section, hear and determine every such question, dispute or matter as aforesaid. [1545]

(2) The arbitration tribunal shall, as the Lord Chancellor may direct, either sit as a single tribunal or sit in two or more divisions, and shall, for the hearing of any proceedings, be constituted as follows:—

(*a*) one member shall be a barrister or solicitor and he shall be the president of the tribunal;

(*b*) there shall be two other members of whom one shall be a person of experience in business and the other shall be a person of experience in finance:

Provided that, in relation to any proceedings which, under the provisions of this Part of this Act, are to be treated as Scottish proceedings, this subsection shall have effect as if for the words "barrister or solicitor," there were substituted the words "advocate or solicitor who has practised in Scotland". [1546]

(3) The members of the tribunal shall be appointed by the Lord Chancellor, except that any member or members appointed by virtue of the proviso to the last preceding subsection shall be appointed by the Lord President of the Court of Session, and any member appointed by the Lord President shall only act in relation to proceedings which are to be treated as Scottish proceedings. [1547]

(4) The members of the arbitration tribunal shall hold office for such period as may be determined at the time of their respective appointments and shall be eligible for reappointment:

Provided that—

(*a*) a member may at any time by not less than one month's notice in writing to the Lord Chancellor or the Lord President of the Court of Session, as the case may be, resign his office;

(*b*) the Lord Chancellor or the Lord President of the Court of Session, as the case may be, may declare the office of any member vacant on the ground that he is unfit to continue in his office;

(*c*) if any member becomes bankrupt or makes a composition with his creditors his office shall thereupon become vacant. [1548]

(5) Where any such question, dispute or matter as aforesaid arises out of or in connection with the vesting by virtue of this Act of the property, rights, liabilities and obligations of any body, or in connection with any transaction of any body, and the principal place of business of the body is in Scotland, the proceedings before the tribunal in respect of the question, dispute or matter shall, subject to the provisions of this Part of this Act, be treated as Scottish proceedings. [1549]

(6) If any member of the arbitration tribunal becomes, by reason of illness or other infirmity, temporarily incapable of performing the duties of his office, the Lord Chancellor or the Lord President of the Court of Session, as the case may be, shall appoint some other fit person to discharge his duties for any period not exceeding six months at one time, and the person so appointed shall, during that period, have the same powers as the person in whose place he was appointed. [1550]

(7) The arbitration tribunal may, at any stage in any proceedings before them, refer to a person or persons appointed by them for the purpose any question arising in the proceedings for inquiry and report, and the report of any such person or persons may be adopted wholly or partly by the tribunal and, if so adopted, may be incorporated in an order of the tribunal. [1551]

General note.—This section corresponds to s. 31 of the Electricity Act, 1947 (40 Halsbury's Statutes 457).

Arbitration under this Act, etc.—Matters requiring determination by arbitration under this Act or under regulations made thereunder are specified in the following sections: s. 16 (5), *ante* (application of Part II of this Act to undertakers); s. 18 (8) (*b*), *ante* (determination of questions of the regulations made under that section); s. 20 (2), *ante* (reserves of composite companies); s. 22 (1), (4), *ante* (disclaimer of agreements and leases); s. 25 (9), *ante* (the value of securities for compensation); s. 26 (2), *ante* (increase of value of securities of companies suffering loss through the 1939–1945 war); s. 30 (2), *ante* (proportion of revenue of composite companies attributable to gas); s. 31 (2), *ante* (compensation to ancillary gas undertakers); s. 33 (7), *ante* (claims against directors for improper payments); s. 36 (2), (3), (5), *ante* (reopening of transactions resulting in dissipation of assets); s. 38 (4), *ante* (foreign investments); and s. 54 (9), *ante* (payments by the Minister for premises and apparatus used for meter reading).

Order of the tribunal.—For the procedure and enforcement of orders of the tribunal, see s. 64, *post*.

64. Procedure and enforcement of orders of arbitration tribunal.—(1) The arbitration tribunal shall be a court of record and have an official seal, which shall be judicially noticed, and any order of the tribunal shall be enforceable in England and Wales as if it were an order of the High Court. [1552]

(2) The provisions of the Arbitration Acts, 1889 to 1934, with respect to—

(*a*) the administration of oaths and the taking of affirmations; and

(*b*) the correction in awards of mistakes and errors; and

(*c*) the summoning, attendance and examination of witnesses and the production of documents; and

(*d*) the costs of the reference and award,

shall, with any necessary modifications, apply in respect of any proceedings before the arbitration tribunal, but, save as aforesaid, the said Acts shall not apply to any such proceedings. [1553]

(3) The arbitration tribunal may, and if so ordered by the Court of Appeal shall, state in the form of a special case for determination by the Court of Appeal any question of law which may arise before them, and an appeal shall lie to the Court of Appeal on any question of law or fact from any determination or order of the arbitration tribunal on a claim under section thirty-three of this Act against the directors of a company being an undertaker to whom Part II of this Act applies or against a composite company or on an application under section thirty-six of this Act in respect of any transaction. [1554]

(4) The Minister shall have a right to be heard in all proceedings before the arbitration tribunal and proceedings on a case stated by or an appeal from that tribunal. [1555]

(5) Subject to the provisions of this section, the procedure in or in connection with any proceedings before the arbitration tribunal shall be such as may be determined by rules to be made by the tribunal with the approval of the Lord Chancellor. [1556]

(6) In relation to proceedings which, under the provisions of this Part of this Act, are to be treated as Scottish proceedings, this section shall have effect subject to the following modifications—

(*a*) for subsections (2) and (3) there shall be substituted the following subsections—

"(2) The arbitration tribunal shall have the like powers for securing the attendance of witnesses and the production of documents, and with regard to the examination of witnesses on oath

and the awarding of expenses as if the arbitration tribunal were an arbiter under a submission.

(3) The arbitration tribunal may, and if so directed by the Court of Session shall, state a case for the opinion of that Court on any question of law arising in the proceedings, and an appeal shall lie to the Court of Session on any question of law or fact from any determination or order of the arbitration tribunal on a claim under section thirty-three of this Act against the directors of a company being an undertaker to whom Part II of this Act applies or against a composite company or on an application under section thirty-six of this Act in respect of any transaction.

An appeal shall lie, with the leave of the Court of Session or of the House of Lords, from any decision of the Court of Session under this subsection, and such leave may be given on such terms as to costs or otherwise as the Court of Session or the House of Lords may determine." ;

(*b*) in subsection (5) for the reference to the Lord Chancellor there shall be substituted a reference to the Secretary of State,

and, in the case of any such proceedings, the tribunal shall, except in so far as for any special reasons they think fit not to do so, sit in Scotland. [1557]

General note.—This section corresponds to s. 32 of the Electricity Act, 1947 (40 Halsbury's Statutes 458).

Arbitration tribunal.—See s. 63 (1), *ante*.

Enforceable as an order of the High Court.—For the constitution of the High Court see the Supreme Court of Judicature (Consolidation) Act, 1925, s. 2 (5 Halsbury's Statutes (2nd Edn.) 341), and for the enforcement of its orders, see 19 Halsbury's Laws (2nd Edn.) 269 *et seq.*

Special case and appeal.—Appeal to the Court of Appeal lies only in respect of claims under ss. 33 and 36, *ante*. In respect to all other arbitrations under this Act proceedings on questions of law by way of case stated only are permitted.

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

Arbitration Acts, 1889 to 1934.—These consist of the Arbitration Act, 1889 ; the Arbitration Clauses (Protocol) Act, 1924 ; the Arbitration (Foreign Awards) Act, 1930 ; and the Arbitration Act, 1934 (2 Halsbury's Statutes (2nd Edn.) 4, 21, 23, 29).

Definition.—For definition of " composite company ", see s. 74 (1), *post*.

65. Transfer of proceedings from England to Scotland and Scotland to England.—(1) If, at any stage in any proceedings before the arbitration tribunal which would not otherwise fall to be treated as Scottish proceedings, the tribunal are satisfied that, by reason of the fact that questions of Scottish law arise, or for any other reason, the proceedings ought thereafter to be treated as Scottish proceedings, the tribunal may order that they shall thereafter be so treated, and the provisions of this Part of this Act shall have effect accordingly. [1558]

(2) If at any stage in any proceedings before the arbitration tribunal which would otherwise be treated as Scottish proceedings, the tribunal are satisfied that, by reason of the fact that questions of English law arise or for any other reason, the proceedings ought no longer to be treated as Scottish proceedings, they may make an order that the proceedings shall thereafter not be treated as Scottish proceedings, and the provisions of this Part of this Act shall have effect accordingly. [1559]

Arbitration tribunal.—See s. 63 (1), *ante*.

Scottish proceedings.—See ss. 63 (5), 64 (6), *ante*.

66. Staff and expenses of arbitration tribunal.—(1) The arbitration tribunal may, subject to the consent of the Treasury as to numbers, appoint such officers as they consider necessary for assisting them in the proper execution of their duties. [1560]

(2) There shall be paid to the members of the arbitration tribunal and to any such officer as aforesaid such remuneration (whether by way of salaries or fees) and such allowances as the Minister may, with the approval of the Treasury, determine. [1561]

(3) There shall be paid to any person to whom proceedings are referred by the arbitration tribunal under the last but two preceding section for inquiry and report such remuneration (whether by way of salaries or fees) and such allowances as the tribunal may, with the approval of the Treasury, determine. [1562]

(4) Any such remuneration and allowances as aforesaid and any other expenses of the arbitration tribunal shall be defrayed in the first instance by the Minister out of moneys provided by Parliament, but the amounts from time to time so paid by the Minister shall be repaid on demand to the Minister by the Gas Council. [1563]

General note.—This section corresponds to s. 33 of the Electricity Act, 1947 (40 Halsbury's Statutes 459).
Arbitration tribunal.—See s. 63 (1), *ante*.
The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).
Person to whom proceedings referred.—This is a person appointed by the arbitration tribunal under s. 63 (7), *ante*.
Gas Council.—As to the Gas Council generally, see ss. 2 and 5, *ante*.
Definition.—For definition of "officer", see s. 74 (1), *post*.

General

67. Power to make safety regulations.—(1) The Minister may make such regulations as he thinks fit for the purpose of securing that the public is so far as practicable protected from any personal injury, fire, explosion or other dangers arising from the distribution of gas by an Area Board or the use of gas supplied by an Area Board. [1564]

(2) Any local enactment which is inconsistent with or rendered redundant by any regulations made under this section shall cease to have effect as from the date on which those regulations come into operation. [1565]

General note.—This section corresponds to s. 60 of the Electricity Act, 1947 (40 Halsbury's Statutes 482).
The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).
Regulations.—As to regulations generally, see s. 71, *post*. No regulations under this section had been made up to the date of going to press.
Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante*.
As to their duty to supply gas, see s. 1 (1) (*a*), *ante*, and Sched. III, paras. 8–12, *post*.
Definition.—For definition of "local enactment", see s. 74 (1), *post*.

68. Penalties.—(1) If any person, in giving any information, making any claim or giving any notice for the purposes of any provision of this Act or of any regulation thereunder, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, he shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds, or to both such imprisonment and such fine, or on conviction on indictment to imprisonment for a term not exceeding two years or to a fine not exceeding five hundred pounds, or to both such imprisonment and such fine. [1566]

(2) Regulations made under any provision of this Act may provide that persons offending against the regulations shall be liable on summary conviction to a fine not exceeding one hundred pounds and, if the default in respect of which he is so convicted is continued after the conviction, he shall be guilty of a further offence and liable in respect thereof on summary conviction to a fine not exceeding five pounds for each day on which the default is so continued. [1567]

General note.—This section corresponds to s. 61 of the Electricity Act, 1947 (40 Halsbury's Statutes 482).
Notice.—As to the service of notices, see s. 70, *post*.
Summary conviction.—A summary conviction is a conviction by a court having summary jurisdiction under the Summary Jurisdiction Acts; see, generally, 21 Halsbury's Laws (2nd Edn.) 511 *et seq.*, and Stone's Justices' Manual (80th Edn.), pp. 62 *et seq.*

Indictment.—An indictment is a bill which has been signed by the proper officer of a court in accordance with the provisions of the Administration of Justice (Miscellaneous Provisions) Act, 1933 (5 Halsbury's Statutes (2nd Edn.) 1065). For the regulation of forms of indictment, etc., see the Indictments Act, 1915 (5 Halsbury's Statutes (2nd Edn.) 993), and as to indictable offences generally, see the Indictable Offences Act, 1848 (5 Halsbury's Statutes (2nd Edn.) 662).

Regulations.—As to regulations generally, see s. 71, *post*.

69. Provisions as to prosecutions and as to offences by corporations.—(1) Proceedings for an offence under the last preceding section or any regulation made under this Act shall not, in England and Wales, be instituted except by or with the consent of the Minister or by the Director of Public Prosecutions. [1568]

(2) Where an offence under the last preceding section or any regulation made under this Act has been committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

In this subsection, the expression "director", in relation to any Area Board or the Gas Council or any other body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by the members thereof, means a member of that Board, Council or body corporate. [1569]

General note.—This section corresponds to s. 62 of the Electricity Act, 1947 (40 Halsbury's Statutes 483).

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

Area Board.—As to the Area Boards generally, see ss. 1 and 5, *ante*.

Gas Council.—As to the Gas Council, see ss. 2 and 5, *ante*.

Body for carrying on an industry under national ownership.—See, for example, the National Coal Board established by the Coal Industry Nationalisation Act, 1946, s. 1 (39 Halsbury's Statutes 256), and the British Transport Commission established by the Transport Act, 1947, s. 1 (40 Halsbury's Statutes 925).

70. Service of notices, etc.—Any notice or other document required or authorised to be given, delivered or served under this Act or regulations or orders made thereunder or under any enactment applied by or incorporated with this Act may be given, delivered or served either—

(*a*) by delivering it to the person to whom it is to be given or delivered or on whom it is to be served; or

(*b*) by leaving it at the usual or last known place of abode of that person; or

(*c*) by sending it in a prepaid letter addressed to that person at his usual or last known place of abode; or

(*d*) in the case of an incorporated company or body, or the arbitration tribunal, by delivering it to the secretary or clerk of the company, body or tribunal at their registered or principal office or sending it in a prepaid letter addressed to the secretary or clerk of the company, body or tribunal at that office; or

(*e*) if it is not practicable after reasonable enquiry to ascertain the name or address of a person to whom it should be given or delivered, or on whom it should be served, as being a person having any interest in premises, by addressing it to him by the description of the person having that interest in the premises (naming them) to which it relates, and delivering it to some responsible person on the premises, or affixing it, or a copy of it, to some conspicuous part of the premises. [1570]

General note.—This section corresponds to s. 63 of the Electricity Act, 1947 (40 Halsbury's Statutes 483).

Notice or other documents.—For occasions of giving notice, see s. 15 (3), *ante* (treatment as gas holding company); s. 15 (4), *ante* (special business of ancillary gas undertaker); s. 16 (1), (2), *ante* (application of Part II of this Act); s. 18 (1), proviso, *ante* (exemption from section of composite companies); s. 18 (3), *ante* (questions arising under that section); s. 21 (2), *ante* (notice of sale or lease to local authorities and others with a right of pre-emption); s. 22 (1), *ante* (disclaimer of agreements); s. 30 (6) (*a*), *ante* (requiring issue of British Gas Stock); s. 52 (2) *ante* (taking of surplus gas by Area Boards from gas manufacturers).

Arbitration tribunal.—See s. 63 (1), *ante*.

Definition.—For definition of "enactment", see s. 74 (1), *post*.

71. Provisions as to regulations and orders.—(1) Any power conferred by this Act to make regulations or orders shall include power to provide by those regulations or orders for the determination of questions of fact or of law which may arise in giving effect to the regulations or orders and for regulating (otherwise than in relation to any court proceedings) any matters relating to the practice and procedure to be followed in connection with the determination of such questions, including provision as to the mode of proof of any matters and provision as to parties and their representation and provision for the right to appear and be heard (as well in court proceedings as otherwise) of the Minister or other authorities, and as to awarding costs of proceedings (other than court proceedings) for the determination of such questions, determining the amount thereof and the enforcement of awards thereof. [1571]

(2) Any power conferred by this Act to prescribe by regulations or orders a period within which things are to be done shall include power to provide by those regulations or orders for extending the period so prescribed. [1572]

(3) Any power conferred by this Act to make orders or regulations shall be exercisable by statutory instrument which, except in the case of an instrument which is required to be laid before Parliament in draft or is subject to special parliamentary procedure, shall be subject to annulment in pursuance of a resolution of either House of Parliament. [1573]

(4) In the case of orders defining or varying the areas for which Area Boards are established under this Act, copies of the maps by reference to which those areas are defined by the orders shall be made available, during the period for which the orders or drafts thereof are laid before Parliament, for inspection by members of each House of Parliament. [1574]

(5) Any order made under any such power may be revoked or varied by a subsequent order made in the like manner and subject to the like conditions. [1575]

General note.—This section corresponds to s. 64 of the Electricity Act, 1947 (40 Halsbury's Statutes 484).

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

Statutory instrument.—As to statutory instruments, see the Statutory Instruments Act, 1946 (39 Halsbury's Statutes 783), which came fully into force on January 1, 1948, by virtue of S.I. 1948 No. 3. S. 5 thereof deals with annulment by negative resolution.

Instrument to be laid before Parliament in draft.—This requirement is prescribed for orders under ss. 6 (2), (4), 51 (7), and 60, *ante*.

Special parliamentary procedure.—This is prescribed in respect of orders made under s. 56 (4), *ante*. For this procedure, see the Statutory Orders (Special Procedure) Act, 1945 (38 Halsbury's Statutes 441).

Orders defining or varying areas.—For the order defining the areas of Area Boards, see the Gas (Areas of Area Boards) Order, 1948 (S.I. 1948 No. 2773), made under s. 6, *ante*.

72. Expenses of the Minister.—Any administrative expenses incurred by the Minister or any other Minister of the Crown or Government department under this Act shall be paid out of moneys provided by Parliament, and any sums received by the Minister or by any other Minister of the Crown or Government department under or by virtue of this Act shall be paid into the Exchequer. [1576]

General note.—This section corresponds to s. 65 of the Electricity Act, 1947 (40 Halsbury's Statutes 485).

The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).

73. Inquiries.—(1) The Minister may cause an inquiry to be held in any case when he deems it advisable to do so in connection with any matter arising under this Act, and subsections (2) to (5) of section two hundred and ninety of the Local Government Act, 1933, shall apply to any inquiry held by the Minister in pursuance of this section, and shall have effect as if the expression " department " included the Minister :

Provided that no local authority shall be ordered to pay costs under subsection (4) of the said section two hundred and ninety in the case of any inquiry unless they are a party thereto. [1577]

(2) Subsections (2) to (9) of section three hundred and fifty-five of the Local Government (Scotland) Act, 1947, shall apply to any inquiry held under the preceding subsection in Scotland in lieu of the enactments therein mentioned :

Provided that no local authority shall be directed under subsection (8) of the said section to pay any part of the expenses incurred in relation to any inquiry unless the authority are a party thereto. [1578]

General note.—This section corresponds to s. 66 of the Electricity Act, 1947 (40 Halsbury's Statutes 485).
The Minister.—The Minister of Fuel and Power (s. 74 (1), *post*).
Local Government Act, 1933, s. 290.—26 Halsbury's Statutes 459.
Definition.—For definition of " local authority ", see s. 74 (1), *post*.

74. Interpretation.—(1) In this Act, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

" ancillary gas undertaker " has the meaning assigned to it by section fifteen of this Act ;

" appropriate Board ", except as is otherwise expressly provided, means—

(*a*) in relation to any gas holding company, the Gas Council ; and

(*b*) in relation to any other undertaker to whom Part II of this Act applies, the Area Board in whom property, rights, liabilities and obligations of the undertaker vest by virtue of this Act ;

" arbitration tribunal " means the tribunal established under section sixty-three of this Act ;

" Area Board " has the meaning assigned to it by section one of this Act ;

" calorific value " means the number of British thermal units (gross) produced by the combustion of one cubic foot of gas measured at sixty degrees Fahrenheit under a pressure of thirty inches of mercury and, except as may be otherwise directed by the Minister in relation to gas supplied from any gasworks or group of gasworks specified in the direction, saturated with water vapour ;

" coke fittings " means apparatus and appliances designed for use by consumers of coke for heating, motive power, gas production or other purposes for which coke can be used ;

" company " means a company incorporated by any enactment and a company within the meaning of the Companies Act, 1948 ;

" composite company " has the meaning assigned to it by section eighteen of this Act as modified by the proviso to subsection (1) of that section ;

" Electricity Board " has the same meaning as in the Electricity Act, 1947 ;

" emoluments " includes any allowances, privileges or benefits, whether obtaining legally or by customary practice ;

" employed " means employed as an officer and " employment " shall be construed accordingly ;

" enactment " means any provision of a public general Act, of a local, private or personal Act, of a provisional order confirmed by an Act or of any regulation or order made under an Act ;

" final dividend " includes any dividend paid by an undertaker to whom Part II of this Act applies in respect of any such part of a financial year as ends with the financial year ;

" financial year "—

(*a*) in relation to any Area Board and the Gas Council, means a period of twelve months ending with a day to be prescribed, so however that the first financial year shall be the period beginning with the passing of this Act and ending with the first occurrence after the vesting date of the prescribed day, and, in the case of any alteration of the prescribed day, the duration of the financial year as to which the alteration is first to have effect shall be shortened or extended as may be prescribed, by not more than six months, so as to end on the new prescribed day ; and

(*b*) in relation to any undertaker to whom Part II of this Act applies, means the period for which the accounts of the undertaker are made up for the purpose (in the case of a company) of being laid before the company in general meeting :

Provided that, in relation to any such undertaker whose accounts are normally made up twice a year, the said expression means any period consisting of two consecutive periods for which the accounts of the undertaker are made up and ending with a date falling within the period of six months immediately preceding the twenty-third day of January, and, in relation to any such financial year, the annual rate of dividend shall be deemed to be the sum of the rates paid on the two periods making up that year ;

" functions " means duties and powers ;

" gas fittings " means gas pipes, fittings, meters, apparatus and appliances designed for use by consumers of gas for lighting, heating, motive power and other purposes for which gas can be used ;

" gas holding company " has the meaning assigned to it by section fifteen of this Act ;

" gas undertaking " means an undertaking for the supply of gas in Great Britain, but the business of operating a coke-oven plant shall not be deemed to be a gas undertaking ;

" gasworks " means works for the manufacture of gas and gas holders and any works used in connection with such works or holders ;

" holding company " shall be construed in accordance with the definition contained in the Companies Act, 1948 ;

" interim dividend " includes any dividend paid by an undertaker to whom Part II of this Act applies in respect of any such part of a financial year as ends before the end of the financial year ;

" lease " includes an agreement for a lease and any tenancy agreement ;

" loan " in relation to a local authority means a loan raised by the issue of securities or by a mortgage created under Part IX of the Local Government Act, 1933, or any similar enactment, and a loan advanced by the Public Works Loan Commissioners on the security of a mortgage ;

" local authority " means the council of a county borough, county district or metropolitan borough, and the common council of the City of London, and includes, in section nine and section seventy-three

of this Act, the council of a county, and also includes in any other provision of this Act except the said section nine any joint board of local authorities having functions as statutory undertakers and also other functions ;

" local enactment " means any enactment except a provision of a public general Act and also includes any provision of the Metropolis Gas Act, 1860, and the Metropolis Gas Act, 1861 ;

" metallurgical coke " means coke produced in coke ovens and of a quality primarily and customarily used for the smelting, melting, or refining of ores or metals ;

" Minister " means the Minister of Fuel and Power ;

" net revenue," in relation to any undertaker, means the revenue of that undertaker, after deducting therefrom all charges which are proper to be made to revenue account, including, in particular, proper provision for the redemption of capital and proper provision for depreciation of assets or for renewal of assets, but not including provision for interest on debentures and debenture stock ;

" non-statutory undertaker " has the meaning assigned to it by section fifteen of this Act ;

" officer " includes a managing director and a director whose functions are substantially those of an employee but not any other director, and also includes a servant ;

" pension," in relation to any person, means a pension whether contributory or not, of any kind whatsoever payable to or in respect of him, and includes a gratuity so payable and a return of contributions to a pension fund with or without interest thereon or any other addition thereto ;

" pension fund " means a fund established for the purposes of paying pensions ;

" pension rights " includes, in relation to any person, all forms of right to or eligibility for the present or future payment of a pension to or in respect of that person, and any expectation of the accruer of a pension to or in respect of that person under any customary practice and includes a right of allocation in respect of the present or future payment of a pension ;

" pension scheme " includes any form of arrangements for the payment of pensions, whether subsisting by virtue of an Act, trust, contract or otherwise ;

" plant " includes any equipment, apparatus and appliances, except gas fittings and coke fittings ;

" preference stock " means any stock or shares in respect of which rates of preferential dividend are fixed but which give no other rights to participate in the profits ;

" prescribed " means prescribed by regulations ;

" private company " has the same meaning as in the Companies Act, 1948 ;

" regulations " means regulations made by the Minister ;

" securities ", in relation to a body corporate, means any shares, stock, debentures and debenture stock of the body corporate, and also includes any mortgages of the body which were quoted in the Stock Exchange Official Daily List (within the meaning of section twenty-five of this Act) on all six of the dates in the year nineteen hundred and forty-seven mentioned in subsection (2) of that section ; and " holder of securities ", in relation to any undertaker to whom Part II of this Act applies, means, except in the provisions relating to the appointment of the stockholders' representative, a person who immediately before the vesting date was the holder of securities of that undertaker, or his successor in title ;

" statutory undertaker " shall be construed in accordance with section fifteen of this Act ;

" subsidiary " shall be construed in accordance with the definition contained in the Companies Act, 1948 ;

" therm " means one hundred thousand British thermal units ;

" vesting date ", subject to any special provision made by or under this Act in relation to a particular undertaker, shall be construed in accordance with subsection (1) of section seventeen of this Act. [1579]

(2) References in this Act to any other enactment shall be construed as references to that enactment as amended by any other enactment including this Act. [1580]

Financial year.—See the Gas (Financial Years) Regulations, 1949 (S.I. 1949 No. 743).
Companies Act, 1948.—11 & 12 Geo. 6, c. 38. The terms " company ", " holding company ", " private company " and " subsidiary " are defined in s. 455 (1) thereof.
Electricity Act, 1947.—40 Halsbury's Statutes 409. As to the meaning of " Electricity Board ", see s. 67 thereof (40 Halsbury's Statutes 486).
Undertaker to whom Part II applies.—See s. 15, *ante*.
Local Government Act, 1933, *Part IX.*—26 Halsbury's Statutes 412.
Metropolis Gas Act, 1860.—8 Halsbury's Statutes 1240.
Metropolis Gas Act, 1861.—8 Halsbury's Statutes 1253.
Vesting date.—May 1, 1949 ; see S.I. 1949 No. 392, made under s. 17, *ante*.
Special provision in relation to a particular undertaker.—See s. 38 (6), *ante*.

75. Application to Scotland. [1581]

76. Repeal of enactments.—As from the vesting date, the enactments mentioned in the Fourth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule, and, where any local enactment incorporates (with or without adaptations or modifications) any provisions of the Gasworks Clauses Act, 1847, or the Gasworks Clauses Act, 1871, or contains any provisions substantially corresponding therewith, those provisions shall cease to have effect :

Provided that the repeal of any provision under which any special order or other order was made, being an order which would be applicable to an Area Board by virtue of subsection (2) of section fifty-six of this Act shall not affect that order. [1582]

Vesting date.—May 1, 1949 ; see S.I. 1949 No. 392, made under s. 17, *ante*.
Gasworks Clauses Act, 1847.—8 Halsbury's Statutes 1215.
Gasworks Clauses Act, 1871.—8 Halsbury's Statutes 1263.

77. Short title and extent.—(1) This Act may be cited as the Gas Act, 1948. [1583]

(2) This Act shall not extend to Northern Ireland. [1584]

SCHEDULES

Section 1

FIRST SCHEDULE

AREA GAS BOARDS

Name of Area Board	*Description of area*
Scottish Gas Board	Scotland.
Northern Gas Board ..	Durham, Northumberland and parts of Cumberland, Westmorland and the North Riding of Yorkshire.
North-Western Gas Board ..	Lancashire and parts of Cheshire, Cumberland, Derbyshire, Shropshire, Westmorland and the West Riding of Yorkshire.
North-Eastern Gas Board ..	The East Riding of Yorkshire and parts of the North and West Ridings of Yorkshire (including York).

Name of Area Board	*Description of area*
East Midlands Gas Board ..	Lincolnshire, Nottinghamshire, Rutland and parts of Bedfordshire, Buckinghamshire, Derbyshire, Leicestershire, Northamptonshire, Staffordshire and the West Riding of Yorkshire.
West Midlands Gas Board ..	Parts of Cheshire, Herefordshire, Leicestershire, Shropshire, Staffordshire, Warwickshire (including Birmingham) and Worcestershire.
Wales Gas Board	Wales and Monmouthshire.
Eastern Gas Board	Cambridgeshire, Huntingdonshire, the Isle of Ely, Norfolk, the Soke of Peterborough, Suffolk and parts of Bedfordshire, Buckinghamshire, Essex, Hertfordshire and Middlesex.
North Thames Gas Board ..	Parts of the administrative County of London and of Berkshire, Buckinghamshire, Essex, Hertfordshire, Middlesex and Surrey.
South Eastern Gas Board ..	Kent, and parts of the administrative County of London and of Middlesex, Surrey and Sussex.
Southern Gas Board ..	Dorsetshire, Hampshire, the Isle of Wight and parts of Bedfordshire, Berkshire, Buckinghamshire, Devonshire, Hertfordshire, Northamptonshire, Oxfordshire, Somersetshire, Surrey, Sussex and Wiltshire.
South Western Gas Board ..	Cornwall (including the Isles of Scilly), Gloucestershire and parts of Berkshire, Devonshire, Herefordshire, Oxfordshire, Somersetshire, Warwickshire, Wiltshire and Worcestershire. [1585]

General note.—This Schedule gives the names, and a general description of the areas, of the Area Boards established under s. 1 (1), *ante*. These areas are more specifically defined by the Gas (Areas of Area Boards) Order, 1948 (S.I. 1948 No. 2773), made under s. 6, *ante*.

Sections 25, 43 SECOND SCHEDULE

ISSUE OF BRITISH GAS STOCK IN SATISFACTION OF COMPENSATION

PART I

Provisions applicable to securities with values determined before the vesting date

1. This part of this Schedule shall apply to securities in respect of which compensation is payable under Part II of this Act and the values of which are declared by order of the Minister to have been determined under the said Part II before the vesting date.

2. The holders of any securities to which this Part of this Schedule applies shall, by virtue of this Act, become instead on the vesting date the holders of the respective amounts of British Gas Stock to which they are entitled, and all securities to which this Part of this Schedule applies shall, by virtue of this Act, be extinguished on the vesting date.

3. The interest on the said stock shall begin to accrue as from the vesting date.

4. The regulations to be made under Part III of this Act by the Minister with the approval of the Treasury for prescribing the terms on which and the provisions in accordance with which British Gas Stock is to be issued, transferred, dealt with and redeemed, shall include provisions whereby any stock or share certificate or other document of title in force immediately before the vesting date in relation to any securities to which this Part of this Schedule applies shall be treated as applicable to any British Gas Stock created and issued by way of compensation in respect of those securities until the corresponding document is issued with respect to that stock.

5. Where the holder of any securities becomes, under this Part of this Schedule, instead the holder of British Gas Stock, he shall hold that stock in the same right

and on the same trusts and subject to the same powers, privileges, charges, restraints and liabilities as those in, on or subject to which he held those securities, and any provision of any deed, will, disposition or other instrument, and any statutory provision as to what is to be done by the holder of the securities or the redemption moneys thereof, shall, with any necessary modifications, have effect in relation to the said stock or the redemption moneys thereof as it would have had effect in relation to the securities or the redemption moneys thereof if they had not been extinguished :

Provided that—

(*a*) any beneficial interest of any undertaker to whom Part II of this Act applies, other than a composite company or an ancillary gas undertaker or an undertaker who is not a body corporate, in any of the said securities shall be treated as having passed to the appropriate Board and the preceding provisions of this paragraph shall have effect accordingly ;

(*b*) nothing in this paragraph shall limit the powers of the Minister under Part III of this Act as respects the making, with the approval of the Treasury, of regulations in relation to British Gas Stock.

6. Nothing in this Part of this Schedule affects the making of any payment or distribution by a stockholders' representative, in accordance with the provisions of Part II of this Act relating to the final payment of dividends and interest, to the holders of securities of any undertaker to whom the said Part II applies. [1586]

PART II

Provisions applicable to other securities

1.—(1) The provisions of this Part of this Schedule shall apply to such of the securities in respect of which compensation is payable under Part II of this Act as are not securities to which Part I of this Schedule applies.

(2) In this Part of this Schedule, the expression " the conversion date " means, in relation to any securities, such date as may be specified in relation thereto by order of the Minister, being a date as soon as conveniently may be after the compensation payable in respect of those securities has been determined.

2. During the period beginning with the vesting date and ending immediately before the conversion date, the securities to which this Part of this Schedule applies shall, notwithstanding the dissolution of the bodies by whom the securities were issued, continue to exist and may be transferred, and the Gas Council shall keep the registers or other records of the holders of those securities, but the only rights which shall attach to those securities shall be—

(*a*) the right to have instead British Gas Stock which attaches to the securities by virtue of the next following paragraph ; and

(*b*) the right to the payment of interest which attaches to the securities under paragraph 5 of this Part of this Schedule ;

and all other rights attaching to the securities shall, by virtue of this Act, be extinguished on the vesting date.

3. The holders of any securities to which this Part of this Schedule applies shall, by virtue of this Act, become instead on the conversion date the holders of the respective amounts of British Gas Stock to which they are entitled, and all securities to which this Part of this Schedule applies shall, by virtue of this Act, be extinguished on the conversion date.

4. Interest on the said stock shall begin to accrue as from the vesting date.

5.—(1) The Gas Council shall, on such dates as the Minister may direct, make to the persons who are, at such times as may be specified in the direction, holders of any securities to which this Part of this Schedule applies, payments of interest not exceeding the amount which, in the opinion of the Gas Council, will be found to have accrued on the British Gas Stock ultimately issued under paragraph 3 of this Part of this Schedule in satisfaction of compensation payable in respect of those securities.

(2) If the amounts paid by the Gas Council under this paragraph in respect of any securities are equal to or greater than the amount of interest which is found

to have accrued, for the period beginning with the vesting date and ending immediately before the conversion date, on the British Gas Stock created and issued as aforesaid in satisfaction of compensation payable in respect of those securities, the interest so found to have accrued shall be treated as discharged.

(3) If the amount paid as aforesaid in respect of any securities is less than the amount found to have accrued as aforesaid on the British Gas Stock created and issued as aforesaid in satisfaction of compensation payable in respect of those securities, the amount so found to have accrued shall be treated as discharged to the extent of the amount so paid and the balance shall be added to and treated as part of the interest (being interest accruing on and after the conversion date), which first falls to be paid after the conversion date on that stock.

(4) Any amount payable under sub-paragraph (1) of this paragraph which has not been paid by reason that it has not been possible to discover the person entitled thereto or that the title thereto has not been established or that a cheque or warrant issued for the purpose of making payment thereof has not been encashed shall, for the purposes of sub-paragraphs (2) and (3) of this paragraph (but not for any other purposes) be treated as paid.

6. Paragraphs 4, 5 and 6 of Part I of this Schedule shall apply for the purpose of this Part of this Schedule as if—

(*a*) any reference therein to that Part of this Schedule were a reference to this Part of this Schedule; and

(*b*) the reference in the said paragraph 4 to the vesting date were a reference to the conversion date. [1587]

General note.—This Schedule corresponds to Sched. III to the Electricity Act, 1947 (40 Halsbury's Statutes 497).

The Minister.—The Minister of Fuel and Power (s. 74 (1), *ante*).

Vesting date.—May 1, 1949; see S.I. 1949 No. 392, made under s. 17, *ante*.

Securities with values determined before the vesting date.—See the Gas (Security Values) (No. 1) Order, 1949 (S.I. 1949 No. 750), and the Gas (Security Values) (No. 2) Order, 1949 (S.I. 1949 No. 812).

British Gas Stock.—See s. 43, *ante*.

Regulations under Part III.—As to regulations under Part III of the Act prescribing the terms of issue, etc., of British Gas Stock, see s. 43 (2), *ante*. As to regulations generally, see s. 71, *ante*.

Undertaker to whom Part II applies.—See s. 15, *ante*.

Stockholders' representatives.—As to their appointment, see s. 27, *ante*.

Provisions relating to final payment of dividends and interest.—See s. 34, *ante*.

Conversion date.—The Gas (Conversion Date) (No. 1) Order, 1949 (S.I. 1949 No. 904) fixes this date as May 18, 1949, for certain securities as specified in the Schedule thereto.

Gas Council.—As to the Gas Council generally, see ss. 2 and 5, *ante*.

Definitions.—For definitions of "ancillary gas undertaker", "appropriate Board", "composite company", "prescribe" and "securities", see s. 74 (1), *ante*.

Section 56

THIRD SCHEDULE

CODE OF PROVISIONS RELATING TO GAS SUPPLY

Laying of pipes

1. Power to break up streets.—(1) An Area Board, under such superintendence as is hereinafter specified, may, within their area or for the purpose of supplying gas outside their area to any person whom they are entitled to supply, or of receiving outside their area a supply of gas in bulk from any person, open and break up any street or bridge, and open and break up any sewers, drains or tunnels within or under any such street or bridge, and place pipes, conduits, service pipes, pressure governors and other works, and from time to time repair, alter or remove them and also make any sewers that may be necessary for carrying off the washings and waste liquids which may arise in the manufacture of gas, and for the purposes aforesaid may remove or use all earth and materials in or under any such street or bridge, and may in any such street erect any pillars, lamps and other works, and do all other acts which the Area Board from time to time think necessary for supplying gas in their area or for supplying or receiving gas outside their area as aforesaid, doing as little damage as may be in the exercise of the powers hereby conferred and making compensation for any damage done in the exercise of those powers.

(2) For the purposes of this paragraph, where any street forms or abuts on the boundary of the area of an Area Board, the whole of the street shall be deemed to be within that area.

(3) Nothing in this paragraph shall empower an Area Board to lay down or place any pipe or other works into, through or against any building or in any land not dedicated to the public use, without the consent of the owners and occupiers thereof:

Provided that—

(*a*) an Area Board may, for the purpose of giving a supply of gas to any premises in their area which abut on a street laid out but not dedicated to the public use, exercise in relation to that street the powers conferred by the preceding subparagraphs, and for the purposes of the following provisions of this Schedule, the authority who would, if the street had been so dedicated, have been the highway authority in relation thereto shall be deemed to be (in addition to any other person) the person having the control or management of the street;

(*b*) an Area Board may, after giving notice in writing to the owners and occupiers of the land or building not less than seven clear days before the entry, enter upon any land (not being a street to which proviso (*a*) to this subparagraph applies) or building for the purpose of placing a new pipe in the place of an existing pipe which has already been lawfully placed or of repairing or altering any pipe lawfully placed, so, however, that entry may be made without such notice in cases of emergency arising from defects in any pipes, but notice shall then be given as soon as possible after the occurrence of the emergency. [1588]

2. Notice to person having control of street.—Before an Area Board proceed to open or break up any street, bridge, sewer, drain or tunnel, they shall give to the person under whose control or management it may be, or to his clerk, surveyor or other officer, notice in writing of the Board's intention, not less than seven clear days before beginning the work, except in cases of emergency arising from defects in any pipes or other works, and then as soon as possible after the occurrence of the emergency. [1589]

3. Superintendence of work.—No street, bridge, sewer, drain or tunnel shall, except in the cases of emergency aforesaid, be opened or broken up except under the superintendence of the person having the control or management thereof or of his officer, and according to such plan as may be approved of by that person or his officer, or in the case of any difference arising with respect to the plan, then according to such plan as may be determined by arbitration; and the arbitrator may, on the application of the person having the control or management of any such sewer or drain or his officer, require an Area Board to execute such temporary or other works as the arbitrator considers necessary for preventing any interruption of the drainage during the execution of any works which interfere with any such sewer or drain:

Provided that, if the person having such control or management as aforesaid, or his officer, fails to attend at the time fixed for the opening or breaking up of any such street, bridge, sewer, drain or tunnel after having had notice of the Area Board's intention as aforesaid, or fails to approve or propose any plan for the opening or breaking up thereof, or refuses or neglects to superintend the carrying out of the work, the Area Board may carry out the work specified in the notice without the superintendence of the said person or his officer. [1590]

4. Protection for British Transport Commission and other railway and navigation authorities.—(1) Except in cases of emergency arising from defects in any pipes or other works, a street or bridge which is under the control or management of, or maintainable by, the British Transport Commission or any other railway or navigation authority shall not be opened or broken up without the consent of the Commission or authority, but that consent shall not be unreasonably withheld, and any question whether or not consent is unreasonably withheld shall be determined by arbitration.

(2) Where an Area Board propose to open or break up any street which forms a level crossing, or crosses over or under any works of the British Transport Commission or other railway or navigation authority, and which is not under the control or management of the Commission or authority, the Board shall give to the Commission or authority the like notice as they are required by the last but one preceding paragraph to give to the person having the control or management

of the street and, if and in so far as the proposed work is likely to affect the structure of any bridge or other works belonging to the Commission or authority, shall carry out the work to the reasonable satisfaction of the engineer or other authorised officer of the Commission or authority in accordance with plans approved by him; and any question arising under this subparagraph between the Area Board and the British Transport Commission or other railway or navigation authority shall be determined by arbitration. [1591]

5. Reinstatement.—When an Area Board open or break up any street, bridge, sewer, drain or tunnel, they shall with all convenient speed complete the work, fill in the ground, and reinstate or make good the street, bridge, sewer, drain or tunnel, and carry away the rubbish occasioned thereby, and shall at all times, while any street or bridge is so opened or broken up, cause it to be fenced or guarded, and cause a light sufficient for the warning of passengers to be set up and maintained at night against or near the street or bridge, and keep the street or bridge in good repair for three months after making it good, and for such further time, if any, not being more than twelve months altogether, as the soil broken up continues to subside. [1592]

6. Penalty for default.—(1) If an Area Board open or break up any street, bridge, sewer, drain or tunnel without giving such notice as aforesaid, or otherwise than under such superintendence as aforesaid and in accordance with a plan approved or determined as aforesaid, except in cases in which an Area Board are authorised to perform any such work without any superintendence or notice, or if an Area Board fail to comply with any other requirement imposed by or under paragraph 3, paragraph 4 or paragraph 5 of this Schedule in connection with the opening or breaking up of any street, bridge, sewer, drain or tunnel, they shall be liable, on summary conviction, to a fine not exceeding five pounds for every such default, together with an additional sum of five pounds for each day during which the default continues after the Board have received notice thereof.

(2) If any such default of an Area Board consists in delaying or omitting to carry out any work, the person having the control or management of the street, bridge, sewer, drain or tunnel in respect of which the delay or omission occurs, may cause the work to be carried out, and any expenses incurred in so doing may be recovered from the Area Board. [1593]

7. Power to lay pipes for ancillary purposes.—An Area Board may within their area place, repair, alter or remove pipes, conduits and other works for the purpose of procuring, conducting or disposing of any oil or other materials used by them in, or resulting from, the manufacture of gas or any products of or derived from such manufacture, and for any other purpose connected with the exercise and performance of the functions of the Board, and the preceding provisions of this Schedule shall apply, with the necessary modifications, to the placing, repairing, alteration and removal of pipes, conduits and works for those purposes:

Provided that no pipe, conduit or work shall be placed in any street under this paragraph without the consent of the persons having the control or management of the street or being responsible for the repair thereof, but such consent shall not be unreasonably withheld and any question as to whether such consent is unreasonably withheld shall be determined by arbitration. [1594]

Laying of pipes.—The provisions of paras. 1–7, *supra*, are derived, with the necessary adaptations, from the Gasworks Clauses Act, 1847, ss. 6–12 (8 Halsbury's Statutes 1217–1220) (which Act is repealed as from the vesting date by s. 76, *ante*, and Sched. IV, *post*), as applied to private streets by the Public Health Act, 1925, s. 80 (13 Halsbury's Statutes 1152). Cases decided under the Gasworks Clauses Act, 1847, ss. 6–12, are, therefore, largely applicable to the provisions of these paragraphs; see the notes to these sections in Michael and Will's Law relating to Gas and Water (Gas Volume) (8th Edn.), pp. 182 *et seq.*

Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante*.

Street.—For definition, see para. 46, *post*.

Tunnels.—This word is used to suggest something *ejusdem generis* as "sewers and drains"; see *Schweder* v. *Worthing Gas Light and Coke Co.*, [1912] 1 Ch. 83.

Breaking up of streets.—To break up a street without parliamentary authority is a nuisance at common law, punishable on indictment. An offence may also be committed under the Highways Act, 1835, s. 72 (9 Halsbury's Statutes 86). An injunction restraining the unlawful breaking up of streets may be granted if the nuisance is substantial and permanent; see *A.-G.* v. *Sheffield Gas Consumers Co.* (1853), 3 De G. M. & G. 304; *A.-G.* v. *Cambridge Consumers Gas Co.* (1868), 4 Ch. App. 71; *R.* v. *Longton Gas Co.* (1860), 2 E. & E. 651; *Edgware (or Edgeware) Highway Board* v. *Harrow District Gas Co.* (1874), L. R. 10 Q. B. 92.

Injuries to pipes.—For injuries to lawfully laid pipes, by steam-rollers of excessive weight used in the repair of highways, an Area Board may both sue for damages and, in the appropriate case, seek an injunction: see *Gas Light and Coke Co.* v. *St. Mary Abbott's, Kensington Vestry* (1885), 15 Q. B. D. 1.

"*Doing as little damage as may be.*"—For the meaning of these words, see *R.* v. *East and West India Docks and Birmingham Junction Rail. Co.* (1853), 2 E. & B. 466, and *Fenwick* v. *East London Rail. Co.* (1875), L. R. 20 Eq. 544. The Area Board will be liable under this provision for the negligence of its servants; see *Hornby* v. *Liverpool United Gas Light Co.* (1883), 47 J. P. 231 (shop window broken by a flying stone); *Crane* v. *South Suburban Gas Co.*, [1916] 1 K. B. 33 (over-turning of unguarded fire pail). If damage can be prevented by a reasonable exercise of statutory powers, it is "negligence" not to make such an exercise; see *Howard-Flanders* v. *Maldon Corporation* (1926), 135 L. T. 6.

Land not dedicated to public use.—As to dedication generally, see 16 Halsbury's Laws (2nd Edn.) 217; and as to streets laid out but not dedicated, see the Private Street Works Act, 1892 (9 Halsbury's Statutes 193). The exception of land not dedicated to public use covers only cases in which no part thereof is so dedicated; see *Schweder* v. *Worthing Gas Light and Coke Co.* (*No.* 2), [1913] 1 Ch. 118.

Building.—This includes arches occupied as cellars (*Thompson* v. *Sunderland Gas Co.* (1877), 2 Ex. D. 429); bridges (*Taff Vale Rail. Co.* v. *Cardiff Gas Light and Coke Co.* (1907), 71 J. P. 350); and a tunnel not used as a private footway (*Schweder* v. *Worthing Gas Light and Coke Co.*, [1912] 1 Ch. 83).

Arbitration.—See para. 40, *post.*

British Transport Commission.—The British Transport Commission was established under the Transport Act, 1947, s. 1 (40 Halsbury's Statutes 925).

Railway authority: navigation authority.—For definition, see s. 46, *post.*

Summary conviction.—See the Summary Jurisdiction Act, 1848 (11 Halsbury's Statutes 270).

Pipes for ancillary purposes.—These new powers are required by reason of the duties of the Area Boards under s. 1 (1) (*c*), *ante*, to develop methods of recovering by-products, and their powers under s. 1 (2) (*c*) (ii), (iii), *ante*, to manufacture, supply, etc., the by-products of gas manufacture and products derived therefrom.

Obligation to supply gas

8. Right to demand supply.—(1) An Area Board shall, upon being required to do so by the owner or occupier of any premises situated within the Board's area of supply and within twenty-five yards from any main of the Board through which the Board are for the time being distributing gas, give and continue to give a supply of gas to those premises, and shall furnish and lay any pipe that may be necessary for that purpose, subject to the conditions specified in the following provisions of this paragraph:

Provided that this provision shall not apply in relation to any main used only for the purpose of giving a separate supply of gas for industrial purposes or of conveying gas in bulk.

(2) The cost of providing and laying so much of any pipe for the supply of gas to any owner or occupier as may be laid upon the property of the owner or in possession of the occupier, not being property dedicated to public use, and of so much of any such pipe as may be laid for a greater distance than thirty feet from any pipe of the Area Board, although not on such property, shall be defrayed by the owner or occupier.

(3) The Area Board shall carry out any necessary work of maintenance, repair or renewal of any such pipe which is provided and laid at the cost of the owner or occupier of any premises, and may recover the expenses reasonably incurred by them in so doing from the owner or occupier of the premises.

(4) Nothing in the two last preceding subparagraphs shall be taken as affecting any rights or obligations as between the owner and occupier of the premises in relation to any such pipe as aforesaid.

(5) Every owner or occupier of premises requiring under this paragraph a supply of gas shall—

(*a*) serve a notice on the Area Board specifying the premises in respect of which the supply is required, and the day (not being earlier than a reasonable time after the service of the notice) upon which the supply is required to commence, and undertaking to pay the charges in respect of gas and meter rent as they become due; and

(*b*) give to the Area Board (if required by them to do so) security for the payment to them of all money which may become due to them from such owner or occupier in respect of any pipe to be provided by the Board and in respect of gas to be supplied by the Board.

(6) Where an Area Board have given a supply of gas for any premises and the owner or occupier has not given such security as aforesaid, or the security given has become invalid or insufficient, the Area Board may, by notice in writing, require the owner or occupier within seven days after the service of the notice, to give them security for the payment of all money which may from time to time become due to them in respect of the supply, and if the owner or occupier fails to comply with the notice, the Board may, if they think fit, discontinue the supply for those premises so long as the failure continues. [1595]

9. Relief from obligation to supply.—(1) Where a new or increased supply of gas is required under the last preceding paragraph, for purposes other than lighting or domestic use, and the supply cannot be given without the laying of a new main or the enlarging of an existing main or the constructing or enlarging of any other works required for the supply of gas by the Board, the Board shall, notwithstanding the provisions of the last preceding paragraph, not be obliged to give the supply unless the person requiring it enters into a written contract with the Board—

(*a*) to continue to receive and pay for a supply of gas of such minimum quantity and for such minimum period as the Board may reasonably require, having regard to the expense to be incurred by the Board in laying or enlarging the main or constructing or enlarging the other works, or

(*b*) to make such payment to the Board (in addition to any payments to be made from time to time for gas supplied) as the Board may reasonably require having regard to the matters aforesaid,

and gives to the Board (if required by them to do so) security for the payment of all money which may become due under the contract.

(2) Any question arising under the preceding subparagraph whether a supply can be given without the laying or enlarging of a main or the constructing or enlarging of other works or as to the reasonableness of the minimum quantity or period therein referred to or of the payment required by the Board or as to the nature and amount of the security to be given shall, in default of agreement, be determined by arbitration.

(3) In determining any such question, the arbitrator shall have regard to the following among other considerations, that is to say—

(*a*) the total annual quantity of gas required by the applicant, the maximum quantity required per hour and the hours of the day during which the Board may be called upon to supply gas to the applicant;

(*b*) the capital expenditure which the Board would have to incur in the laying of a new main or the enlarging of an existing main or the construction or enlarging of other works for the purpose of giving the supply; and

(*c*) how far the capital expenditure may become unproductive to the Board in the event of the supply ceasing to be given. [1596]

10. Stand-by supply.—(1) Notwithstanding anything in any enactment a person shall not be entitled to demand or continue to receive a supply of gas from an Area Board for the purposes only of a stand-by supply for any premises having a separate supply of gas, or having a supply (in use or ready for use for the purpose for which the stand-by supply of gas is required) of electricity, steam, or other form of energy, unless he has agreed with the Board to pay them such annual sum in addition to any charge for gas supplied as will give them a reasonable return on the capital expenditure incurred by them in providing the stand-by supply, and will cover other standing charges incurred by them in order to meet the possible maximum demand for those premises.

(2) Any question arising under this paragraph—

(*a*) as to whether a supply of gas is demanded or received for the purpose only of a stand-by supply; or

(*b*) as to whether any premises have a separate supply of gas or have a supply (in use or ready for use for the purpose for which a stand-by-supply of gas is required) of electricity, steam, or other form of energy; or

(*c*) as to the amount of the said annual sum to be specified in the agreement;

shall in default of agreement be determined by arbitration. [1597]

11. Supply to public lamps.—An Area Board shall within their area supply gas to any public lamps within fifty yards from any of the mains of the Board, except

any main used for the purpose of giving a separate supply of gas for industrial purposes only or of conveying gas in bulk, in such quantities as the lighting authority may from time to time require to be supplied. [1598]

12. Penalty for default.—If an Area Board fail to give a supply of gas to any owner or occupier of premises entitled to such a supply, or to supply gas to any public lamps to which they are required to supply gas, the Board shall, unless the failure was due to circumstances not within their control, be liable, on summary conviction, to a fine not exceeding forty shillings for each day during which the default continues. [1599]

Right to demand supply.—This right was first given by the Gasworks Clauses Act, 1871, s. 11 (8 Halsbury's Statutes 1265), which Act is repealed as from the vesting date by s. 76, *ante*, and Sched. IV, *post*. The provisions of sub-paras. (1), (2), (5) and (6) of para. 8, *supra*, are adapted from that section. Subject to the provisions of this Part of the present Schedule, Area Boards must supply gas to an owner or occupier requiring it. A supply of gas may be refused to a person in default under para. 25, *post*, and under para. 26, *post*, and subject to the conditions of that paragraph, power exists to cut off supply in case of default, but the Area Board cannot refuse to supply the succeeding occupier to a defaulting occupier unless the former has made himself liable for the latter's outstanding charges; see para. 23, *post*. For other examples of power to discontinue supply, see paras. 15 (2), 27 (5), 28 and 29 (2), *post*.

Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante*.

Owner or occupier.—This expression is not defined in this Act. It has previously given rise to difficulty in exceptional cases where a defaulting gas consumer has got into financial difficulties. The official receiver, where a receiving order has been made, is not the occupier, the debtor retaining that capacity; see *Re Smith, Ex parte Mason*, [1893] 1 Q. B. 323. Similarly, the receiver and manager appointed for a business is not the "occupier", he being, by the Law of Property Act, 1925, s. 109 (15 Halsbury's Statutes 291), the agent of the mortgagor. A mortgagee, however, who elects to take possession, becomes the occupier of the premises. Where a debtor is adjudged bankrupt, *semble* the official receiver or trustee in bankruptcy becomes the "occupier" for the purpose of para. 8; cf. *Re Flack, Ex parte Berry*, [1900] 2 Q. B. 32.

Necessary work of maintenance.—The provisions of para. 8 (3) and (4) are new. The general duty and power of Area Boards in relation to pipes exist as a necessary part of their obligation to supply gas; see ss. 1 (1) (*a*), (2) (*b*), *ante*.

Notice.—As to the service of notices, see s. 70, *ante*.

"*Reasonable time.*"—As to "reasonable time", see *South Metropolitan Gas Light and Coke Co.* v. *Noakes* (1889), 61 L. T. 556.

Charges.—For methods of charging, see s. 53, *ante*, and as to recovery of gas charges, see paras. 22–26, *post*.

Enactment.—For the meaning of this expression, see s. 74 (1), *ante*. Where this word is used in para. 10 (1), *supra*, it clearly includes the provisions of para. 8, *supra*.

Public lamps.—The provisions of para. 11 are based upon the Gasworks Clauses Act, 1847, s. 13 (8 Halsbury's Statutes 1221), and the Gasworks Clauses Act, 1871, s. 24 (8 Halsbury's Statutes 1268), both of which Acts are repealed as from the vesting date (May 1, 1949) by s. 76, *ante*, and Sched. IV, *post*.

Lighting authority.—For definition of this term, see para. 46, *post*.

Be liable.—Where a case has been stated on a conviction under para. 12, no right of appeal exists from the decision of the Divisional Court, this being a "criminal cause or matter"; see *Southport Corporation* v. *Birkdale Urban District Council* (1897), 76 L. T. 319, and the Supreme Court of Judicature (Consolidation) Act, 1925, s. 31 (1) (*a*) (5 Halsbury's Statutes (2nd Edn.) 357).

Where an Area Board become liable to penalties for neglect or refusal, no action will lie for damages and the penalties form the sole remedy; see *Atkinson* v. *Newcastle Waterworks Co.* (1877), 2 Ex. D. 441; *Clegg, Parkinson & Co.* v. *Earby Gas Co.*, [1896] 1 Q. B. 592.

Summary conviction.—See the Summary Jurisdiction Act, 1848 (11 Halsbury's Statutes 270).

Meters and fittings

13. Consumption of gas to be ascertained by meter.—Every consumer of gas supplied by an Area Board (other than gas supplied to public lamps) shall, if required to do so by the Board, take his supply through a meter duly stamped in accordance with this Act, and the Board shall supply, either by way of sale or hire, to any owner or occupier of premises who requires it a meter for ascertaining the quantity of gas supplied by them and any meter so supplied by the Board shall be either a prepayment meter or an ordinary meter, as the consumer may require:

Provided that the owner or occupier shall, if so required by the Board, before receiving the meter, give to the Board security for payment to them of the price of the meter, if he desires to purchase it, or of the rent of the meter, if he desires to hire it. [1600]

14. Meters to be kept in proper order.—(1) Every consumer shall at all times, at his own expense, keep all meters belonging to him, whereby the quantity of gas supplied by an Area Board is registered, in proper order for correctly registering

the quantity of gas, and in default of his so doing the Board may cease to supply gas through that meter.

(2) The Board shall at all times at their own expense, keep all meters let for hire by them to any consumer in proper order for correctly registering the quantity of gas supplied, and in default of their so doing the consumer shall not be liable to pay rent for the meter in respect of the period of the default.

(3) The Board shall have access to and be at liberty to remove, inspect and replace any meter at all reasonable times, and shall, while any such meter is removed, fix a substituted meter on the premises, and, subject to the next following subparagraph, the cost of removing, inspecting and replacing a meter and of fixing a substituted meter shall be defrayed by the Board.

(4) Where a meter is removed for the purpose of being examined by a meter examiner in accordance with this Act, the person at whose request the examination is to be carried out shall, unless the meter is found to register erroneously to a degree exceeding the degree permissible under the regulations for the time being in force, defray the expenses incurred in removing, examining and replacing the meter and fixing a substituted meter, and the said expenses shall, if the meter is found to register erroneously as aforesaid, be defrayed by the owner of the meter. [1601]

15. Placing of meters in new premises.—(1) Every meter to be used in a building not previously supplied with gas or in connection with a new or substituted pipe laid between the main and the meter shall be placed as near as practicable to the main, but within the outside wall of the building :

Provided that, in the case of any building in connection with which there is provided for the meter outside the building a separate meter house or other accommodation reasonably approved by the Area Board, the meter may be placed in such meter house or other accommodation.

(2) If the requirements of this paragraph are not complied with, the Board may refuse to supply gas to the premises until those requirements have been complied with. [1602]

16. Meter to be evidence of quantity of gas supplied.—Where gas is supplied through a meter, the register of the meter shall be prima facie evidence of the quantity of gas supplied :

Provided that where a meter is found, when examined by a meter examiner appointed under this Act, to register erroneously to a degree exceeding the degree permissible under the regulations for the time being in force—

(*a*) the meter shall be deemed to have registered erroneously to the degree so found since the penultimate date on which the register of the meter was ascertained before the date of the test, except in a case where it is proved to have begun to register erroneously as aforesaid on some later date ; and

(*b*) the amount of the allowance to be made to, or the surcharge to be made upon, the consumer by the Area Board in consequence of the erroneous registration shall be paid to or by the consumer, as the case may be, and shall, in the case of a surcharge, be recoverable in like manner as charges for gas are recoverable by the Area Board. [1603]

17. Maximum charges for reselling gas supplied by Area Boards.—(1) Every Area Board shall, as soon as practicable after the passing of this Act, fix maximum prices at which gas supplied by them may be resold, and may from time to time vary any prices so fixed, and shall publish the prices so fixed and any variation thereof in such manner as in their opinion will secure adequate publicity therefor.

(2) Different prices may be fixed under this paragraph in different classes of cases which may be defined by reference to areas, tariffs applicable to gas supplied by the Area Board in question, or any other relevant circumstances.

(3) If any person resells any gas supplied by an Area Board at a price exceeding the maximum price fixed under this paragraph and applicable thereto, the amount of the excess shall, if it does not exceed twenty pounds, be recoverable summarily as a civil debt by the person to whom the gas was resold and, in any case, shall be recoverable by him in any court of competent jurisdiction. [1604]

18. Alteration and replacement of burners on change of calorific value.—An Area Board shall, in the case of any alteration in the calorific value declared in

respect of any gas supplied by them, take at their own expense such steps as may be necessary to alter, adjust or replace the burners in the appliances of consumers of that gas in such manner as to secure that the gas can be burned with safety and efficiency :

Provided that in the case of any consumer who objects thereto the Board shall not carry out any such alteration, adjustment or replacement except where in the opinion of the Board such alteration, adjustment or replacement is necessary in the interests of safety. [1605]

19. Ascertainment and regulation of gas consumed by public lamps.—(1) The gas supplied by an Area Board to public lamps shall at the option either of the lighting authority or the Area Board, be supplied through a meter duly stamped in accordance with this Act, and, if the gas is so supplied, the Board shall provide and fix the meter, and the cost of the meter and the expense of fixing it shall be defrayed by the party requiring the meter and the meter shall be the property of the party paying the cost thereof.

(2) If the gas is supplied to the public lamps of any lighting authority by average meter indication, the Area Board shall, for securing uniformity of consumption between metered and unmetered lamps, from time to time provide the public lamps of that authority with proper self-acting pressure regulators and burners to the satisfaction of the authority, and the average amount of the indications of all the meters attached to the lamps of that authority shall, except as hereinafter mentioned, be deemed to be the amount consumed by each such lamp. [1606]

20. Street lamp governors.—Where gas is supplied to public lamps, the lighting authority or the Area Board may, at their own expense, cause to be affixed to each lamp the instrument known as a street lamp governor, and the Board or the authority (as the case requires) shall be entitled to have access thereto for the purpose of examining the same. [1607]

21. Settlement of differences.—Any difference which may arise between an Area Board and any lighting authority in relation to the consumption of gas by public lamps maintained by the authority shall be settled by arbitration. [1608]

Meters.—This Part of the Gas Supply code is largely adapted from the Gasworks Clauses Act, 1871 (8 Halsbury's Statutes 1263). The provisions of paras. 13 and 14 are based upon ss. 13, 14, 17–19 of that Act, and those of paras. 19–21, relating to the supply of gas to public lamps, are taken from ss. 25–27 of that Act. Para. 16 is adapted from the Gasworks Clauses Act, 1871, s. 20 (8 Halsbury's Statutes 1267), as modified by the Gas Undertakings Act, 1934, s. 23 (27 Halsbury's Statutes 321). Both these Acts are repealed as from the vesting date (May 1, 1949) by s. 76, *ante*, and Sched. IV, *post*.

Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante*.

Meter duly stamped.—As to the stamping of meters, see s. 54, *ante*.

Owner or occupier.—See note to paras. 8–12, *ante*.

Board to supply meters.—This implies an obligation to fix the meter; see *Clayton* v. *Pontypridd Urban District Council*, [1918] 1 K. B. 219. For the power of the Area Boards and of the Gas Council to manufacture meters, see ss. 1 (2) (*e*), 2 (3) (*b*), *ante*.

Liberty to inspect.—For power of entry, see para. 34 (1), *post*.

Recovery of charges.—See paras. 22–26, *post*.

Recoverable summarily as a civil debt.—See the Summary Jurisdiction Act, 1879, s. 35 (11 Halsbury's Statutes 342).

Calorific value.—For definition, see s. 74 (1), *ante*.

Lighting authority.—For definition, see para. 46, *post*.

Arbitration.—See para. 40, *post*.

Recovery of gas charges, etc.

22. Recovery of charges.—Any charges in respect of gas and any meter rent due to an Area Board and any charges due to an Area Board in respect of the supplying and fixing of any meter or fittings shall, if the amount due does not exceed twenty pounds, be recoverable by the Board summarily as a civil debt and, in any case, shall be recoverable in any court of competent jurisdiction. [1609]

23. New occupier not to be liable for arrears.—If the occupier of any premises, being premises supplied with gas by an Area Board, quits the premises without paying any amount due from him in respect of charges for gas or meter rent, the Area Board shall not be entitled to require from the next occupier of the premises the payment of the amount due, unless that occupier has undertaken with the former occupier to pay or exonerate him for the payment of that amount. [1610]

24. Liability of occupier on quitting premises.—(1) If the occupier of any premises, being premises supplied with gas by meter by an Area Board, quits the premises without giving notice thereof in writing to the Board so that it is received by the Board at least twenty-four hours before he quits the premises, he shall be liable to pay to the Board all charges accruing due for gas supplied by them to the premises and meter rent up to the next date on which the register of the meter on the premises is usually ascertained, or the date from which any subsequent occupier of the premises requires the Board to supply gas to the premises, which ever first occurs.

(2) The preceding subparagraph or a statement of the effect thereof shall be endorsed upon every demand note for gas charges payable to the Board. [1611]

25. Refusal of supply to person in default.—If a person requiring a supply of gas from an Area Board has previously quitted premises at which gas was supplied to him by that Board without paying all money due from him in respect of charges for gas and meter rent, the Board may refuse to furnish him with a supply of gas until he pays the money so due. [1612]

26. Power to cut off supply in case of default.—(1) If any person has not, after the expiration of twenty-eight days from the making of a demand in writing by the Area Board for payment thereof, paid the charges due from him in respect of gas supplied by an Area Board to any premises, the Board, after the expiration of not less than seven days' notice in writing of their intention, may cut off the supply from the premises by disconnecting the service pipe at the meter (whether the pipe belongs to the Board or not) or by such other means as they think fit, and any expense incurred in cutting off the supply shall be recoverable in like manner as charges for gas.

(2) Where an Area Board have cut off the supply of gas from any premises in consequence of any default on the part of the occupier thereof, the Board shall not be under any obligation to resume the supply of gas to the occupier so in default until he has made good the default and paid the reasonable expenses of reconnecting the supply, but subject as aforesaid, nothing in this paragraph shall prejudice or interfere with any rights conferred upon any person by paragraph 8 of this Schedule. [1613]

Gas charges.—For general provisions as to the power of, and machinery for, charging for gas supply, see s. 53, *ante*.

Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante*.

Recoverable summarily as a civil debt.—See the Summary Jurisdiction Act, 1879, s. 35 (11 Halsbury's Statutes 342).

New occupier.—The provisions of para. 23 are adapted from the Gasworks Clauses Act, 1871, s. 39 (8 Halsbury's Statutes 1273), which is repealed as from the vesting date by s. 76, *ante*, and Sched. IV, *post*. For the meaning of "occupier", see notes to ss. 8–12, *ante*. The Area Board may require security from him before giving a supply; see para. 8, *ante*.

Occupier quitting premises.—Paras. 24 and 25 are derived from the Gas Undertakings Act, 1934, ss. 18, 19 (27 Halsbury's Statutes 318, 319), which Act is repealed as from the vesting date by s. 76, *ante*, and Sched. IV, *post*.

Use of antifluctuators and valves

27. Antifluctuators and valves.—(1) Where a consumer of gas supplied by an Area Board uses the gas for working or supplying an engine, gas compressor or other similar apparatus or any apparatus liable to produce in any main of the Board a pressure less than atmospheric pressure (any such engine, compressor or apparatus being hereafter in this paragraph referred to as a "compressor"), he shall, if so required by the Board by notice in writing, fix in a suitable position and keep in use an appliance provided by him which will effectually prevent pressure fluctuation in the supply mains and any other inconvenience or danger being caused to other consumers of gas by reason that they and the first mentioned consumer are supplied with gas from the same source.

(2) Where a consumer of gas supplied by an Area Board uses for or in connection with the consumption of the gas so supplied any air at high pressure (in this paragraph referred to as "compressed air") or any gas not supplied by the Board (in this paragraph referred to as "extraneous gas"), he shall, if so required by the Board by notice in writing, fix in a suitable position and keep in use an appliance provided by him which will effectually prevent the admission of the compressed air or extraneous gas into the service pipe or into any main through which gas is supplied by the Board.

(3) Where a consumer is required by this paragraph to keep in use any appliance, he shall at his own expense keep it in proper order and repair, and repair, renew or replace it if it is not in proper order or repair.

(4) It shall not be lawful for a consumer of gas supplied by an Area Board to use a compressor, or any apparatus for using compressed air or extraneous gas, being a compressor or apparatus installed by him after the first day of October, nineteen hundred and thirty four, unless he has given to the Board not less than fourteen days' notice in writing of his intention to do so.

(5) If a consumer makes default in complying with any provision of this paragraph, the Board may cut off the supply of gas to him and shall not be required to resume the supply until the default has been remedied to their reasonable satisfaction.

(6) An Area Board shall give notice of the effect of the preceding provisions of this paragraph to persons becoming consumers of gas supplied by them, on the first such demand note delivered to that person after he has become a consumer.

(7) An Area Board shall have access at all reasonable times to any premises supplied by them with gas upon which the Board have reason to believe that a compressor or compressed air or extraneous gas is being used, in order to ascertain whether the provisions of this paragraph are being complied with.

(8) An Area Board shall have power to disconnect, remove, test and replace any appliance which a consumer of gas supplied by them is required by this paragraph to keep in use, and any expenses incurred by the Board under this subparagraph shall, if the appliance is found in proper order and repair, be paid by the Board but otherwise shall be paid by the consumer. [1614]

Antifluctuators.—The provisions of this paragraph replace the similar ones of s. 25 of the Gas Undertakings Act, 1934 (27 Halsbury's Statutes 822), which is repealed as from the vesting date (May 1, 1949) by s. 76, *ante*, and Sched. IV, *post*.

Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante*.

Notice.—As to the service of notices, see s. 70, *ante*.

Penalties

28. Improper use of gas.—If any person supplied with gas by an Area Board improperly uses or deals with the gas so as to interfere with the efficient supply of gas by the Board to any consumer, the Board may, if they think fit, cease to supply gas to that person. [1615]

29. Injury to pipes and fittings and interference with meters.—(1) If any person wilfully, fraudulently, or by culpable negligence, injures or suffers to be injured any pipes, meter or fittings belonging to an Area Board, or alters the index to any meter, or prevents any meter from duly registering the quantity of gas supplied or fraudulently abstracts, consumes or uses gas of the Board, he shall (without prejudice to any other right or remedy for the protection of the Board or the punishment of the offender) be liable for each offence on summary conviction to a fine not exceeding five pounds.

(2) The prosecution of any such offence shall not prevent the Board from recovering the amount of any damage caused to them by the offence, and, if the offence involves any injury to or interference with any pipes, meter or fittings belonging to the Board, the Board may also, until the matter has been remedied, but no longer, discontinue the supply of gas to the person so offending (notwithstanding any contract previously existing).

(3) The existence of artificial means for causing an alteration of the index to any meter or the prevention of any meter from duly registering, or for abstracting, consuming or using gas of the Board, when the meter is under the custody or control of the consumer, shall be prima facie evidence that the alteration, prevention, abstraction or consumption, as the case may be, has been fraudulently and wilfully caused by the consumer using the meter. [1616]

30. Reconnecting of service pipe.—If any person, without the consent of the Area Board, reconnects with a meter a service pipe which has been disconnected by the Board, he shall for each offence be liable on summary conviction to a fine not exceeding five pounds, and to a further fine not exceeding two pounds for each day during which the pipe remains connected with the meter after conviction and the Board may again disconnect the pipe at the meter. [1617]

31. Notice of connection or disconnection of service pipe.—No person shall connect any meter with a service pipe through which gas is supplied by an Area Board or disconnect any meter from any such pipe, unless he has given to the Board not less than twenty-four hours' notice in writing of his intention to do so, specifying the time and place of the proposed connection or disconnection, and if any person acts in contravention of this provision, he shall be liable for each offence on summary conviction to a fine not exceeding two pounds. [1618]

32. Pollution of inland waters.—(1) If an Area Board cause or permit to be brought or to flow into any river, stream, aqueduct or inland water or drain communicating therewith any waste product or other substance produced in making or supplying gas, or wilfully do any other act connected with the manufacture or supply of gas whereby the water in any river, stream, aqueduct or inland water is fouled, the Board shall be liable—

(*a*) on summary conviction, to a fine not exceeding fifty pounds and to a further fine not exceeding ten pounds for each day during which the act constituting the offence continues after the expiration of twenty-four hours from the service of notice on the Board that it is being committed; or

(*b*) on conviction on indictment, to a fine not exceeding two hundred pounds and to a further fine not exceeding twenty pounds for each such day as aforesaid.

(2) If any water is fouled by the gas of an Area Board, they shall be liable, on summary conviction, to a fine not exceeding twenty pounds, and an additional sum not exceeding ten pounds for each day during which the act constituting the offence continues after the expiration of twenty-four hours from the service of notice on the Board that it is being committed.

(3) Nothing in this paragraph shall apply to any water undertakers to whom Part XIV of the Third Schedule to the Water Act, 1945, applies. [1619]

33. Escape of gas.—Where any gas escapes from any pipe of an Area Board, they shall, immediately after receiving notice thereof in writing, prevent the gas from escaping, and if they fail within twenty-four hours from the service of the notice effectually to prevent the gas from escaping, they shall be liable, on summary conviction, to a fine not exceeding five pounds for each day during which the gas continues to escape after the expiration of the said twenty-four hours. [1620]

Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante*.

"*Improperly uses gas.*"—Proceedings for improperly using gas cannot be taken when the gas is supplied by meter; see *Falkirk Corporation* v. *Russell*, [1911] S. C. (J.) 99.

Fittings belonging to an Area Board.—For the meaning of "gas fittings", see s. 74 (1), *ante*. As to the right to supply fittings, etc., on hire, see s. 1 (2) (*d*), *ante*, and as to the hire of meters, see para. 13, *ante*.

Fraudulently uses gas.—There is nothing in the nature of gas to prevent it being the subject of larceny; see *R.* v. *White* (1853), 3 Car. & Kir. 363; *R.* v. *Firth* (1869), L. R. I. C. C. R. 172.

Summary conviction.—See the Summary Jurisdiction Act, 1879, s. 51 (1) (11 Halsbury's Statutes 350).

Meters not to be connected or disconnected without notice.—Para. 31 replaces with the necessary adaptations s. 15 of the Gasworks Clauses Act, 1871 (8 Halsbury's Statutes 260), which is repealed as from the vesting date (May 1, 1949) by s. 76, *ante*, and Sched. IV, *post*.

"*Causes.*"—See *Moses* v. *Midland Railway* (1915), 84 L. J. (K. B.) 2181 ("negligent causation").

"*Is fouled.*"—See *Millington* v. *Griffiths* (1874), 30 L. T. 65, and *Granby* (*Marquis*) v. *Bakewell Urban District Council* (1923), 87 J. P. 105.

"*Water fouled by gas.*"—See *Batcheller* v. *Tunbridge Wells Gas Co.* (1901), 84 L. T. 765. See also para. 42, *post*.

Water Act, 1945, *Sched. III, Part XIV.*—38 Halsbury's Statutes 564.

General

34. Entry for purposes of inspection.—(1) Any officer authorised by an Area Board may at all reasonable times on the production of some duly authenticated document showing his authority, enter any premises in which there is a service pipe connected with the gas mains of the Board, in order to inspect the meters, fittings and works for the supply of gas, or for the purpose of ascertaining the quantity of gas consumed or supplied, except in a case where the occupier of the premises has applied in writing to the Board for the disconnection of the service pipe from the mains and the Board have failed to disconnect it within a reasonable time.

(2) The powers of inspection aforesaid shall, in relation to any premises or part of any premises which are or is wholly occupied as a factory within the meaning of the Factories Act, 1937, extend only to the inspection of—

(*a*) such of the meters on the premises, or on that part of the premises, as the case may be, as are used by the Board for measuring gas supplied by them ; and

(*b*) the pipes and other fittings and works by which those meters are connected with the gas mains of the Board. [1621]

35. Entry for purposes of removing pipes, etc., on discontinuance of supply.—(1) Where—

(*a*) a person occupying premises supplied with gas by an Area Board ceases to require such a supply ; or

(*b*) a person entering into the occupation of any premises previously supplied with gas by an Area Board does not take a supply of gas from the Board or hire such of the pipes, meters, fittings or apparatus on the premises as belong to the Board ; or

(*c*) an Area Board are authorised to cut off the supply of gas from any premises,

it shall be lawful for an officer authorised by the Board after twenty-four hours' notice to the occupier under the hand of an officer so authorised, or if the premises are unoccupied to the owner or lessee of the premises, to enter the premises at all reasonable times for the purpose of removing and to remove any pipes, meters, fittings or apparatus, through which the supply was given to the first-mentioned premises.

(2) The notice required to be given by the last preceding subparagraph may, in the case of unoccupied premises, the owner or lessee of which is unknown to the Area Board and cannot be ascertained after diligent inquiry, be given by affixing it upon a conspicuous part of the premises not less than forty-eight hours before the premises are entered.

(3) Where an Area Board have reasonable cause to suspect that gas is escaping in any premises it shall be lawful for an officer authorised by the Board to enter the premises for the purpose of inspecting the gas fittings and preventing the escape and to inspect such fittings and carry out any work necessary to prevent such escape. [1622]

36. Premises to be left secure and damage to be made good.—Where, in pursuance of any powers conferred by this Schedule, entry is made on any premises by an officer of an Area Board, the officer shall ensure that the premises are not left less secure by reason of the entry, and the Board shall make good or pay compensation for any damage caused by the officer in entering the premises, in carrying out any inspection or work therein or in making the premises secure. [1623]

37. Penalty for obstruction.—If any person obstructs any officer exercising powers under either of the three last preceding paragraphs or any other power of entry conferred by this Schedule, he shall be liable on summary conviction to a fine not exceeding five pounds. [1624]

38. Gas fittings not to be subject to distress.—Any gas fittings let for hire by an Area Board and marked or impressed with a sufficient mark or brand indicating the Board as the owners thereof—

(*a*) shall not be subject to distress or to the landlord's remedy for rent or be liable to be taken in execution under process of any court or any proceedings in bankruptcy against the person in whose possession they may be ; and

(*b*) shall not be deemed to be landlord's fixtures, notwithstanding that they may be fixed or fastened to any part of the premises in which they may be situated. [1625]

39. Provisions as to security.—(1) Where any security is required by the provisions of this Schedule to be given to an Area Board, the security may be by way of deposit or otherwise, and of such amount as the person required to give the security and the Board may agree on or as, in default of such agreement, may be determined by arbitration.

(2) Where any money is deposited with an Area Board by way of such security as aforesaid, the Board shall pay interest at such rate as may from time to time be

fixed by order of the Minister made with the approval of the Treasury, on every sum of ten shillings so deposited for every six months during which it remains in the hands of the Board. [1626]

40. Arbitration.—Where under any provision in this Schedule the determination of any question is referred to arbitration, the reference shall be to a single arbitrator to be appointed by agreement between the parties or, in default of agreement, by the Minister. [1627]

41. Copies of enactments to be available for inspection.—Every Area Board shall keep in their principal office copies of all local enactments which apply to the Board, and they shall be available for public inspection at all reasonable hours and any person shall be entitled during those hours to take copies thereof and extracts therefrom. [1628]

42. Nuisance.—Nothing in this Act shall exonerate an Area Board from any indictment, action, or other proceeding for any nuisance caused by them. [1629]

43. Saving for 57 Geo. 3, c. xxix.—Nothing in this Schedule shall be deemed to exempt an Area Board from the provisions of an Act passed in the fifty-seventh year of the reign of His late Majesty King George the Third intituled an Act for better paving, improving and regulating the streets of the metropolis and removing and preventing of nuisance and obstructions therein. [1630]

44. Restriction on works in, under or over the sea and other waters and foreshore.—An Area Board shall not construct any works in, under or over the sea or any tidal waters or navigable river, or the seashore below the high water mark of ordinary spring tides, except with the previously obtained consent in writing of the Minister of Transport, which may be given subject to such conditions as the Minister of Transport may think fit; and if any Area Board contravene the provisions of this paragraph the Minister of Transport may remove any works so constructed and the expenses incurred in so doing shall be recoverable by him from the Board. [1631]

45. Justices and judges not to be disqualified.—No justice of the peace or judge of any court shall be disqualified from acting in cases arising under this Schedule by reason only of his being liable to the payment of any charges for gas or other charges under this Act. [1632]

46. Interpretation.—In this Schedule

the expression "street" includes any square, court, alley, highway, road, lane, thoroughfare, or public passage or place;

the expression "lighting authority", in relation to any public lamps, means the public or local authority by or for whom the lamps are maintained;

the expression "navigation authority" means any person or body of persons, whether incorporated or not, authorised by or under an enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary, harbour or dock; and

the expression "railway authority" means any person or body of persons, whether incorporated or not, authorised by an enactment to construct, work or carry on a railway. [1633]

47. Application to Scotland. [1634]

Area Board.—As to Area Boards generally, see ss. 1 and 5, *ante*.

"At all reasonable times."—A collector calling to empty a slot meter in the temporary absence of the occupier of the house, who opened the latch and entered, has been held liable in trespass; see *Birdsell* v. *Wakefield Gas Co.* (1901), in the Journal of Gas Law, December 17, 1901, p. 1604.

Factories Act, 1937.—9 Halsbury's Statutes (2nd Edn.) 996. For the meaning of "factory", see s. 151 thereof (9 Halsbury's Statutes (2nd Edn.) 1113), and *Cox* v. *Cutler & Sons, Ltd. and Hampton Court Gas Co.*, [1948] 2 All E. R. 665, C. A., *post*.

The Minister.—The Minister of Fuel and Power (s. 64 (1), *ante*).

Summary conviction.—See the Summary Jurisdiction Act, 1879, s. 51 (1) (11 Halsbury's Statutes 350).

Distress.—As to the remedy of distress for rent generally, see 10 Halsbury's Law (2nd Edn.) 442 *et seq.*, and as to statutory privilege from distress, 466 *et seq.*

Execution.—For execution generally, see 14 Halsbury's Law (2nd Edn.) 1 *et seq.*

Nuisance.—Para. 42 adapts the provisions of the Gasworks Clauses Act, 1871, s. 9 (8 Halsbury's Statutes 1264), which Act is repealed as from the vesting date (May 1, 1949) by s. 76, *ante*, and Sched. IV, *post*.

Act passed in fifth-seventh year of George III.—This is the Act generally known as the Metropolitan Paving Act, 1817 (11 Halsbury's Statutes 838).

Section 76

FOURTH SCHEDULE

ENACTMENTS REPEALED

Session and Chapter	Short Title	Extent
10 & 11 Vict. c. 15.	Gasworks Clauses Act, 1847.	The whole Act.
22 & 23 Vict. c. 66.	Sale of Gas Act, 1859 ..	The whole Act.
23 & 24 Vict. c. 146.	Sale of Gas Act, 1860 ..	The whole Act.
27 & 28 Vict. c. 96.	Sale of Gas (Scotland) Act, 1864.	The whole Act.
33 & 34 Vict. c. 70.	Gas and Water Works Facilities Act, 1870.	The whole Act.
34 & 35 Vict. c. 41.	Gasworks Clauses Act, 1871.	The whole Act.
36 & 37 Vict. c. 89.	Gas and Water Works Facilities Act, 1870, Amendment Act, 1873.	The whole Act.
38 & 39 Vict. c. 55.	Public Health Act, 1875 ..	In section 161, the words from " where there is not any company or person " to the end of the section. Section 162.
39 & 40 Vict. c. 49.	Burghs Gas Supply (Scotland) Act, 1876.	The whole Act.
41 & 42 Vict. c. 49.	Weights and Measures Act, 1878.	Section 66.
51 & 52 Vict. c. 41.	Local Government Act, 1888.	In paragraph (xiii) of section 3, the words " and to gas meters ". Paragraph (*e*) of subsection (3) of section 34. Paragraph (*d*) of subsection (1) of section 39.
52 & 53 Vict. c. 21.	Weights and Measures Act, 1889.	Section 15.
52 & 53 Vict. c. 50.	Local Government (Scotland) Act, 1889.	In section 11 the words " to gas meters ".
55 & 56 Vict. c. 55.	Burgh Police (Scotland) Act, 1892.	In section 99 the words from " The Gasworks Clauses Act, 1847 " to the end of the section; sections 102 and 103.
56 & 57 Vict. c. 52.	Burghs Gas Supply (Scotland) Act, 1893.	The whole Act.
63 & 64 Vict. c. 49.	Town Councils (Scotland) Act, 1900.	In section 8, the word " gas " in both places where it occurs.
63 & 64 Vict. c. cclxxii.	Metropolis Gas (Prepayment Meter) Act, 1900.	The whole Act.
6 & 7 Geo. 5, c. 25.	Gas (Standard of Calorific Power) Act, 1916.	The whole Act.
8 & 9 Geo. 5, c. 45.	Burghs Gas Supply (Scotland) Amendment Act, 1918.	The whole Act.
10 & 11 Geo. 5, c. 28.	Gas Regulation Act, 1920	The whole Act.
19 & 20 Geo. 5, c. 24.	Gas Undertakings Act, 1929.	The whole Act.

Session and Chapter	Short Title	Extent
22 & 23 Geo. 5, c. 40.	Gas Undertakings Act, 1932.	The whole Act.
22 & 23 Geo. 5, c. lxiii.	Kettering Gas Act, 1932 ..	Section 6.
23 & 24 Geo. 5, c. xliii.	Commercial Gas Act, 1933	The whole Act.
23 & 24 Geo. 5, c. lxxi.	Gas Light and Coke Company's Act, 1933.	Section 4.
24 & 25 Geo. 5, c. xvi.	South Metropolitan Gas (No. 1) Act, 1934.	The whole Act.
24 & 25 Geo. 5, c. xvii.	Brighton, Hove and Worthing Gas Act, 1934.	The whole Act.
24 & 25 Geo. 5, c. 28.	Gas Undertakings Act, 1934.	The whole Act. [1635]

Gasworks Clauses Act, 1847.—8 Halsbury's Statutes 1215.
Sale of Gas Act, 1859.—8 Halsbury's Statutes 1230.
Sale of Gas Act, 1860.—8 Halsbury's Statutes 1252.
Gas and Water Works Facilities Act, 1870.—8 Halsbury's Statutes 1254.
Gasworks Clauses Act, 1871.—8 Halsbury's Statutes 1263.
Gas and Water Works Facilities Act, 1870, *Amendment Act*, 1873.—8 Halsbury's Statutes 1275.
Public Health Act, 1875, *ss.* 161, 162.—13 Halsbury's Statutes 602, 603.
Weights and Measures Act, 1878, *s.* 66.—20 Halsbury's Statutes 385.
Local Government Act, 1888, *ss.* 3 (*xiii*), 34 (3) (*e*), 39 (1) (*d*).—10 Halsbury's Statutes 688, 711, 717.
Weights and Measures Act, 1889, *s.* 15.—20 Halsbury's Statutes 398.
Gas (Standard of Calorific Power) Act, 1916.—8 Halsbury's Statutes 1277.
Gas Regulation Act, 1920.—8 Halsbury's Statutes 1278.
Gas Undertakings Act, 1929.—8 Halsbury's Statutes 1293.
Gas Undertakings Act, 1932.—25 Halsbury's Statutes 187.
Gas Undertakings Act, 1934.—27 Halsbury's Statutes 302.

ORDERS, CIRCULARS AND MEMORANDA

GAS CHARGES ORDER, 1947

S. R. & O., 1947, *No.* 2242

October 17, 1947

General note.—This order was amended as from January 5, 1948, by the Gas Charges (No. 2) Order, 1947 (S. R. & O., 1947, No. 2832), *post*. See also the Gas Charges Order, 1948 (S.I. 1948 No. 300), *post*. As from May 1, 1949, the vesting date for the purposes of the Gas Act, 1948 (see S.I. 1949 No. 392), these three orders are revoked by the Gas (Price and Charges) (Revocation) Order and Direction, 1949 (S.I. 1949 No. 791).

In exercise of the powers conferred upon him by Regulations fifty-five AA, fifty-five AB and fifty-six of the Defence (General) Regulations, 1939, as having effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945, as extended by the Supplies and Services (Extended Purposes) Act, 1947, and of all other powers him enabling, the Minister of Fuel and Power (in this Order referred to as "the Minister") hereby makes the following Order :—

1. Restriction on increase in price of gas in certain cases.—(1) Save as provided in the following paragraphs of this Article, no undertaker shall, except under the authority of a permit, increase any price charged by him at the date of the coming into force of this Order in respect of any supply of gas.

(2) Subject to the provisions of paragraph (3) of this Article, and the next following Article, any such price may be increased by the proportionate amount of any net increase in the cost to the undertaker of production of the gas supplied due to any one or more of the following, that is to say :—

(*a*) any increase in the delivered price of coal by reason of an increase in :—

(i) the pithead price thereof of four shillings per ton on the first day of September, nineteen hundred and forty-seven ;

(ii) the railway rate for carriage thereof taking effect on the first day of October in that year ;

(*b*) any increase in the net cost to him of gas oil by reason of :—

(i) an increase in the price thereof of one and one half pence per gallon on the first day of September aforesaid ;

(ii) the termination of any subsidy paid to him by the Minister on the oil used by him ;

after making due allowance for any additional sums received by him :—

(*c*) in respect of sales of coke by reason of :—

(i) an increase in the price thereof of six shillings per ton on the fifteenth day of September in that year ; and

(ii) any increase on the first day of October aforesaid authorised by the Minister in the delivered or ex-works price thereof :

Provided that where any of the factors specified in sub-paragraphs (*a*) or (*b*) of this paragraph has been relied upon by any undertaker applying for a permit under Article one of the Gas Charges Order, 1942, and any increase in price has thereupon been authorised, the part of that increased price appropriate to that factor shall be deducted from the proportionate amount calculated as aforesaid.

(3) Any undertaker who, by virtue of the preceding paragraph, increases the price charged by him in respect of any supply of gas shall forthwith give notice to the Minister of any such increase stating the amount thereof and the date on which it takes effect ; and shall, in relation to every such increase, supply all such information, and supplementary information, as the Minister may at any time require.

(4) Nothing in this Article shall restrict any undertaker from increasing the price charged by him in respect of a supply of gas furnished :—

(*a*) to any person in pursuance of a contract between the undertaker and that person the terms whereof provide for variation, as there specified, in the price charged for gas supplied by reference to the cost of coal to the undertaker or to the quantity of gas supplied during any period to that person, by any amount in accordance with that contract ; or

(*b*) in any period to any person carrying on a factory (not being another undertaking), if, during the year immediately preceding that period, the quantity of gas so supplied for consumption in that factory was not less than one hundred and fifty thousand cubic feet, and if previous notice in writing of any proposed increase, and of the amount thereof, has been given to the Minister by the undertaker, by any amount, so however that the Minister may at any time direct that, in any such case as aforesaid, as from a specified date any specified undertaker shall not, except under the authority of a permit, increase the price charged by him in respect of the supply of gas to any specified person.

(5) A direction under sub-paragraph (*b*) of the last preceding paragraph may, notwithstanding anything contained therein, be given so as to

apply to any class or description of undertakers or persons as aforesaid. [1636]

2. Reduction in price in case of subsequent reduction in cost.—(1) Where the price charged in respect of any supply of gas is increased by virtue of paragraph (2) of the preceding Article, and thereafter any of the increases specified in sub-paragraphs (*a*) or (*b*) of that paragraph is not maintained, or the allowance to be made under that paragraph is varied, and by reason thereof the net increase in the cost to the undertaker of production calculated as provided in the said paragraph is at any time less than at the date of the said increase in price, that undertaker shall, as soon as practicable, reduce the price charged by him in respect of that supply by an amount proportionate to the said reduction.

(2) The provisions of paragraph (3) of the said Article shall apply in relation to any reduction in price as they apply in relation to an increase therein. [1637]

3. Relaxation of, and saving for statutory maximum price.—Where any Act or instrument determining the functions of an undertaker prescribes any price with respect to any undertaking (being a public utility undertaking) as the maximum price which that undertaker may charge in respect of gas supplied by him, the obligations and limitations imposed by, or by virtue of, every such Act or instrument are, if not previously relaxed to the extent requisite for any increase by virtue of paragraph (2) of Article one of this Order in any price charged by that undertaker in respect of any supply of gas, hereby to that extent relaxed; but save as aforesaid nothing in this Order shall affect the maximum price prescribed for any undertaker by any applicable enactment or Order. [1638]

4. Permits.—(1) Any permit under this Order may be granted subject to such conditions as the Minister may deem necessary.

(2) Every such condition shall be complied with by every person, or by every person of the class or description, in whose favour the permit was granted; and the breach of any such condition shall be an offence against this Order.

(3) The Minister may vary or revoke any permit granted under this Order; and, if any such permit is revoked, the holder thereof shall forthwith deliver it up as directed by the Minister. [1639]

5. Interpretation.—In this Order, and (unless the contrary intention appear) in every permit granted and direction given under the provisions thereof, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

"the Minister" means the Minister of Fuel and Power;

"permit" means a permit granted by or on behalf of the Minister;

"undertaker" means any person carrying on an undertaking;

"undertaking" means any undertaking (whether or not a public utility undertaking) involving the supply of gas to the public. [1640]

6. Revocation and consequential amendment.—(1) The Gas Charges Order, 1942, is hereby revoked.

(2) Any permit granted or direction given under the provisions of the Gas Charges Order, 1942, effective at the date of the coming into force of this Order shall be deemed to have been granted or given under the corresponding provision of this Order; and shall have effect accordingly.

(3) The Gas (Maximum and Standard Prices) Order and General Direction, 1942, shall have effect subject to the modification that in Article one thereof there shall be substituted for the reference to the Gas Charges Order, 1942, a reference to this Order. [1641]

7. Commencement and citation.—This Order shall come into force on the first day of November, nineteen hundred and forty-seven, and may be cited as the Gas Charges Order, 1947. [1642]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Order, but is intended to indicate its general purport.*)

1. *This Order revokes, and re-enacts with an amendment, the Gas Charges Order*, 1942, *which prohibited increases in the price charged for gas except under a permit.*

2. *The amendment introduced allows an increase without a permit to cover any net increase in the cost to the undertaker of the production of gas due to increases in September and October*, 1947, *in the delivered price of coal, and the price of gas oil, and to the termination of the subsidy on gas oil, after allowing for increases in the price of coke sold. All increases must be notified to the Minister.*

3. *Statutory limitations on the maximum price of gas are relaxed to the extent necessary for this increase.*

4. *If any of the factors involved ceases to apply, prices are to be correspondingly reduced as soon as practicable.*

5. *Nothing in the Order affects charges where either :—*

(*a*) *a contract contains a sliding scale for prices based on the cost of coal or the quantity of gas supplied; or*

(*b*) *a factory consumes more than* 150,000 *cubic feet of gas per annum.*

GAS CHARGES (NO. 2) ORDER, 1947

S. R. & O., 1947, No. 2832

December 31, 1947

General note.—This order is revoked, as from May 1, 1949, the vesting date for the purposes of the Gas Act, 1948 (see S.I. 1949 No. 392), by the Gas (Price and Charges) (Revocation) Order and Direction, 1949 (S.I. 1949 No. 791).

The Minister of Fuel and Power in pursuance of the powers conferred upon him by Regulations fifty-five AA, fifty-five AB, fifty-six and ninety-eight of the Defence (General) Regulations, 1939, as having effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945, as extended by the Supplies and Services (Extended Purposes) Act, 1947, hereby orders as follows :—

1. Amendment of Gas Charges Order, 1947.—The Gas Charges Order, 1947, shall have effect subject to the modification that the following paragraph shall be substituted for paragraph (2) of Article one, that is to say :—

" (2) Subject to the provisions of paragraph (3) of this Article, and the next following Article, any such price may be increased by the proportionate amount of any net increase in the cost to the undertaker of the gas supplied in the period to which the charge relates due to any one or more of the following, that is to say :—

(*a*) any increase in the delivered price of coal on or after the first day of September, nineteen hundred and forty-seven ;

(*b*) any increase in the net cost of gas oil by reason of :—

(i) any increase in the price thereof on or after the said first day of September ;

(ii) the termination of any subsidy paid by the Minister on such oil ;

after making due allowance for any additional sums received by him by reason of any increase in the price of coke on or after the said first day of September :

Provided that where any of the factors specified in sub-paragraphs (*a*) and (*b*) of this paragraph has been relied upon by any undertaker applying for a permit under Article one of the Gas Charges Order, 1942, or under the last preceding paragraph, and any increase in price has thereupon been authorised, the part of that increased price appropriate to that factor shall be deducted from the proportionate amount calculated as aforesaid." [1643]

2. Commencement and citation.—This Order shall come into force on the fifth day of January, nineteen hundred and forty-eight; and may be cited as the Gas Charges (No. 2) Order, 1947. [1644]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Order, but is intended to indicate its general purport.*)

This Order amends Article 1 (2) *of the Gas Charges Order*, 1947, ante (*which authorised increases in the price charged by gas undertakers to take into account net increases in cost due to increases in prices of coal and oil in September and October* 1947) *to cover increases in cost due to increases in the price of coal and gas oil at any time on or after September* 1, 1947. *Verbal amendments are also made to clarify the application of that paragraph to undertakers who receive supplies of gas in bulk.*

GAS FUND (CONTRIBUTION) ORDER, 1948

S.I. 1948 *No.* 14

January 12, 1948

The Minister of Fuel and Power (in this Order referred to as "the Minister") in pursuance of section seven of the Gas Regulation Act, 1920 (in this Order referred to as "the Act"), as amended by the Gas Undertakings Act, 1934, hereby prescribes as follows:

1. Rate of contribution for 1948.—The rate of contribution to the Gas Fund for the year nineteen hundred and forty-eight shall be:—

(*a*) for each five thousand therms in the form of gas sold during the year nineteen hundred and forty-seven (excluding gas sold to other undertakers in bulk for distribution and gas supplied separately for industrial purposes only), eight pence;

(*b*) for each five thousand therms in the form of gas supplied separately for industrial purposes only during the year nineteen hundred and forty-seven, four pence. [1645]

2. Contribution payable to the Minister.—The said contribution shall be paid to the Minister at Heyhouses Lane, Lytham St. Annes, Lancashire, on or before the first day of April, nineteeen hundred and forty-eight, by all gas undertakers with respect to whom an Order under the Act shall have been made or to whom subsection (3) of section seven of the Act applies by virtue of any public general Act, special Act or Special Order. [1646]

3. Contribution payable by cheque.—Payment of the said contribution shall be made by cheques payable to the Minister and crossed "Bank of England". [1647]

4. Citation.—This Order may be cited as the Gas Fund (Contribution) Order, 1948. [1648]

* * * * *

GAS CHARGES ORDER, 1948

S.I. 1948 *No.* 300

February 19, 1948

General note.—This order is revoked, as from May 1, 1949, the vesting date for the purposes of the Gas Act, 1948 (see S.I. 1949, No. 392), by the Gas (Price and Charges) (Revocation) Order and Direction, 1949 (S.I. 1949 No. 791).

The Minister of Fuel and Power (in this Order referred to as "the Minister") in exercise of the powers conferred upon him by Regulations fifty-five AB and fifty-six of the Defence (General) Regulations, 1939, as having effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945, as extended by the Supplies and Services (Transitional Powers) Act, 1945, as extended by the Supplies and Services (Extended Purposes) Act, 1947, hereby orders as follows :—

1. Notwithstanding anything in relation to any public utility undertaker in any Act or other instrument determining his functions, no undertaker shall in respect of the supply of gas :—

(*a*) reduce any price charged by him immediately before the coming into operation of this Order ;

(*b*) introduce any discount or rebate not allowed by him immediately before that date ; or

(*c*) increase any discount or rebate allowed by him immediately before that date ;

whether by altering the incidence of any such price, discount or rebate or otherwise, except :—

(i) in pursuance of Article two of the Gas Charges Order, 1947 ; or

(ii) under the authority of a permit granted by the Minister. [1649]

2. In this Order :—

"undertaker" means any person carrying on an undertaking (whether or not a public utility undertaking) involving the supply of gas to the public. [1650]

3. This Order shall come into operation on the twenty-third day of February, nineteeen hundred and forty-eight, and may be cited as the Gas Charges Order, 1948. [1651]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order prohibits, with respect to supplies of gas, reductions in prices, introduction of new discounts or rebates and increases of existing discounts or rebates.

GAS METER (FEES) (AMENDMENT) ORDER, 1948

S.I. 1948 *No.* 1097

May 26, 1948

The Minister of Fuel and Power in pursuance of the powers conferred upon him by section eleven of the Gas Regulation Act, 1920, and of all other powers him enabling, hereby makes the following Order :—

1. Amendment of Schedule.—The following Schedule shall be substituted for the Schedule attached to the Gas Meter (Fees) Order, 1922, as amended by the Gas Meter (Fees) (Amendment) Order, 1936 :—

SCHEDULE

	s.	d.
For all meters with a measuring capacity up to 50 cubic feet per hour (as indicated on the meter by the maker)	1	6
For each additional 100 cubic feet or part thereof		
in the case of a dry meter		9
in the case of a wet meter	1	1½
For a meter which by means of a mechanism appropriate to the declared calorific value of the gas registers in terms of therms and multiples and fractions thereof, in addition to the above fees		9

[1652]

2. Commencement and Citation.—This Order shall come into operation on the first day of June, nineteen hundred and forty-eight, and may be cited as the Gas Meter (Fees) (Amendment) Order, 1948. [1653]

* * * * *

CASES

Factory—"Place" used for purpose other than processes carried on in factory—Gas works—Reconstruction of gas holder on site separate from gas works—Site in exclusive possession of contractors—"Article"—Coal gas—Factories Act, 1937 (*c.* 67), *s.* 151 (1) (*a*), (*c*), (*xiii*), (6).

A gas company carried on its undertaking on two parcels of land separated by a public road. The east site contained all the buildings, machinery and equipment necessary for the manufacture of the gas and also two gas holders, while the west site contained one gas holder only, which was connected with the main site by means of underground pipes. The gas holder on the west site was destroyed by enemy action and the connecting pipes sealed up. Contractors were employed by the gas company to reconstruct the damaged gas holder, and by the terms of the contract were given exclusive possession of the west site for the period of reconstruction. On a frosty day a steel erector in the employ of the contractors, while engaged in rivetting the framework 20 ft. above the pit, which was floored with a concrete dumpling, was in the act of moving a board, which served him as a platform, when he slipped and fell on to the concrete dumpling, thereby sustaining serious injuries. No staging or other means was provided to prevent such an accident occurring. In an action for damages the contractors and the gas company were held jointly and severally liable, the contractors for negligence at common law, and the gas company for breach of s. 26 (2) of the Factories Act, 1937. The gas company appealed:—

Held: coal gas was an "article" within s. 151 (1) (*a*) and (*c*) of the Factories Act, 1937, so that any premises in which it was made or adapted for sale were a "factory" within that Act; even if the gas holder on the west site had been part of the actual gas factory and had come within s. 151 (1) (*xiii*) of the Act, it had ceased to be so when the enemy destroyed it, because thereafter it neither held nor could hold gas, and *a fortiori* when the contractors took exclusive possession of the site; and, in any event, the gas company were protected by s. 151 (6) of the Act which provides that a place situate within the close, curtilage, or precincts forming a factory and solely used for some purpose (here, at the material date, for the purpose of engineering construction) other than the processes carried on in the factory is not to be deemed part of the factory.—COX *v.* CUTLER & SONS, LTD. AND HAMPTON COURT GAS CO., [1948] 2 All E. R. 665; 92 Sol. Jo. 586, C. A. [1654]

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STATUTES

LOCAL GOVERNMENT ACT, 1948

(11 & 12 Geo. 6, c. 26)

ARRANGEMENT OF SECTIONS

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PART VII

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PART VIII

General

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An Act to amend the law relating to Exchequer grants to local authorities and other bodies and grants by local authorities to other local authorities or other bodies, and the law relating to rating, valuation for rating and precepts to rating authorities; to provide for payments for the benefit of local authorities by the British Transport Commission, the British Electricity Authority and the North of Scotland Hydro-Electric Board; to amend the Railway Freight Rebates Enactments, 1929 *to* 1943, *section two hundred and eleven of the Local Government (Scotland) Act,* 1947, *the law relating to the payment of expenses and other allowances to members of local authorities and other bodies and the law relating to the manner in which certain securities of local authorities and other bodies may be transferred; to extend the powers of local authorities in certain respects; and for purposes connected with the matters aforesaid.* [1655] [24th March 1948]

* * * * *

PART VII

MISCELLANEOUS

* * * * *

127. Transfer to county councils of property and liabilities relating to county roads.—Where by virtue of Part III of the Local Government Act,

1929 (which relates to the vesting, repair and maintenance of county roads) and whether before or after the passing of this Act—

(*a*) any road within the area of a borough or urban district council has, since the appointed day for the purposes of the said Part of the said Act, become a county road and the council have not, within the time specified in the said Act, claimed to exercise the functions of maintenance and repair with respect to that road; or

(*b*) a borough or urban district council, having or being deemed to have claimed as aforesaid with respect to a county road in their area, have since the said appointed day relinquished the aforesaid functions with respect thereto,

the borough or urban district council and the county council may agree for the transfer to the county council of such property and liabilities of the borough or urban district council relating to the road upon such terms and conditions as may be specified in the agreement. [1656]

General note.—Part VII of the Local Government Act, 1948, makes amendments to the existing law on a variety of subjects. One of these subjects is the liability for maintenance of certain highways, the provisions of Part III of the Local Government Act, 1929 (10 Halsbury's Statutes 903 *et seq.*), being modified so to allow agreements to be made between boroughs or urban district councils on the one hand and county councils on the other for the transfer to the latter of property and liabilities in relation to county roads on agreed terms.

Other provisions of the Local Government Act, 1948, are to be found in the titles ELECTRICITY SUPPLY and FINANCE, *ante*; and MEMORIALS, WAR AND OTHER; MUNICIPAL HOSPITALITY, and RATES AND RATING, *post*.

Local Government Act, 1929, *Part III.*—10 Halsbury's Statutes 903 *et seq.* That Part of the Act originally related both to roads and town planning, ss. 29–30 inclusive being the provisions relating to the former. The provisions of that Part relating to planning were repealed by the Town and Country Planning Act, 1932, s. 54 and Sched. V (25 Halsbury's Statutes 522, 535).

County road.—That is to say, "every road in the county which at the appointed day is a main road, or which would, apart from this section, at any time thereafter have become a main road" and "every other road as respects which a county council become by virtue of this Part of this Act the highway authority" (Local Government Act, 1929, s. 29 (1), in Part III of the said Act; 10 Halsbury's Statutes 903).

Passing of this Act.—March 24, 1948.

Borough or urban district council.—This is a reference to the Local Government Act, 1929, s. 32 (10 Halsbury's Statutes 906), which in terms relates only to urban district councils. At the time of passing of that Act, however, the term "urban district" included a borough (see the Public Health Act, 1875, s. 6; 13 Halsbury's Statutes 628; and the Local Government Act, 1894, s. 21; 10 Halsbury's Statutes 792); hence the revised wording in the present Act accords with ss. 1, 17 and 31 of the Local Government Act, 1933 (26 Halsbury's Statutes 306, 313, 320).

Appointed day.—April 1, 1930 (see the Local Government Act, 1929, s. 134; 10 Halsbury's Statutes 971).

Within the time specified.—See the Local Government Act, 1929, s. 32 (2) (10 Halsbury's Statutes 906), which sets out the times within which claims are to be made.

Claimed to exercise the functions.—Under s. 32 of the Local Government Act, 1929 (10 Halsbury's Statutes 906), urban districts (including boroughs; see the note, *supra*) with a population of over 20,000 may claim to exercise the functions of maintenance and repair of any county road within their district if their claim is made within a particular time. See also the Restriction of Ribbon Development Act, 1935, s. 18 (1) (28 Halsbury's Statutes 94).

Being deemed to have claimed.—See the Local Government Act, 1929, s. 32 (5) (10 Halsbury's Statutes 908).

Relinquished the aforesaid functions.—See the Local Government Act, 1929, s. 32 (4) (10 Halsbury's Statutes 907). Such relinquishment can only take effect with the consent of the county council.

* * * * *

PART VIII

GENERAL

* * * * *

148. Short title and extent.—(1) This Act may be cited as the Local Government Act, 1948. [1657]

(2) This Act shall not extend to Northern Ireland. [1658]

* * * * *

CASES

Highways—Planting of trees—Branches allowed to overhang carriage way—Injury to passenger in passing omnibus—Liability of highway authority—"Reasonable use" of highway—Roads Improvement Act, 1925 (*c.* 68), *s.* 1 (1), (2).

Where a highway authority has caused trees to be planted in a highway under the powers given by the Roads Improvement Act, 1925, s. 1 (1), it has a duty under s. 1 (2) of the Act not to allow the branches of a tree in their natural growth to stretch out over the roadway so as "to hinder the reasonable use of the highway by any person entitled to the use thereof," and, if an accident occurs as a result of a collision between the overhanging branches and a vehicle making a reasonable use of the highway, the highway authority is liable. In the absence of any reason to suspect danger from an overhanging tree or some similar obstruction, a driver who is driving close to the kerb when his vehicle is struck by a branch of the tree is not making an unreasonable use of the highway within the meaning of the Act.—HALE *v.* HANTS AND DORSET MOTOR SERVICES, LTD., [1947] 2 All E. R. 628; 112 J. P. 47; 92 Sol. Jo. 26; 46 L. G. R. 55, C. A. [1659]

Highways—Obstruction—Air-raid shelter—Street lighting obscured—Lamp on shelter unlit—Liability of local authority.

A motor cyclist driving along a street at night collided with the corner of an air raid shelter and was killed. The shelter jutted six feet into the roadway and although the road was lighted, the shelter had been constructed so close to a street lamp that a shadow was thrown which obscured the projecting corner. The corner was fitted with a red lamp which was strongly protected from interference, but on the night of the accident it was extinguished. The defendants, who were responsible for the shelter, were aware that the lamp was frequently not alight owing to interference by unauthorised persons, but inspections were not satisfactorily carried out, despite the fact that several accidents had occurred in the same place:—

Held: the existence of normal street lighting did not absolve the defendants from their duty to ensure that the shelter was so illuminated or otherwise distinguished that it would not be a danger to users of the highway.

Dictum of Lord GREENE, M.R., in *Fisher* v. *Ruislip-Northwood Urban District Council and Middlesex County Council*, [1945] K. B. 584; [1945] 2 All E. R. 458, *explained.*—WHITING *v.* MIDDLESEX COUNTY COUNCIL AND HARROW URBAN DISTRICT COUNCIL, [1948] 1 K. B. 162; [1947] 2 All E. R. 758; [1948] L. J. R. 242; 112 J. P. 74; 63 T. L. R. 614; 92 Sol. Jo. 41; 46 L. G. R. 136. [1660]

Nuisance—Negligence—Highway—Debris by kerb—Small heap left by repairers of property for collection.

A pedestrian walking along a pavement, or crossing a road on which there is no traffic and taking a step to get on the kerb, is not obliged to keep his eyes on the ground to see whether or not there is any obstacle in his path.

The plaintiff, a pedlar, left his barrow against the kerb on one side of a road to serve a customer on the other side. While doing so he was hailed by a customer at the barrow and re-crossed the road to serve that customer. In getting on to the kerb he tripped over a small pile of slates which did not overtop the kerb and which he had not previously seen. The slates had been left, for collection, by the defendants, who were engaged in demolishing and repairing war damaged property. There was no evidence that the work could not be carried on unless the debris could be put out in the street to be collected:—

Held: (i) while the pile of slates could not be said to cause an obstruction in the sense of preventing or impeding the flow of traffic or the passage of pedestrians the maxim *de minimis non curat lex* did not apply, and the slates constituted a nuisance.

(ii) a normally careful pedestrian might well overlook such a heap of debris, and the plaintiff was not guilty of contributory negligence.

Principles laid down in Harper v. *Haden (G. N.) & Sons*, [1933] Ch. 298, *not applied.*—ALMEROTH *v.* CHIVERS & SONS, LTD., [1948] 1 All E. R. 53; 92 Sol. Jo. 71, C. A. [1661]

Highways—Offence—Pitching stall—Sale of ice-cream from van—Highway Act, 1835 (*c.* 50), *s.* 72.

The appellant was convicted before a court of summary jurisdiction with, being a "person travelling," having pitched a stall on the highway, contrary to s. 72 of the Highway Act, 1835. The appellant was a partner in a firm of ice-cream makers, and on the day in question he stopped a van which he was driving on the highway and sold ice cream from it to purchasers:—

Held: while in certain circumstances a motor van might properly be found to be a "stall," it could not be said that the appellant had "pitched" his van on the highway when he stopped it, and, therefore, he had been wrongly convicted.—DIVITO *v.* STICKINGS, [1948] 1 All E. R. 207; [1948] L. J. R. 1079; 112 J. P. 166; 64 T. L. R. 92; 92 Sol. Jo. 142; 46 L. G. R. 151. [1662]

Nuisance—Premises adjoining highway—Coke ovens—Smoke and steam escaping across highway.

The second defendants owned and operated coke ovens situate fifty yards away from a road. The process of manufacturing coke involved the production at intervals of clouds of smoke and steam which, under certain conditions of wind and weather, passed low over the road so as to obscure the view of passengers thereon. While one of these clouds was so passing a collision occurred between a motor car and a motor omnibus driven by a servant of the first defendants, both of which vehicles were travelling along the road, two passengers in the car sustaining fatal injuries. It was found that the omnibus was being driven negligently at the time of the accident:—

Held: the discharge of smoke and steam across the road on the occasion of the accident was a nuisance caused by the second defendants, and the second defendants were also guilty of negligence in not posting a man at each end of the area affected to warn approaching vehicles as soon as a discharge was imminent.

Dollman v. *Hillman, Ltd.*, [1941] 1 All E. R. 355, *and observations of the* EARL OF BIRKENHEAD, L.C., in *Admiralty Commissioners* v. *S.S. Volute*, [1922] 1 A. C. 129, *applied.*—HOLLING *v.* YORKSHIRE TRACTION CO., LTD. AND OTHERS, [1948] 2 All E. R. 662. [1663]

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ORDERS, CIRCULARS AND MEMORANDA

TRANSFER OF FUNCTIONS (MEDICAL SUPPLIES) ORDER, 1947

S. R. & O., 1947, *No.* 2472

November 13, 1947

His Majesty, in exercise of the powers conferred on him by subsection (1) of section 1 of the Ministers of the Crown (Transfer of Functions) Act, 1946, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered as follows :—

1. Short title, interpretation and commencement.—(1) This Order may be cited as the Transfer of Functions (Medical Supplies) Order, 1947.

(2) The Interpretation Act, 1889, applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(3) This Order shall come into operation on the first day of December, nineteen hundred and forty-seven. [1664]

2. Transfer to Minister of Health of certain functions of Minister of Supply under Ministry of Supply Act, 1939.—There are hereby transferred to the Minister of Health the functions of the Minister of Supply under sections two, four and five of the Ministry of Supply Act, 1939, as amended by any subsequent enactment exercisable by the Minister of Supply immediately before the coming into operation of this Order, in relation to articles of any description falling within the Schedule to this Order.

Provided that this Article shall not transfer any of the said functions—

(*a*) under the said section two in so far as their exercise is ancillary only to the exercise of the functions of the Minister of Supply under the said section two which are retained by him,

(*b*) under the said sections four and five in so far as those functions are exercisable in relation to articles which in the opinion of the Minister of Supply are, or are likely to be, required for or in connection with the production or use of atomic energy or research into any matter connected therewith,

or any functions conferred on the Minister of Supply by subsection (1) of section six of the Supplies and Services (Transitional Powers) Act, 1945, for securing the orderly disposal of surplus material. [1665]

3. Transfer to Minister of Health of certain functions of Board of Trade under the Transfer of Functions (Various Commodities) Order, 1946.—There are hereby transferred to the Minister of Health the functions transferred to the Board of Trade by the Transfer of Functions (Various Commodities) Order, 1946, in relation to Sanitary towels. [1666]

4. Consequential provisions.—(1) Any enactment in force immediately before the coming into operation of this Order relating to the acquisition of land by the Minister of Supply or the Board of Trade under the Defence Acts shall with the necessary modifications apply, for the purposes only of the functions transferred by Articles 2 and 3 of this Order, to the acquisition of land by the Minister of Health.

(2) In the last foregoing paragraph the expression "Defence Acts" means any of the provisions of the Defence Acts, 1842 to 1935 as amended, extended or applied by or under any enactment, and includes the provisions of section seven of the Lands Clauses Consolidation Acts Amendment Act, 1860, and of section seven of the Militia (Lands and Buildings) Act, 1873.

(3) There are hereby transferred to the Minister of Health all property and rights held or enjoyed by the Minister of Supply or the Board of Trade immediately before the coming into operation of this Order in connection with any of the functions thereby transferred, and all liabilities then incumbent on the Minister of Supply and the said Board in connection with any of those functions.

(4) In the construction and for the purposes of any judgment, decree, order, award, deed, contract, regulation, byelaw, certificate or other document made before the coming into operation of this Order, any reference to, or which is to be construed as a reference to, the Minister of Supply or his officers or Department, or to the Board of Trade or the Board's officers or Department shall, so far only as may be necessary for the purpose or in consequence of the transfer of functions effected by this Order, be construed as a reference to the Minister of Health or his officers or Department.

(5) The transfer of functions effected by this Order shall not prejudice the operation of any order, regulation, rule, appointment, direction, instruction, approval, requirement or authorisation made or given or other thing done by the Minister of Supply or the Board of Trade in relation to the functions transferred by this Order and before the coming into operation thereof, but any such matter shall, if then in force, continue in force to the like extent and subject to the like provisions as if it had been duly made, given or done by the Minister of Health.

(6) Anything commenced before the coming into operation of this Order by or under the authority of the Minister of Supply or the Board of Trade may, so far as it relates to any functions transferred by this Order, be carried on or completed by or under the authority of the Minister of Health.

(7) Where at the coming into operation of this Order any legal proceeding is pending to which the Minister of Supply or the Board of Trade is a party and the proceeding has reference to any of the functions transferred by this Order, the Minister of Health shall be substituted in the proceeding for the Minister of Supply or the Board of Trade as the case may be, and the proceeding shall not abate by reason of the substitution.

(8) Nothing in the foregoing provisions of this Article shall affect any estate or interest in land or any contract relating to the use of land. [1667]

* * * * *

SCHEDULE

Drugs and Biological products.
Surgical dressings.
Laboratory chemicals, stains, reagents and culture media.
Laboratory porcelain, apparatus and equipment.
Scientific glassware.
Medical and surgical instruments, appliances, equipment, apparatus, materials, and accessories including dental, orthopædic, ophthalmic optical, anæsthetic, resuscitation, X-ray and electro-therapeutic.
Veterinary instruments, appliances, equipment, apparatus, materials and accessories. [1668]

EXPLANATORY NOTE

(This Note is not part of the Order in Council, but is intended to indicate its general purport.)

The Order in Council is made under Section 1 (1) *of the Ministers of the Crown (Transfer of Functions) Act,* 1946, *and transfers certain functions relating to the buying, production, supply and manufacture of medical supplies under Sections* 2, 4 *and* 5 *of the Ministry of Supply Act,* 1939, *to the Minister of Health. The functions have hitherto been exercised by the Minister of Supply and the Board of Trade.*

CASES

Medicine and pharmacy—Nurses—Agency—Licence by local authority—Condition—Limitation on fees receivable by agency—Nurses Act, 1943 (*c.* 17), *s.* 8 (2).

By s. 8 (2) of the Nurses Act, 1943, it is provided that a licensing authority under the Act shall grant a licence to a person desiring to carry on an agency for nurses and applying therefor subject " to such conditions as they may think fit for securing the proper conduct of the agency, including conditions as to the fees to be charged by the person carrying on the agency, whether to the nurses or other persons supplied, or to the persons to whom they are supplied." In pursuance of their powers under this provision, a county council, as the licensing authority, when granting a licence imposed a condition that " the licensee shall not demand or receive from any person any sum in respect of the services of any nurse or other person supplied which is in excess of the amount appropriate to that nurse or other person calculated in accordance with the scale of charges approved by the council and furnished to the licensee " :—

Held : the condition was not required for securing the proper conduct of the agency, and was, therefore, *ultra vires*.—MIDDLESEX COUNTY COUNCIL *v.* MILLER, [1948] 1 K. B. 438 ; [1948] 1 All E. R. 192 ; [1948] L. J. R. 840 ; 112 J. P. 124 ; 64 T. L. R. 60 ; 92 Sol. Jo. 55 ; 46 L. G. R. 80. [1669]

HOUSING

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STATUTES

EXPIRING LAWS CONTINUANCE ACT, 1947

(11 Geo. 6, c. 1)

PRELIMINARY NOTE

This Act, which received the Royal Assent on December 10, 1947, continues in force for a further period of one year (in one case for six months) a number of enactments which would otherwise expire on various dates.

The enactments specified in Part I of the Schedule, which were limited to expire on December 31, 1947, are continued in force until December 31, 1948, these enactments including the Furnished Houses (Rent Control) Act, 1946 (39 Halsbury's Statutes 288) which, by s. 13 (3) thereof, would otherwise have come to an end.

The last previous Act of this nature was the Expiring Laws Continuance Act, 1946 (39 Halsbury's Statutes 790). [1670]

An Act to continue certain expiring laws. [1671] [10th December, 1947.]

1. Continuance of Acts in Schedule.—(1) The Acts mentioned in Parts I and III of the Schedule to this Act shall, to the extent specified in column three of those Parts, be continued until the thirty-first day of December, nineteen hundred and forty-eight. [1672]

(2) The Act mentioned in Part II of the Schedule to this Act shall, to the extent specified in column three of that Part, be continued until the thirty-first day of March, nineteen hundred and forty-nine. [1673]

(3) Any unrepealed enactments which are temporary in their duration shall, in so far as they amend or affect any enactment continued by the foregoing provisions of this Act, be continued in like manner as that enactment whether they are mentioned in the Schedule to this Act or not. [1674]

2. Short title and application to Northern Ireland.—(1) This Act may be cited as the Expiring Laws Continuance Act, 1947. [1675]

(2) This Act shall apply to Northern Ireland in so far as it deals with any enactment relating to a subject with respect to which the Parliament of Northern Ireland has not power to make laws, but, save, as hereinbefore provided, shall not apply to Northern Ireland. [1676]

Section 1

SCHEDULE

PART I

1	2	3	4
Session and Chapter	Short Title	How far Continued	Amending Acts
*	*	* *	*
(8) 9 & 10 Geo. 6, c. 34.	The Furnished Houses (Rent Control) Act, 1946.	The whole Act.	— [1677]
*	*	* *	*

Furnished Houses (Rent Control) Act, 1946.—39 Halsbury's Statutes 288. This Act, which by s. 13 (3) was limited to expire on December 31, 1947, is continued until December 31, 1948 (see s. 1 (1), *supra*).

HOUSING (TEMPORARY ACCOMMODATION) ACT, 1947

(11 Geo. 6, c. 6)

PRELIMINARY NOTE

This Act is subsidiary to the Housing (Temporary Accommodation) Act, 1944 (37 Halsbury's Statutes 413), s. 1 of which empowered the Minister of Health to make temporary houses available to local authorities by arrangement made by him with the Minister of Works for the manufacture or construction of such houses and

for their erection on land owned by the local authorities. Under s. 8 (1) of that Act, the Treasury were empowered to issue out of the Consolidated Fund sums not exceeding £150,000,000 to defray the expenses of the Minister of Works in the above connection, but that sum proved insufficient for completion of the programme, chiefly because the costs of production proved to be higher than was originally estimated, and the maximum sum was therefore increased by s. 5 of the Building Materials and Housing Act, 1945 (38 Halsbury's Statutes 373), to £200,000,000. Even this sum, however, proved insufficient and s. 1 of the present Act increases it to £220,000,000. Some part of the sum expended on temporary houses will be recouped to the Exchequer through the annual payments made by local authorities to the Minister of Health (see ss. 3 (1), 8 (6) of the Act of 1944; 37 Halsbury's Statutes 415, 419), and through the proceeds of sale of materials when the temporary houses are taken down (see ss. 2, 8 (5) of the Act of 1944; 37 Halsbury's Statutes 414, 419). [1678]

An Act to increase the sums available for defraying expenses incurred by the Minister of Works under section one of the Housing (Temporary Accommodation) Act, 1944. [1679] [10th December, 1947.]

1. Increase of sums available for defraying expenses of Minister of Works under section 1 of Housing (Temporary Accommodation) Act, 1944.—The limit upon the sums which the Treasury may issue out of the Consolidated Fund of the United Kingdom for the purpose of defraying expenses incurred by the Minister of Works in connection with the manufacture, construction or erection of structures under arrangements made with him by the Minister of Health or the Secretary of State under section one of the Housing (Temporary Accommodation) Act, 1944, shall be increased by twenty million pounds; and accordingly in subsection (1) of section eight of that Act, as amended by section five of the Building Materials and Housing Act, 1945, for the words "two hundred million pounds" there shall be substituted the words "two hundred and twenty million pounds". [1680]

Housing (Temporary Accommodation) Act, 1944, ss. 1, 8 (1).—37 Halsbury's Statutes 414, 418.

Building Materials and Housing Act, 1945, s. 5.—38 Halsbury's Statutes 373.

2. Short title and extent.—(1) This Act may be cited as the Housing (Temporary Accommodation) Act, 1947. [1681]

(2) This Act shall not extend to Northern Ireland. [1682]

ORDERS, CIRCULARS AND MEMORANDA

Circular 155/47

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.
9th October, 1947

To: Rural District Councils (and selected Urban Housing Authorities) (England), County Councils (for information)

SIR,

RURAL HOUSING

ALLOCATION OF TENANCIES

I am directed by the Minister of Health to enclose for the early consideration of the Council a copy of a Memorandum on the subject of the allocation of tenancies of Council houses during the present period of emergency. The Memorandum has been prepared jointly with the Ministry of Agriculture and Fisheries and in consultation with the Rural District Councils' Association and representative organisations of employers and workers in the agricultural industry.

I am to emphasise what is said in the Memorandum as to the responsibility for the selection of tenants, which rests upon the local housing authority. The object of the procedure outlined in the Memorandum is, however, to ensure that during the present emergency the largest possible number of houses will be allocated to the agricultural population in order to assist in achieving the extended food production essential to national economic recovery. This procedure entails the closest possible liaison between local housing authorities and County Agricultural Executive Committees, and the Minister confidently relies upon the willing co-operation of the Council in carrying it out.

The Minister recognises that in certain districts local authorities will have to cater for the essential housing needs of miners in addition to those of agricultural workers. The Government have decided that an equal measure of priority should be accorded to the housing needs of these two groups. In such districts the Council, in considering the allocation of tenancies as between miners and agricultural workers, will no doubt be guided by all the relevant circumstances.

I am, Sir, etc.

* * * * *

The Clerk to the Authority.

HOUSES FOR THE AGRICULTURAL POPULATION

ALLOCATION OF TENANCIES

1. In view of the vital importance of increased home food production to the national economy it is urgently necessary to increase the numbers of men employed in agriculture and to do all that is possible to retain those now employed in the industry. As local authorities are aware, this need has been emphasised in recent public statements made by the Prime Minister on the Government's proposals for meeting the present economic crisis.

2. It has long been recognised that housing conditions are one of the most important factors in the retention and recruitment of agricultural labour.

3. Arrangements are now being worked out for giving special emphasis and assistance to the completion of houses under erection in rural districts for occupation by agricultural workers, and for considering application for authority to go to tender for new houses in the light of the pressing needs of agriculture for more workers. Inquiries are being made through County Agricultural Executive Committees as to the areas of greatest need and the extent to which these needs are covered by current housing programmes, or how far additional building is required. In the meantime Housing Authorities will wish to have immediate guidance on the Government's wishes as to the letting of houses in agricultural districts in connection with those houses which are now nearing completion.

4. The responsibility for selecting tenants and fixing rents is placed by statute on the shoulders of local housing authorities. There is no intention of interfering with the discretion of local authorities on this important and difficult matter. None the less at the present time when owing to economic circumstances, the letting of fresh contracts is restricted, it is necessary for the Government to ensure that in the national interest labour and materials are used and priorities are given for the erection of houses in such a way as to secure the maximum benefit to agriculture and to industries ancillary thereto.

5. It was with this object in view that arrangements were initiated in January, 1946, for consultation in regard to housing between Rural District Councils and County Agricultural Executive Committees, so as to provide for the guidance of the Rural District Councils information as to the localities in which there existed a need for additional accommodation for the agricultural population in the interests of home food production.

It is important that this consultation should be intensified and in particular, under the arrangements set out below, that County Agricultural Executive Committees should now give positive help to Housing Authorities by putting them in touch with potential recruits to agriculture from outside the district who might be considered for tenancies of new local authority houses. In many areas agriculture can only achieve the increased production required if the local labour force is augmented by recruits brought into the industry from outside, and these recruits will only be obtained if accommodation can be found for them in the district.

County Agricultural Executive Committees will be able to obtain from farmers information as to the number of new workers they would wish to employ if accommodation were available and the approximate dates when they wish to employ them. This information will be passed on to the Rural District Council, to facilitate the planning of the house building programme so as to ensure that the scale and extent of the agricultural needs are taken fully into account.

6. Some of the men to be employed will be single men : for these accommodation on the farm or in lodgings will be required. It will be very helpful if the Rural District Council can encourage their tenants to take in agricultural workers as lodgers when they have spare rooms. The temporary needs of some married agricultural workers who have no children may also be capable of being met in this way.

7. Families whose needs can be met only by a separate house and who are either already living or working in the district or who have a firm offer of employment in the district will no doubt for the most part make application to the local authority for the tenancy of a Council house. Agricultural workers and their families living in the district who have an established need for better accommodation will naturally have first call on new houses provided for such workers. It may well be found, however, in many districts that applications from agricultural workers are relatively few, and that a proportion of the houses required for such workers will need to be allocated to recruits coming from outside the district. In districts where the needs of increased food production call for an increase in the number of agricultural workers and such workers can be obtained if accommodation is available, it is important that all practicable arrangements should be made to facilitate a movement of labour which is of such importance in the national interest. In particular, families from outside the district will be unable to apply for a house in a particular parish until they have an offer of employment in that parish, and it is therefore desirable that C.A.E.C's should be notified well in advance of houses for the tenancies of which applications from outside the district can be considered. In these circumstances Rural District Councils will, it is hoped, make their procedure sufficiently flexible to provide for the letting of houses in suitable cases to agricultural workers not already resident in the district and whose names will not, therefore, already appear on the books of the Council.

8. The following procedure is suggested in such circumstances :—

(1) The C.A.E.C. will, as indicated in paragraph 5, have obtained information from farmers as to the additional workers they require and the dates they require them. The Committee will also be in

possession of lists of trainees and the dates when they will have completed their training and be seeking farm work, and will have passed this information on to the local authority.

(2) The local authority should notify the C.A.E.C. when a contract is let for the erection of houses in a parish in which they have been informed that additional agricultural workers are required, and approximately when they expect to be considering applications for the tenancies of those houses. They should also endeavour to give the C.A.E.C. an idea, at least two, and preferably three, months before the houses are ready for occupation, of the number of tenancies which they will be able to allocate to workers from outside the district.

(3) The C.A.E.C. will then obtain the names and full particulars of the individual workers concerned, including such details of their family circumstances as may be required by the Housing Authority for assessment of their housing need. The authority should be consulted as to the precise details that will require to be supplied by the C.A.E.C. to enable preliminary consideration to be given to the matter. This information should be supplied sufficiently in advance of the time when applications for tenancies are being considered by the authority to enable them to make any further enquiries from the worker himself which they may consider necessary. The timing can best be settled informally between the C.A.E.C. and the Rural District Council.

(4) Figures indicating the number of workers for whom employment in the district with farmers would be available, subject to accommodation being provided, should be kept fully up to date by C.A.E.C. They should also notify the Rural District Council if any individual applicant whose name has been submitted by them to the Rural District Council falls out and, where possible, should submit an alternative name.

The detailed procedure may, of course, be varied to suit the requirements of different districts, but it is hoped that there will be the fullest co-operation between C.A.E.C's and Rural District Councils in order to secure the desired results by whatever means are found mutually convenient.

9. The preceding paragraphs have dealt in some detail with the particular problem of fitting into the housing programme some arrangements to provide for the needs of those who have to move into a particular district if food production is to be expanded. There remains the larger and more general problem of the help which can be given by Rural District Councils in the discharge of their functions as Housing Authorities to maintain food production by the allocation to agricultural workers of houses as they are completed. The financial arrangements in the Housing Act had provided for an increased Exchequer subsidy and a lower rate contribution for houses occupied by agricultural workers. This does not, of course, mean that particular houses are earmarked for agricultural workers, but that the special rates of contribution will be payable in respect of the number of houses certified to be occupied by agricultural workers. Applications for houses must be considered by the local authority with a due regard to the housing needs of the various applicants, and even in the most agricultural districts a proportion of the houses will properly be let to other workers. Nevertheless in a large number of rural districts agriculture is so much the predominant industry that a large proportion of the houses should properly be let to agricultural workers, and such lettings will be of great benefit to increased food production. It is suggested that, without making any rigid rules, and consistently with the need to consider the circumstances of individual applicants,

each Rural District Council might well have in mind some proportion of houses to be so occupied based on the part at present played by agriculture in their district and any programme for increased production. [1683]

* * * * *

Circular 178/47

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.
29th December, 1947.

To : All Local Authorities
County Councils (for information)
England

SIR,

REQUISITIONING OF UNOCCUPIED HOUSES

I am directed by the Minister of Health to refer to Circular 114/47 and to state that he has decided to extend and hereby extends until the 30th June, 1948, the period for the exercise of the requisitioning powers delegated to Clerks of local authorities in Part II of Circular 138/45 as amended by Circulars 5/46 and 141/46. [1684]

I am, Sir, etc.

* * * * *

The Town Clerk, or
the Clerk to the Council.

Circular 106/48

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.
25th June, 1948.

To : All Local Authorities
County Councils (for information)
England.

SIR,

REQUISITIONING OF UNOCCUPIED HOUSES

I am directed by the Minister of Health to refer to Circular 178/47 and to say that he does not propose to renew, after the 30th June, 1948, the powers delegated to Clerks of local authorities in Part II of Circular 138/45, as amended by Circulars 5/46 and 141/46. After the 30th June, if it is proposed to requisition an unoccupied house, you should apply to the Minister's Principal Housing Officer who, if he is satisfied that the application should be granted, will issue a delegation authorising you to requisition the particular premises. The delegation will include a statement of the conditions subject to which it is issued. These conditions will be, generally, those already set out in the existing Circulars governing the requisitioning of unoccupied houses. In applying for any delegation in respect of particular premises, you should, of course, include full particulars concerning the premises, and the circumstances in which the delegation is desired. [1685]

I am, Sir, etc.

* * * * *

Town Clerk or Clerk of the Council.

Circular 109/48

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.
30th June, 1948.

To: All Local Authorities
(County Councils for information)
England.

SIR,

HOUSING (FINANCIAL AND MISCELLANEOUS PROVISIONS) ACT, 1946 REVIEW OF CONTRIBUTIONS

I am directed by the Minister of Health to refer to Circular 116/47 dated 30th June, 1947, regarding the contributions payable under the above-mentioned Act, and to state that the further review mentioned in the second paragraph of the Circular has been made, and that the Minister has now presented a further report to Parliament.

In the report it is stated that, having regard to the increase since 1st January, 1948, in the rate of interest charged for loans, to the latest figures of tender prices and to some preliminary figures of the final costs of houses which were tendered for in 1946, it would appear that the cost of building the 950 sq. ft. standard house will be higher than was estimated at the time when the original contributions were fixed. Accordingly, after consultation with representatives of the Associations of Local Authorities, the Minister has come to the conclusion that he would not be justified in making an order reducing the level of contributions, and that they should remain as at present in respect of houses completed before 30th June, 1949.

Subject, therefore, to the provisions of the Act, contributions of the amounts specified in the Act will be payable in respect of new houses completed before 30th June, 1949.

I am to add that the Minister on a broad view regards the loss to local authorities arising out of the higher current figures as offset for the time being by the lower charges over the last two years or so, and considers that they should look for relief in lower building prices. If, however, loan charges do not fall and the load on local authorities in respect of new houses remains substantially in excess of the original estimate, he will re-examine the position with them.

A copy of this Circular is enclosed for the information of the Chief Financial Officer. [1686]

I am, Sir, etc.

* * * * *

The Clerk of the Authority.

CASES

Public health—Housing—Accommodation of working classes—Recovery of possession—Right of local authority—Exclusion of Rent Restrictions Acts—Small Tenements Recovery Act, 1838 (*c.* 74), *s.* 1—*Increase of Rent and Mortgage Interest (Restrictions) Act*, 1920 (*c.* 17), *s.* 5 (2), (4)—*Housing Act*, 1936 (*c.* 51), *ss.* 82 (1), 156 (1) (*a*).

In the case of dwellings for the working classes provided by a local authority, the right of management, including the right to terminate a tenancy by notice, is a power which is expressly given to the authority by the Housing Act, 1936, s. 83, and it is, therefore, a power under an " enactment relating to the housing of the working classes " within the meaning of s. 156 (1) (*a*) of the Act, so as to exclude the operation of the Rent Restrictions Acts where the authority is seeking to recover possession at the termination of a tenancy.

R. v. *Snell, Ex parte Marylebone Borough Council*, [1942] 2 K. B. 137, at p. 144 ; [1942] 1 All E. R. 612, at p. 614, *criticised.*

The power to stay or suspend execution of an order for possession under the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, s. 5 (2), is a power which affects the right to possession and is among the provisions of the Rent Restrictions Acts excluded by s. 156 (1) of the Housing Act, 1936.

Semble : s. 5 (4) of the Act of 1920 does not give the county court judge power to postpone the operation of an order for possession but merely extends the life of a warrant for delivery of possession so as to cover the period of suspension given by s. 5 (2) of the Act.

Semble : the language of the Small Tenements Recovery Act, 1838, s. 1, whereby justices are given power to make an order for possession if the tenant fails to show " reasonable cause why possession should not be given under the provisions of this Act," refers not to the substance of a claim for possession but to the procedure, and merely entitles a tenant to ask that the case shall not be dealt with by the justices where he can satisfy them that summary procedure is not suitable, and it does not entitle the justices to refuse to make an order *e.g.*, on the ground of hardship.

Decision of the Divisional Court, [1947] 2 All E. R. 320, *affirmed.*—SHELLEY *v.* LONDON COUNTY COUNCIL, HARCOURT *v.* LONDON COUNTY COUNCIL, [1948] 1 K. B. 274 ; *sub nom.* LONDON COUNTY COUNCIL *v.* SHELLEY, HARCOURT *v.* LONDON COUNTY COUNCIL, [1947] 2 All E. R. 720 ; [1948] L. J. R. 333 ; 177 L. T. 662 ; 112 J. P. 77 ; 64 T. L. R. 22 ; 92 Sol. Jo. 11 ; 46 L. G. R. 19, C. A., *subsequently affirmed*, [1949] A. C. 56 ; [1948] 2 All E. R. 898, H. L. [1687]

Landlord and tenant—Rent restrictions—" Bona fide let at rent which includes payments in respect of attendance or use of furniture "—" Attendance " —" Furniture "—" Amount fairly attributable to attendance or use of furniture " —" Substantial portion " of " whole rent "—Rent and Mortgage Interest Restrictions Act, 1923 (*c.* 32), *s.* 10 (1) (*as amended by Sched. I to the Rent and Mortgage Interest Restrictions Act*, 1939)—*Rent and Mortgage Interest Restrictions Act*, 1939 (*c.* 71), *s.* 3 (2) (*b*).

By the Rent and Mortgage Interest Restrictions Act, 1939, s. 3 : " (2) The principal Acts shall not, by virtue of this section, apply . . . (*b*) save as is expressly provided in the said Acts, as amended by virtue of this section, to any dwelling-house *bona fide* let at a rent which includes payments in respect of board, attendance or use of furniture. . . ." By the Rent and Mortgage Interest Restrictions Act, 1923, s. 10 (as amended by Sched. I to the Act of 1939) : " (1) For the purposes of s. 3 (2) (*b*) of the Rent and Mortgage Interest Restrictions Act, 1939 . . . a dwelling-house shall not be deemed to be *bona fide* let at a rent which includes payments in respect of attendance or the use of furniture unless the amount of rent which is fairly attributable to the attendance or the use of the furniture, regard being had to the value of the same to the tenant, forms a substantial portion of the whole rent."

In the phrase " *bona fide* let at a rent which includes payments in respect of board, attendance or use of furniture," " *bona fide* " governs all the words which follow and the phrase amounts to a stipulation that the rent to be paid genuinely includes payments in respect of board, attendance or use of furniture.

" Attendance " means service personal to the tenant performed by an attendant provided by the landlord in accordance with his covenant for the benefit or convenience of the individual tenant in his use or enjoyment of the demised premises. Services common to others (*e.g.*, heating of communal water supply or the provision of a porter or a housekeeper for a block of flats) will not constitute attendance, but a covenant by the landlord to supply someone to carry coals up to a flat or refuse down from it, or to provide a

house-maid or valet to discharge duties in connection with the flat, is a covenant to provide attendance.

Dictum of Lord GREENE, M.R., in *Engvall* v. *Ideal Flats, Ltd.*, [1945] K. B. 205; [1945] 1 All E. R. 230, *approved.*

A tenant who has contracted to pay rent for attendance which the landlord covenants to supply cannot reduce the proportion of the rent fairly attributable to such attendance by saying that, though he is entitled to have it, he does not want it.

" Furniture " has a statutory meaning which cannot be extended by a stipulation in the lease, and consists of articles in which the landlord has a proprietary interest. They must be commonly regarded as " furniture," and loose articles so regarded will be within the statutory meaning. If, however, the articles are fixed to the fabric of the demised premises, they should be regarded as part thereof unless they can be detached without appreciable damage to or alteration of the fabric or themselves. " Use of furniture " in s. 10 (1) of the Act of 1923 refers to articles provided solely for the use or enjoyment of the dwelling in question. Articles provided in common halls for the use of all the tenants in a block of flats are excluded.

In the phrase " amount of rent which is fairly attributable to attendance or the use of furniture, regard being had to the value of the same to the tenant," the words " amount of rent " are equivalent to " the portion of the whole rent," and the words " of the same " refer to the attendance or to the use of furniture or to both when both are provided. " Tenant " refers to the actual tenant whose lease is under examination, not to the average or normal tenant of that class of property. The judge of fact should take the furniture in the state that it is, and fix a fair rental for it having regard to its value to the tenant, but such value is not to govern the calculation absolutely. " The amount of rent fairly attributable " is not necessarily the amount actually attributed in the lease. It will depend on a number of considerations of which the chief is that, if and so far as the landlord does not provide furniture which the tenant would normally require to use, the tenant would have to provide it himself. It is the value to the tenant of the landlord's covenant which mainly controls the figure to be arrived at, and not the cost of the furniture to the landlord, although the latter may also be relevant.

What is a " substantial portion " of the whole rent must be left to the discretion of the judge of fact in each case, the onus being on the landlord. It must be a considerable part of the whole contractual rent, *i.e.*, more than just enough to avoid the *de minimis* principle. Where payments are made both in respect of attendance and of the use of furniture, the better construction of s. 10 (1) of the Act of 1923 appears to be that the payments should be added together to determine whether the total forms a " substantial portion " of the whole rent.

" Whole rent " means the entire contractual rent payable by the tenant including the rates if the landlord pays them.

Decisions of the Court of Appeal, [1946] 2 All E. R. 287, 294, *affirmed.*—PALSER *v.* GRINLING, PROPERTY HOLDING CO., LTD. *v.* MISCHEFF, [1948] A. C. 291; [1948] 1 All E. R. 1; [1948] L. J. R. 600; 64 T. L. R. 2; 92 Sol. Jo. 53, H. L. [1688]

Landlord and tenant—Recovery of possession—Costs—Action in High Court —House within Rent Restrictions Acts—Acts not pleaded in defence—Increase of Rent and Mortgage Interest (Restrictions) Act, 1920 (*c.* 17), *s.* 17 (2).

A landlord brought an action for possession of a dwelling-house subject to the Rent Restrictions Acts, on the ground of breach, by the tenant, of a covenant not to sub-let. The tenant was unable to claim the protection of the Acts, which were not pleaded :—

Held: the action was a common law action and not a proceeding " arising

out of " the Act of 1920, or " any of the provisions thereof," within the meaning of s. 17 (2), and, therefore, the landlord was not precluded by that subsection from being awarded costs.—JOSLOWITZ *v.* BURSTEIN, [1948] 1 K. B. 408 ; [1948] 1 All E. R. 40 ; 64 T. L. R. 113. [1689]

Landlord and tenant—Rent restriction—Possession—Short tenancy—House rendered uninhabitable by bombing—Notice to tenant to quit before rebuilding completed—Right of tenant to occupy rebuilt house—Rent and Mortgage Interest Restrictions Act, 1939 (*c.* 71), *s.* 3 (3)—*Landlord and Tenant (War Damage) (Amendment)* Act, 1941 (*c.* 41), *s.* 1 (6).

On June 24, 1940, the landlords let to the tenant a dwelling-house at a weekly rental. On March 8, 1941, the house was damaged by enemy action and rendered unsafe for habitation and the tenant vacated the premises, but no notices under the Landlord and Tenant (War Damage) Acts were served. Later, the house, except for the foundations, was demolished by the local authority, and in due course there began on the site the construction of a house similar in all respects to the old house, although new materials were employed. On June 10, 1947, the landlords served a valid notice on the tenant to quit on June 21, 1947. The tenant claimed that, on the expiration of the notice, he became a statutory tenant under the Rent Restrictions Acts, and sought a declaration that when the house, which was in the course of construction on the site, was completed, he would be entitled to occupy it :—

Held : (i) the house in the course of erection was not the same house as that which had been damaged by enemy action.

(ii) there could not be read into the Landlord and Tenant (War Damage) (Amendment) Act, 1941, s. 1 (6), a provision that, where property has suffered war damage, the landlord could not determine a short tenancy without satisfying the court that the circumstances are such as to justify him in determining the tenancy.

(iii) the protection of the Rent Restrictions Acts was not applied by the Rent and Mortgage Interest Restrictions Act, 1939, s. 3 (3), to the site of a dwelling-house which had ceased to exist.

(iv) on the day before the notice to quit expired the tenant was not tenant of a dwelling-house let as a separate dwelling which was at that date being used and occupied as a dwelling-house, and, therefore, on the expiration of the notice, the tenant had no claim to occupy the premises then or at any future time.

Quaere : whether the tenant could have claimed to be the statutory tenant of the new house if the landlord had built and completed the house on the site before determining the tenancy.—ELLIS & SONS AMALGAMATED PROPERTIES, LTD. *v.* SISMAN, [1948] 1 K. B. 653 ; [1948] 1 All E. R. 44 ; [1948] L. J. R. 929 ; 64 T. L. R. 11 ; 91 Sol. Jo. 692, C. A. [1690]

Landlord and tenant—Small tenement—Recovery of possession—Service occupancy—Occupation as licensee—House occupied free of rent by farm stockman—Small Tenements Recovery Act, 1838 (*c.* 74), *s.* 1.

A farmer required a stockman employed by him to live in a house on the farm, free of rent and rates, for the proper performance of his duties :—

Held : the holding being a service occupancy by leave and licence of the farmer, there was no tenancy in respect of which an order for possession could be made under the Small Tenements Recovery Act, 1838, s. 1.

Observations of Lord ALVERSTONE, C.J., in *Dover* v. *Prosser*, [1904] 1 K. B. 84, 85, *applied*.—RAMSBOTTOM *v.* SNELSON, [1948] 1 K. B. 478 ; [1948] 1 All E. R. 201 ; [1948] L. J. R. 946 ; 112 J. P. 160 ; 64 T. L. R. 55 ; 92 Sol. Jo. 56 ; 46 L. G. R. 139, D. C. [1691]

Housing—Purchase price—Limitation—House constructed under building licence—House, garden and approach to garage shown on plan—Sale of house and garden for licensed price, but extra sum charged for approach—Building Materials and Housing Act, 1945 (*c.* 20), *s.* 7 (1), (3).

In granting to the appellants a building licence, the local authority fixed the price at which the house might be sold at £1,140. The plan, which was required to be submitted to the authority with the application for the licence, was a block plan, and, in the case of the house in question, it showed a plot of land bearing on it a house with a garden in front of and behind it and a strip of land on one side leading to a part of the garden on which a garage could be built. The appellants sold the house together with all the land comprised in the plot, as marked on the plan, for £1,200, the agreement of sale stating that the price of the house and garden was £1,140 and the price of the extra strip of land was £60. Where a house has been constructed under the authority of a building licence which has limited the price for which the house may be sold, it is an offence against the Building Materials and Housing Act, 1945, s. 7 (1), to sell, or offer to sell, the house within four years for a price greater than the permitted price :—

Held : the house was sold for a consideration which consisted of something other than the payment of a money price for the house (*i.e.*, the purchase of the additional land) and the total value of the consideration which was required to be taken as the price under s. 7 (3) of the Building Materials and Housing Act, 1945, was £1,200. There had, therefore, been a breach of the condition of the licence contrary to s. 7 (1) of the Act.—MODERN HOUSING (LEICESTER), LTD. *v.* GUNNING, [1948] 1 All E. R. 784 ; 112 J. P. 248 ; 64 T. L. R. 305 ; 92 Sol. Jo. 284 ; 46 L. G. R. 276. [1692]

Rent control—Furnished letting—" Furniture "—Electric clock—Curtains—Gas cooker—Ascot water heater—Furnished Houses (Rent Control) Act, 1946 (*c.* 34), *s.* 2 (1).

In an application to a rent tribunal for a reduction of his rent under the Furnished Houses (Rent Control) Act, 1946, s. 2 (1), the tenant of a flat set out, as the furniture in the flat, curtains in two rooms (which were supplied by the landlord because he wanted uniformity of appearance in the block of flats), a gas cooker and an electric clock. The flat also contained an Ascot water heater which was the property of the landlord. There was no reference to any of these articles in the tenancy agreement :—

Held : as regards the clock and the curtains, the principle *de minimis* applied ; the cooker and Ascot heater were both part of the ordinary equipment of a dwelling-house ; the flat, therefore, was not let " in consideration of a rent which includes payment for the use of furniture " within s. 2 (1) ; and the tribunal had no jurisdiction to entertain the tenant's application.

Observations of Viscount SIMON in *Palser* v. *Grinling, Property Holding Co., Ltd.* v. *Mischeff*, [1948] A. C. 291, 313, [1948] 1 All E. R. 1, 9, *applied.*

Per cur. : in *R.* v. *Hampstead and St. Pancras Furnished Houses Rent Tribunal, Ex parte Ascot Lodge, Ltd.*, [1947] K. B. 973 ; [1947] 2 All E. R. 12, and *R.* v. *Croydon and District Rent Tribunal, Ex parte Langford Property Co., Ltd.*, [1948] 1 K. B. 60, which had to do with premises let at a rent which included payment for services, the court laid down that the only question was whether the tenant was contractually entitled to receive the services from the landlord, and not whether the landlord, in fact, supplied the same as a matter of grace or convenience. It is possible that different considerations apply in a case where a letting is alleged to be with furniture. The landlord, merely by omitting all reference to furniture in the tenancy agreement, cannot prevent the rent tribunal acquiring jurisdiction if, in fact, what is let is a house " in consideration of a rent which includes

payment for the use of furniture."—R. *v.* BLACKPOOL RENT TRIBUNAL, *Ex parte* ASHTON, [1948] 2 K. B. 277; [1948] 1 All E. R. 900; 112 J. P. 308; 64 T. L. R. 338; 92 Sol. Jo. 350; 46 L. G. R. 318. [1693]

Rent restriction—Furnished letting—Rent of furniture substantial portion of whole—Date when comparison to be made—Increase of Rent and Mortgage Interest (Restrictions) Act, 1920 (*c.* 17), *s.* 12 (2) (i) (*as amended by the Rent and Mortgage Interest Restrictions Act*, 1923 (*c.* 32), *s.* 10 (1)).

In considering whether, for the purposes of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, s. 12 (2) (i) (as amended by the Rent and Mortgage Interest Restrictions Act, 1923, s. 10 (1)), the rent attributable to the use of furniture forms a substantial portion of the total rent, the date on which to compare the rent so attributable with the total rent is that on which the original contract of tenancy is made.—JOZWIAK *v.* HIEROWSKI, [1948] 2 All E. R. 9; [1948] L. J. R. 1643; 64 T. L. R. 322; 92 Sol. Jo. 361, C. A. [1694]

Housing—Working classes—"Insanitary" house—"Fit for human habitation"—General standard in district—Hot water system out of order—Other facilities for heating water—Housing Act, 1936 (*c.* 51), *ss.* 9 (1), 188 (4).

A local authority, pursuant to s. 9 (1) of the Housing Act, 1936, served a notice on the owner of a house suitable for occupation by persons of the working classes within s. 9 (1) requiring him to execute certain work in connection with the hot water system in the house. On appeal to the county court the judge found, *inter alia*, that the hot water system worked by an Ideal boiler was at all material times out of order, but that the house had running water and a gas cooking stove and that gas and electricity were laid on. He also found that 25 per cent. of comparable houses in the district had no hot water system. On those facts he held that the absence of a domestic hot water system did not constitute the house "unfit for human habitation" within the meaning of s. 9 (1) of the Act, having regard, as required by s. 188 (4) of the Act, to the general standard of accommodation for working classes in the district:—

Held: the judge was not bound by the particular proportion which houses of a certain standard in the district bore to houses of a lower standard to say that the house was not up to the general standard, since s. 188 (4) of the Act did not lay down that exclusive regard must be had to that factor, and, there being no dichotomy between houses which were up to the general standard, on the one hand, and houses which were unfit for human habitation, on the other, it did not follow that a house was unfit for human habitation because it was below the general standard, and the judge was, therefore, right in his conclusion.—DALY *v.* ELSTREE RURAL DISTRICT COUNCIL, [1948] 2 All E. R. 13; 112 J. P. 316; 64 T. L. R. 318; 92 Sol. Jo. 335; 46 L. G. R. 254, C. A. [1695]

Housing—Registration of living accommodation—Exclusion of Rent Restrictions Acts—Householder not in physical occupation of premises at date of registration—Relative dates of letting and registration—Defence (General) Regulations, 1939 (*S. R. & O.*, 1939, *No.* 927) (*as amended by S. R. & O.*, 1945, *No.* 1452, *and S. R. & O.*, 1945, *No.* 1622), *reg.* 68*CB* (1), (6).

On February 14, 1946, the owner of premises, who was contemplating going abroad, made a provisional agreement, which was not intended to be binding until she received an appointment to employment abroad, to let a part of her premises to the tenant for occupation as a dwelling-house. On February 22, 1946, the owner registered that part of the premises with the local housing authority, under the Defence (General) Regulations, 1939, reg. 68CB (added by S. R. & O., 1945, No. 1452), as living accommodation

available for occupation by tenants or lodgers. At that date the only physical occupation which the owner had of the premises was that the rooms other than those registered contained her furniture. Subsequently, she obtained her appointment, and the tenant went into occupation of the rooms. The owner, having served a valid notice to quit, now sought possession of the part of the premises so let, but the tenant claimed the protection of the Rent Restrictions Acts. Regulation 68CB provides: "(1) Where a local housing authority have established a register for the purposes of this regulation, any person having in any dwelling in the area of the authority occupied by him living accommodation which he is willing to make available . . . for occupation by tenants or lodgers, may apply to the authority for registration of the accommodation . . . (6) No accommodation registered for the purposes of this regulation which has been let in accordance with the registered terms and conditions shall, as respects that letting, be treated as a dwelling-house to which the Rent and Mortgage Interest Restrictions Acts, 1920 to 1939, apply . . ." :—

Held: (i) at the time of the registration the owner had a sufficient occupation of the premises to allow of registration under reg. 68CB, for the word "occupied" in para. (1) of the regulation related to the kind of occupation which was required for rating purposes and not to the physical occupation which was required in the case of a tenant claiming the protection of the Rent Restrictions Acts.

(ii) since the binding agreement for letting (as distinct from the provisional agreement of February 14, 1946) took place after the registration under the regulation, para. (6) had effect, the premises let were not a dwelling-house to which the Rent Restrictions Acts applied, and the owner was entitled to possession.

Per COHEN, L.J.: so long as a registration under reg. 68CB (1) remains in force, para. (6) of that regulation has effect.

Quære: whether, if premises were registered, the validity of the registration could be challenged in proceedings for possession.—BALDWIN *v.* GURNSEY, [1949] 1 K. B. 102; [1948] 2 All E. R. 165; [1948] L. J. R. 1800; 64 T. L. R. 465; 92 Sol. Jo. 424, C. A. [1696]

Rent control—Furnished house—Reduction of rent—Reduction below amount of standard rent—Furnished Houses (Rent Control) Act, 1946 (c. 34), s. 7.

The Furnished Houses (Rent Control) Act, 1946, s. 7, provides: "Sections 9 and 10 of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920 (which relate respectively to limitation on rent of houses let furnished and to penalty for excessive charges for furnished lettings), shall not apply as regards the rent charged for any house or part of a house entered in the register under the provisions of this Act in respect of any period subsequent to such registration, but save as aforesaid nothing in this Act shall affect any provisions of the Rent and Mortgage Interest Restrictions Acts, 1920 to 1939."

In 1946 the landlords let unfurnished certain premises which were within the Rent Restrictions Acts, but they provided various services and it was accepted that the premises were within the Act of 1946. The letting was a "first letting" and the Rent and Mortgage Interest Restrictions Act, 1939, was applicable thereto, as that the contractual rent was the standard rent. The tenant applied to a rent tribunal under the Act of 1946, and the contractual rent was ordered to be reduced:—

Held: the reduction "affected" provisions of the Rent Restrictions Acts within the meaning of s. 7 of the Act of 1946, namely, those under which the standard rent was determined, and, if need be, apportioned, and under which it might, in certain circumstances, be increased, and, therefore, the tribunal had exceeded its jurisdiction.

Decision of the Divisional Court, [1947] 2 All E. R. 15, *affirmed*.

Per cur. : in a loose sense it is not incorrect to say that a lessor is authorised by the Rent Restrictions Acts to receive the standard rent, because those Acts impliedly recognise and leave undisturbed his right to exact that rent by contract while eliminating his common law right to contract effectively for anything more. Strictly, however, a lessor's right to receive, and, if necessary, enforce, payment of the standard rent is in no way conferred by the Acts. It arises only out of the contractual relations into which he enters with his tenant.—R. *v.* PADDINGTON AND ST. MARYLEBONE RENT TRIBUNAL, *Ex parte* BEDROCK INVESTMENTS, LTD., [1948] 2 K. B. 418; [1948] 2 All E. R. 528; 112 J. P. 367; 64 T. L. R. 388; 92 Sol. Jo. 408; 46 L. G. R. 267, C. A. [1697]

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STATUTES

EMERGENCY LAWS (MISCELLANEOUS PROVISIONS) ACT, 1947

(11 & 12 GEO. 6, c. 10)

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An Act to make further provision with respect to the Defence Regulations continued in force by the Emergency Laws (Transitional Provisions) Act, 1946, and with respect to certain emergency and temporary enactments extended by or contained in that Act; to repeal certain other emergency enactments; and for purposes connected with the matters aforesaid. [1698]

[18th December, 1947.]

* * * * *

5. Further extension of certain other emergency enactments.—

* * * * *

(2) The following sections of the Act of 1946, being sections which extend the operation of the enactments therein referred to until the thirty-first day

of December, nineteen hundred and forty-seven, shall have effect as if for the references to that date there were substituted references to the tenth day of December, nineteen hundred and fifty, that is to say :—

* * * * *

(*d*) section eleven (which extends the period after which under subsection (3) of section three of the Guardianship (Refugee Children) Act, 1944, the appointment of guardians and tutors is prohibited. [1699]

General note.—The Guardianship (Refugee Children) Act, 1944 (37 Halsbury's Statutes 334), provides for the appointment of guardians and tutors to certain refugee children. S. 3 (3) of that Act prohibited the making of any appointments after the expiration of the Emergency Powers (Defence) Act, 1939 (32 Halsbury's Statutes 930), for children in respect of whom no earlier appointment had been made, but the operation of the Act was extended to December 31, 1947, by s. 11 of the Emergency Laws (Transitional Provisions) Act, 1946 (39 Halsbury's Statutes 886). The present provisions further extend its operation to December 10, 1950. See also s. 7, *supra*, as to possible further extensions.

Act of 1946.—This is the Emergency Laws (Transitional Provisions) Act, 1946 (39 Halsbury's Statutes 879) (s. 1 (1) of the present Act). For s. 11 of the Act of 1946, see 39 Halsbury's Statutes 886.

Guardianship (*Refugee Children*) *Act*, 1944, *s.* 3 (3).—37 Halsbury's Statutes 336.

* * * * *

7. Extension of Defence Regulations and enactments by Order in Council in pursuance of an Address of both Houses.—If at any time while any Defence Regulations specified in Part II or Part III of the First Schedule to this Act, or any enactments contained in Part I of the Act of 1946, are in force, an Address is presented to His Majesty by each House of Parliament praying that those Regulations or enactments, or any of them, should be continued in force for a further period not exceeding one year from the time at which they would otherwise expire, His Majesty may by Order in Council direct that the Regulations or enactments to which the Address relates shall continue in force for that further period. [1700]

General note.—This section contains an important power, exercisable by Order in Council in pursuance of Addresses of both Houses, to extend for further periods, not exceeding one year at a time, any of the enactments contained, *inter alia*, in Part I of the Emergency Laws (Transitional Provisions) Act, 1946, comprising ss. 1 to 14 inclusive thereof (39 Halsbury's Statutes 881 *et seq.*). This includes s. 11 of that Act which extended the period for appointment of guardians and tutors under the Guardianship (Refugee Children) Act, 1944 (37 Halsbury's Statutes 334).

* * * * *

12. Short title and commencement.—(1) This Act may be cited as the Emergency Laws (Miscellaneous Provisions) Act, 1947. [1701]

(2) This Act, except sections eight, ten and eleven, shall come into operation on the thirty-first day of December, nineteen hundred and forty-seven. [1702]

Shall come into operation.—In accordance with sub-s. (2), *supra*, the provisions of s. 5 (2), *ante*, came into operation on December 31, 1947, the date when the prohibition therein referred to would otherwise have taken effect.

* * * * *

CHILDREN ACT, 1948

(11 & 12 Geo. 6, c. 43)

PRELIMINARY NOTE

This Act is based on the Report of the Care of Children Committee (Cmd. 6922), an inter-departmental committee appointed jointly by the Ministers of Health and Education in 1945 under the chairmanship of Miss Myra Curtis, C.B.E., to inquire into the methods of providing for children deprived of a normal home life. The

Act has three main purposes. First, it replaces on more generous lines the former Poor Law provisions with regard to the care of deprived children by local authorities. Secondly, it lays down the administrative arrangements to be adopted by local authorities in discharging their functions, both under this Act and under certain other Acts, in particular the Children and Young Persons Act, 1933 (26 Halsbury's Statutes 168), relating to child welfare. Thirdly, it concentrates in the Secretary of State the central responsibility for the maintenance and care of children, hitherto divided between the Secretary of State and the Minister of Health. In addition, the Act strengthens the control of the Secretary of State over voluntary homes and voluntary organisations, enlarges the child life protection provisions of the Public Health Acts, and contains a number of financial, miscellaneous and general provisions.

The present Act, which received the Royal Assent on June 30, 1948, came into operation on July 5, 1948 (see s. 62 (2)), simultaneously with the principal provisions of the National Assistance Act, 1948, title PUBLIC ASSISTANCE, *post*, to which it is largely complementary.

Statutory provision for child welfare has developed in a piecemeal fashion, central responsibility being divided among a number of different government departments. The Curtis Committee recommended that while any particular need of deprived children should come within the purview of the department dealing with such needs in regard to normal children, central responsibility for such children, should be placed on a single Minister. While the Act does not quite achieve this, it does, by the transfer of the functions of the Minister of Health as to the care and supervision of children under the Poor Law and the Public Health Acts to the Secretary of State, effect a very substantial measure of unified control. As a result, except for the Ministry of Pensions, only two government departments are now responsible for dealing with the care and maintenance apart from their parents of any considerable number of educable children; these are the Secretary of State, who is responsible for normal healthy children without parents or guardians able and willing to care for them, or from whose care they have been removed by court orders, and the Minister of Education, who is responsible for children boarded out with foster parents or in hostels or schools for educational reasons (see the Education Act, 1944, ss. 8 (2) (*d*), 50; 37 Halsbury's Statutes 134, 178). In the exercise of his child welfare functions the Secretary of State is to be advised by an Advisory Council on Child Care consisting of persons appointed by him, among whom are to be persons with local government experience (s. 43).

A similar concentration of responsibility is effected at local authority level. The local (or welfare) authorities for the purpose of the following enactments dealing with child welfare are now confined to county councils and county borough councils, or, in the case of London, the London County Council (see s. 38, and note thereto). These enactments are:

(*a*) The Children and Young Persons Act, 1933, Parts III and IV (26 Halsbury's Statutes 192—223);
(*b*) The child life protection provisions of the Public Health Act, 1936, Part VII (29 Halsbury's Statutes 460), and the Public Health (London) Act, 1936, Part XIII (30 Halsbury's Statutes 581);
(*c*) The Adoption of Children (Regulation) Act, 1939 (32 Halsbury's Statutes 205); and
(*d*) The present Act.

The Curtis Committee attributed many of the defects in the public care of children to overlapping and confusion of functions among different committees of local authorities. The Act now lays down the general rule that a local authority's functions under the above enactments are to be discharged by a special committee called the Children's Committee which is to deal with no other matters (s. 39). In addition, every local authority must appoint a children's officer (s. 41).

Part I of the Act deals with the duty of local authorities to assume the care of children. The children concerned are, in general terms, those apparently under the age of seventeen for whose welfare the authority's intervention appears to be necessary and who are either orphans, abandoned or lost, or have parents or guardians temporarily or permanently unable or unfit to look after them (s. 1 (1)). Having taken a child into their care, the authority are under a duty to keep him, so long as his welfare appears to require it, up to the age of 18 (s. 1 (2)). The authority

are not, however, to keep a child in their care if any parent or guardian desires to take over its care, and are to endeavour to secure that the care of the child is taken over either by a parent, guardian, relative or friend in all cases where this appears to be consistent with the child's welfare (s. 1 (3)).

A local authority is authorised to vest in themselves by resolution the powers and rights of parents with respect to certain children in their care. Notice of the passing of the resolution is to be served on any parent or guardian whose whereabouts are known, and if within one month such person serves a notice of objection, the resolution will lapse after fourteen days unless the matter is brought by the authority before a juvenile court and the court upholds the resolution (s. 2). Apart from this, a resolution of this kind will remain in force until the child reaches the age of eighteen, unless the local authority previously rescind it (which they may do at any time if it is in the child's interest), or it is determined by an order of a juvenile court (s. 4), or the child becomes subject to an approved school order (s. 6 (3) (*a*)).

Hitherto orders of court under the Children and Young Persons Act, 1933, ss. 57, 62 (1) (*b*), 64 (26 Halsbury's Statutes 206, 208, 209), committing a young offender to the care of a " fit person " (which, by virtue of s. 76 (1) thereof, includes a local authority) could only be made if that person were willing to undertake his care. The present Act now makes it obligatory upon a local authority to accept appointment as a " fit person ", except where either a probation or supervision order is in force in relation to the child or the court propose to make such an order. They may, however, unless undue delay would result, make representations to the court before the " fit person " order is made (s. 5).

Special provisions apply in cases where a child taken into a local authority's care is, or later becomes, subject to an order of court (s. 6) or to the Mental Deficiency or Lunacy and Mental Treatment Acts (s. 8), or where the welfare of the child is the responsibility of the Minister of Pensions (s. 7).

Part II of the Act deals with the powers and duties of local authorities in relation to children in their care, whether received by the authorities under the present Act or committed to their care as fit persons under the Children and Young Persons Act, 1933, *supra* (s. 11). Their general duty is to further the best interests of the child and to afford him opportunity for the proper development of his character and abilities (s. 12 (1)). In providing for him reasonable use is to be made of facilities and services available for children in the care of their own parents (s. 12 (2)). As regards accommodation and maintenance, the child is preferably to be boarded out, but where this is impracticable or undesirable he is, as a rule, to be maintained either in a local authority home provided under the Act or in a voluntary home. In certain circumstances, however, accommodation provided under the National Assistance Act, 1948, title PUBLIC ASSISTANCE, *post*, or in hostels (whether provided by a local authority or not) may be used as an alternative (s. 13).

The Act does not deal with what is perhaps the most satisfactory way of providing for permanently deprived children, namely, adoption, since this is to be the subject of separate legislation, but Circular 160/48 issued by the Secretary of State suggests that local authorities should have regard to the value of adoption in all suitable cases.

Local authorities may, and if the Secretary of State so requires, must, provide homes for children in their care. The homes need not, however, be situated inside the local authority's area, and the authority may, instead of providing a home themselves, arrange with another local authority to accommodate the children in a home provided by the latter. A home is to afford separate accommodation for the temporary reception of children (s. 15).

In addition to homes, local authorities may, with the approval of the Secretary of State, provide hostels for persons over compulsory school age but under twenty-one who are, or since ceasing to be of school age have been, in the care of a local authority. In order that they may not be segregated from their more fortunate fellows, the local authority may admit to these hostels other young persons within the same age-groups (s. 19).

It becomes the duty of a local authority to advise and befriend children between the ages of fifteen and eighteen who have formerly been in the care of a local authority or a voluntary organisation, unless the authority is satisfied that the welfare of the child does not require it or that the voluntary organisation will undertake the duty (s. 34).

Other provisions of Part II deal with emigration (s. 17), the burial or cremation of deceased children (s. 18), and financial assistance for persons over eighteen (s. 20).

Part III of the Act deals with contributions towards the maintenance of children in the care of a local authority. Liability is now confined to the parents of a child under sixteen and the child himself, after attaining that age, if he is in remunerative full-time work (s. 24). The provisions for the enforcement of contributions in the case of children subject to approved school or " fit person " orders contained in the Children and Young Persons Act, 1933, ss. 86–88 (26 Halsbury's Statutes 223–225), are extended to cover the case of children taken into the care of a local authority under this Act (s. 23). In addition, the power given by the said s. 88 of applying for an order directing payments under affiliation orders to be made to the local authority instead of to the mother, is supplemented by a new power entitling the authority in cases where no affiliation order has been made, itself to apply for an order which may provide for payments thereunder to the authority (s. 26).

Part IV of the Act deals with voluntary homes and voluntary organisations. Hitherto, the Secretary of State has had a power of control over voluntary homes as defined in the Children and Young Persons Act, 1933, s. 92 (26 Halsbury's Statutes 230), by virtue of s. 95 of that Act. This is now replaced by a more stringent power embracing a wider range of voluntary homes. As from January 1, 1949, all voluntary homes must be registered in a register to be kept by the Secretary of State. Homes in existence on July 5, 1948, are entitled to be registered, but in all other cases registration is at the discretion of the Secretary of State (s. 29). For the forms in which application for registration is to be made, see the Voluntary Homes (Registration) Regulations, 1948 (S.I. 1948 No. 2408). An appeal from a refusal to register a home or from a proposal to remove a home from the register lies to an appeal tribunal constituted in accordance with Sched. I, Part I (s. 30). Regulations may be made as to the conduct of voluntary homes (s. 31). Regulations may also be made controlling the activities of voluntary organisations, both as regards their child-emigration arrangements and the boarding-out of children (s. 33).

Part V of the Act deals with child life protection. The Public Health Act, 1936, Part VII (29 Halsbury's Statutes 460–470), and the Public Health (London) Act, 1936, Part XIII (30 Halsbury's Statutes 581–588), which provide for protecting children who are maintained apart from their parents for reward, and the Adoption of Children (Regulation) Act, 1939, s. 7 (32 Halsbury's Statutes 210), which provides for the supervision of children in certain cases pending adoption, all of which have hitherto been confined to children under the age of nine, are now extended to cover all children up to the limit of compulsory school age (s. 35), and, in some cases, up to the age of eighteen (s. 36). In addition, the class of children protected by the Public Health Acts is enlarged (s. 37).

Part VI of the Act sets out the administrative arrangements to which reference has already been made, and contains, in addition, a number of financial provisions. The Secretary of State, for instance, is enabled to defray or contribute towards the expenses of persons undergoing training in child care, and to make grants towards the cost of courses for such persons (s. 45). In addition, the Secretary of State is empowered to make grants in certain circumstances for the improvement of voluntary homes, and a local authority, with the Secretary of State's consent, may make contributions to child welfare organisations (s. 46). Exchequer grants are to be payable to local authorities, the evident intention of which is to divide equally between the Exchequer and local authorities the cost of providing for deprived children, apart from expenditure in connection with approved schools and remand homes which is grant-aided under the Children and Young Persons Act, 1933, s. 104 (26 Halsbury's Statutes 237) (s. 47).

The final Part of the Act, Part VII, contains a number of miscellaneous and general provisions. The Guardianship of Infants Act, 1925, s. 4 (9 Halsbury's Statutes 821), is amended so as to enable county courts and courts of summary jurisdiction to appoint a guardian for an infant without a parent or guardian and with respect to whom no person has parental rights (s. 50). Formerly such an appointment could only be made by the Judges of the Chancery Division in the exercise of their inherent powers, a method which was in many cases unduly expensive. Orders for the payment of money under the Guardianship of Infants Acts, which have hitherto been enforceable as orders for the payment of civil debts recoverable summarily (see s. 7 (4) of the Act of 1925; 9 Halsbury's Statutes 823; now repealed by s. 60 (3) and Sched. IV, *post*), are henceforth to be enforceable in

the same way as affiliation orders, *i.e.* by distress and committal (s. 53). Part VII also contains provisions dealing with the entry and inspection of premises (s. 54), the prosecution of offences (s. 55), the acquisition of land (s. 56), and the transfer, superannuation and compensation of officers (s. 57). Finally, it incorporates Sched. II containing the necessary transitional provisions (s. 60 (1)). [1703]

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An Act to make further provision for the care or welfare, up to the age of eighteen and, in certain cases, for further periods, of boys and girls when they are without parents or have been lost or abandoned by, or are living away from, their parents, or when their parents are unfit or unable to take care of them, and in certain other circumstances; to amend the Children and Young Persons Act, 1933, *the Children and Young Persons (Scotland) Act,* 1937, *the Guardianship of Infants Act,* 1925, *and certain other enactments relating to children; and for purposes connected with the matters aforesaid.* [1704] [30th June, 1948.]

PART I

DUTY OF LOCAL AUTHORITIES TO ASSUME CARE OF CHILDREN

1. Duty of local authority to provide for orphans, deserted children, etc.—(1) Where it appears to a local authority with respect to a child in their area appearing to them to be under the age of seventeen—

(*a*) that he has neither parent nor guardian or has been and remains abandoned by his parents or guardian or is lost; or

(*b*) that his parents or guardian are, for the time being or permanently, prevented by reason of mental or bodily disease or infirmity or other incapacity or any other circumstances from providing for his proper accommodation, maintenance and upbringing; and

(*c*) in either case, that the intervention of the local authority under this section is necessary in the interests of the welfare of the child,

it shall be the duty of the local authority to receive the child into their care under this section. [1705]

(2) Where a local authority have received a child into their care under this section, it shall, subject to the provisions of this Part of this Act, be their duty to keep the child in their care so long as the welfare of the child appears to them to require it and the child has not attained the age of eighteen. [1706]

(3) Nothing in this section shall authorise a local authority to keep a child in their care under this section if any parent or guardian desires to take over the care of the child, and the local authority shall, in all cases where it appears to them consistent with the welfare of the child so to do, endeavour to secure that the care of the child is taken over either—

(*a*) by a parent or guardian of his, or

(*b*) by a relative or friend of his, being, where possible, a person of the same religious persuasion as the child or who gives an undertaking that the child will be brought up in that religious persuasion. [1707]

(4) Where a local authority receive a child into their care under this section who is then ordinarily resident in the area of another local authority,—

(*a*) that other local authority may at any time not later than three months after the determination (whether by agreement between the authorities or in accordance with the following provisions of this subsection) of the ordinary residence of the child, or with the concurrence of the first-mentioned authority at any subsequent time, take over the care of the child; and

(*b*) the first-mentioned authority may recover from the other authority any expenses duly incurred by them under Part II of this Act in respect of him (including any expenses so incurred after he has ceased to be a child and, if the other authority take over the care of him, including also any travelling or other expenses incurred in connection with the taking-over).

Any question arising under this subsection as to the ordinary residence of a child shall be determined by the Secretary of State. [1708]

(5) In determining for the purposes of the last foregoing subsection the ordinary residence of any child, any period during which he resided in any place as an inmate of a school or other institution, or in accordance with the requirements of a supervision order or probation order or the conditions of a recognisance, or while boarded out under this Act, the Poor Law Act, 1930, the Children and Young Persons Act, 1933, the Poor Law (Scotland) Act, 1934, or the Children and Young Persons (Scotland) Act, 1937, by a local authority or education authority shall be disregarded. [1709]

General note.—This section imposes on a local authority the duty to receive into its care, where it appears that this is necessary in the interests of the child, any child actually present in the authority's administrative area (whether he normally resides there or not) who is under the age of seventeen and has no parents or guardians or who has been abandoned or lost, or whose parents or guardians are temporarily or permanently prevented from providing for him properly.

A child who, immediately before July 5, 1948, was being relieved under the poor law, by relief that was not outdoor relief, is, as a rule, subject to this Act as if the local authority had received him into their care; see para. 1 (1) of Sched. II, *post*. The provisions of this section are in contrast to the elaborate machinery provided under s. 2, *post*, where the authority proposes to assume parental rights.

Poor Law Act, 1930.—12 Halsbury's Statutes 968. This Act was repealed by the National Assistance Act, 1948, s. 62 (3) and Sched. VII, Part I, title PUBLIC ASSISTANCE, *post*, as from July 5, 1948 (see S.I. 1948 No. 1218).

Children and Young Persons Act, 1933.—26 Halsbury's Statutes 168. This Act is amended by s. 63 (3) and Sched. IV, Parts I and II, *post*.

Definitions.—For definitions of "child", "guardian", "parent" and "relative", see s. 59 (1), *post*; as to "local authority", see s. 38, *post*.

2. Assumption by local authority of parental rights.—(1) Subject to the provisions of this Part of this Act, a local authority may resolve with respect to any child in their care under the foregoing section in whose case it appears to them—

(*a*) that his parents are dead and that he has no guardian; or

(*b*) that a parent or guardian of his (hereinafter referred to as the person on whose account the resolution was passed) has abandoned him or suffers from some permanent disability rendering the said person incapable of caring for the child, or is of such habits or mode of life as to be unfit to have the care of the child.

that all the rights and powers which the deceased parents would have if they were still living, or, as the case may be, all the rights and powers of the person on whose account the resolution was passed, shall vest in the local authority. [1710]

(2) In the case of a resolution passed by virtue of paragraph (*b*) of the last foregoing subsection, unless the person on whose account the resolution was passed has consented in writing to the passing of the resolution, the local authority, if the whereabouts of the said person are known to them, shall forthwith after the passing of the resolution serve on him notice in writing of the passing thereof; and if, not later than one month after such a notice is served on him, the person on whose account the resolution was passed serves a notice in writing on the local authority objecting to the resolution, the resolution shall, subject to the provisions of subsection (3) of this section, lapse on the expiration of fourteen days from the service of the notice of objection.

Every notice served by a local authority under his subsection shall inform the person on whom the notice is served of his right to object to the resolution and of the effect of any objection made by him. [1711]

(3) Where a notice has been served on a local authority under subsection (2) of this section, the authority may not later than fourteen days from the receipt by them of the notice complain to a juvenile court, or in Scotland the sheriff, having jurisdiction in the area of the authority, and in that event the resolution shall not lapse by reason of the service of the notice

until the determination of the complaint, and the court or sheriff may, on the hearing of the complaint, order that the resolution shall not lapse by reason of the service of the notice :

Provided that the court or sheriff shall not so order unless satisfied that the child had been, and at the time when the resolution was passed remained, abandoned by the person who made the objection or that that person is unfit to have the care of the child by reason of unsoundness of mind or mental deficiency or by reason of his habits or mode of life. [1712.]

(4) Any notice under this section may be served by post, so however that a notice served by a local authority under subsection (2) of this section shall not be duly served by post unless it is sent in a registered letter. [1713]

General note.—This section confers power on a local authority to vest in themselves, by passing a resolution in accordance with sub-s. (1), all the rights and powers, but not the duties, of the parents or guardians of the child. No new resolution is necessary if immediately before the passing of this Act a resolution under the Poor Law Act, 1930, s. 52 ; 12 Halsbury's Statutes 994 (now repealed by the National Assistance Act, 1948, title PUBLIC ASSISTANCE, *post*, which, like the present Act, came into force on July 5, 1948) was in force in respect of the child (see Sched. II, para. 2, *post*).

Subject to the provisions, etc.—See particularly s. 6 (2), (3), *post* (children subject to existing orders of court) ; s. 7 (2), *post* (children in care of Minister of Pensions) ; and s. 8, *post* (children subject to Mental Deficiency, etc., Acts).

Juvenile court.—As to juvenile courts, see the Children and Young Persons Act, 1933, s. 45, and Sched. II (26 Halsbury's Statutes 199, 242).

Definitions.—For definitions of "child", "guardian" and "parent", see s. 59 (1), *post* ; as to "local authority", see s. 38, *post*.

3. Effect of assumption by local authority of parental rights.—(1) While a resolution passed by virtue of paragraph (*a*) of subsection (1) of section two of this Act is in force with respect to a child, all rights and powers which the deceased parents would have if they were still living shall, in respect of the child, be vested in the local authority, in accordance with the resolution. [1714]

(2) While a resolution passed by virtue of paragraph (*b*) of the said subsection (1) is in force with respect to a child, all rights and powers of the person on whose account the resolution was passed shall, in respect of the child, be vested in the local authority in accordance with the resolution, and subsection (3) of section one of this Act shall not in respect of the child apply in relation to the person on whose account the resolution was passed. [1715]

(3) A resolution under section two of this Act shall not prevent the local authority from allowing, either for a fixed period or until the local authority otherwise determine, the care of the child to be taken over by, and the child to be under the control of, a parent, guardian, relative or friend in any case where it appears to the authority to be for the benefit of the child. [1716]

(4) Where a resolution under section two of this Act is in force in respect of a child and the child has ceased to be in the care of the local authority by whom the resolution was passed, then (without prejudice to the provisions of section one of this Act if those provisions apply) the local authority by whom the resolution was passed shall have power to receive the child back into their care in any circumstances in which it appears to them that their intervention under this subsection is necessary in the interests of the welfare of the child. [1717]

(5) Where a local authority receive a child into their care under the last foregoing subsection, the provisions of this Act, except subsections (4) and (5) of section one thereof, shall apply as if the child had been received into their care under the said section one. [1718]

(6) A resolution under the said section two shall not relieve any person from any liability to maintain, or contribute to the maintenance of, the child. [1719]

(7) A resolution under the said section two shall not authorise a local authority to cause a child to be brought up in any religious creed other than that in which he would have been brought up but for the resolution. [1720]

(8) Any person who knowingly—

(*a*) assists or induces or persistently attempts to induce a child to whom this subsection applies to run away, or

(*b*) harbours or conceals a child to whom this subsection applies who has run away, or prevents him from returning to the place from which he has run away,

shall on summary conviction be liable to a fine not exceeding twenty pounds or to imprisonment for a term not exceeding two months, or to both such fine and such imprisonment.

This subsection applies to any child in the care of a local authority under section one of this Act in whose case a resolution is in force under section two thereof, being a child for whom accommodation (whether in a home or otherwise) is being provided by the local authority in pursuance of Part II of this Act, and references in this subsection to running away shall be construed as references to running away from a place where accommodation is or was being so provided. [1721]

General note.—The effects of the assumption of parental rights under s. 2, *ante*, are stated in the present section. Where there is no parent or guardian living, the resolution operates to vest in the local authority all rights and powers the parents would have had if living; but if the resolution is passed on account of the incapacity or misconduct of a parent or guardian, it is only the rights of that parent or guardian which vest in the authority (sub-s. (2)).

The assumption of parental rights does not prevent the authority from allowing the child to return, either for a trial period or indefinitely, to his parent or guardian, or some other relative or friend (sub-s. (3)), but the authority may at any time require the child to be returned to their care if it appears to them to be desirable in the child's interests (sub-s. (4)).

Person on whose account the resolution was passed.—See s. 2 (1) (*b*), *ante*.

Control.—This expression is not defined in the present Act, but in s. 17 of the Children and Young Persons Act, 1933 (26 Halsbury's Statutes 180), it is treated as being synonymous with "possession."

Liability to maintain, etc.—Liability to maintain children was almost unknown at common law and was first created by the Poor Law. Now, under the National Assistance Act, 1948, s. 41, title PUBLIC ASSISTANCE, *post*, the only persons liable to maintain a child are the parents, and their liability ceases when the child attains the age of sixteen. Liability to contribute to the maintenance of children under the Children and Young Persons Act, 1933, s. 86 (26 Halsbury's Statutes 223), is also now confined to parents, as a result of its amendment by s. 60 (2) and Sched. III, *post*. See s. 24, *post*.

Definitions.—For definitions of "child", "guardian", "parent" and "relative", see s. 59 (1), *post*; as to "local authority", see s. 38, *post*.

4. Duration and rescission of resolutions under section two.—(1) Subject to the provisions of this Part of this Act, a resolution under section two of this Act shall continue in force until the child with respect to whom it was passed attains the age of eighteen. [1722]

(2) A resolution under the said section two may be rescinded by resolution of the local authority if it appears to them that the rescinding of the resolution will be for the benefit of the child. [1723]

(3) On complaint being made—

(*a*) in the case of a resolution passed by virtue of paragraph (*a*) of subsection (1) of the said section two, by a person claiming to be a parent or guardian of the child;

(*b*) in the case of a resolution passed by virtue of paragraph (*b*) thereof, by the person on whose account the resolution was passed,

a juvenile court, or in Scotland the sheriff, having jurisdiction where the complainant resides, if satisfied that there was no ground for the making of the resolution or that the resolution should in the interests of the child be determined, may by order determine the resolution, and the resolution shall thereupon cease to have effect:

Provided that, if the court or sheriff think fit, they or he may, in lieu of determining the resolution, order that, either for a fixed period or until they or he, or, if the order so provides, the local authority, otherwise direct, the local authority shall allow the care of the child to be taken over by, and the child to be under the control of, the complainant. [1724]

General note.—This section relates to the continuance in force of resolutions under s. 2 (1), *ante*, for the assumption of parental rights, but is not substantially appropriate in respect of any resolution that lapses under the objection procedure provided in s. 2 (2) and (3), *ante*. The resolution will remain in force until the child reaches the age of eighteen (sub-s. (1)) unless previously—

(*a*) the resolution is rescinded by the local authority (sub-s. (2)); or

(*b*) the resolution is determined by order of the juvenile court (sub-s. (3)); or

(*c*) the child becomes subject to an approved school order (s. 6 (3), *post*).

Person on whose account the resolution was passed.—See s. 2 (1) (*b*), *ante*.

Juvenile court.—As to juvenile courts, see the Children and Young Persons Act, 1933, s. 45 and Sched. II (26 Halsbury's Statutes 199, 242).

Definitions.—For definitions of "child", "guardian" and "parent", see s. 59 (1), *post*; to "local authority", see s. 38, *post*.

5. Duty of local authority to act as fit person under the Children and Young Persons Acts.—(1) In any case where, under the Children and Young Persons Act, 1933, a court has power to commit a person brought before the court to the care of a fit person, the assent of a local authority shall not be required for the making by the court of an order committing him to the care of the authority unless a probation order or supervision order is in force or the court proposes to make such an order at the same time as the order committing the child to the care of the authority, and accordingly the following subsections shall be substituted for subsection (1) of section seventy-six of that Act:—

"(1) The appropriate local authority shall, for the purposes of the provisions of this Act relating to the making of orders committing a child or young person to the care of a fit person, be deemed to be a fit person willing to undertake the care of him, and accordingly orders may be made committing children and young persons to their care, and they shall undertake the care of children and young persons so committed:

Provided that where a probation order or supervision order is in force as respects a child or young person, or the court proposes to make such an order at the same time as an order for committal to the care of the local authority, the last-mentioned order shall not be made unless the local authority consent to the making thereof.

(1A) Before making an order under the last foregoing subsection in any case where the consent of the local authority is not required, the court shall, unless so to do would in the opinion of the court cause undue delay, permit the authority to make representations to the court as to the making of the order and shall, before making the order, consider any representations so made.

(1B) In this section the expression 'the appropriate local authority' means the local authority in whose area the child or young person was resident, or, if his residence is not known or he was resident outside England, the local authority or one of the local authorities within whose area the offence was committed or the circumstances arose (as the case may be) rendering him liable to be committed to the care of a fit person:

Provided that in determining for the purposes of this subsection the place of residence of a child or young person, any period during which he resided in any place as an inmate of a school or other institution, or in accordance with the requirements of a supervision order or probation order or the conditions of a recognisance, or while boarded out under this Act, the Poor Law Act, 1930, the Poor Law (Scotland) Act, 1934, the Children and Young Persons (Scotland) Act, 1937, or Part II of the Children Act, 1948, by a local authority or education authority shall be disregarded." [1725]

(2) In the application of this section to Scotland, for references to the Children and Young Persons Act, 1933, and section seventy-six thereof, there shall be substituted references to the Children and Young Persons (Scotland) Act, 1937, and section eighty thereof, for the reference to the

Children and Young Persons (Scotland) Act, 1937, there shall be substituted a reference to the Children and Young Persons Act, 1933, and for the word "England" there shall be substituted the word "Scotland." [1726]

General note.—By ss. 57, 62 (1) (*b*), 64 of the Children and Young Persons Act, 1933 (26 Halsbury's Statutes 206, 208, 209) (*cf.* Children and Young Persons Act, 1938, s. 1; 31 Halsbury's Statutes 366), a juvenile court can commit a child or young person, under the age of seventeen, to the care of any "fit person . . . who is willing to undertake the care of him", and by virtue of s. 76 (1) of that Act a local authority was deemed to be a fit person. Under these provisions the child or young person could only be committed to the care of the fit person with his consent. Under sub-s. (1), *supra*, a local authority is bound to accept appointment as a fit person, except where a probation order or supervision order is already in force in relation to the child, or the court proposes to make such an order at the same time as the "fit person" order, in which case, in order to prevent any conflict between the probation officer and the local authority, the consent of the local authority to the making of the "fit person" order is still required.

The treatment of children committed to the care of local authorities as fit persons is dealt with in Part II, *post*.

Children and Young Persons Act, 1933, *s.* 76.—26 Halsbury's Statutes 216. For the sections empowering a court to commit a person to the care of a fit person, see the General note, *supra*.

Poor Law Act, 1930.—12 Halsbury's Statutes 968. This Act was repealed by the National Assistance Act, 1948, s. 62 (3), and Sched. VII, Part I, title PUBLIC ASSISTANCE, *post*, as from July 5, 1948 (see S.I. 1948 No. 1218).

Definitions.—For definitions of "child" and "young person", see the Children and Young Persons Act, 1933, s. 107 (26 Halsbury's Statutes 238); as to "local authority", see s. 38, *post*.

6. Application of preceding provisions to children already subject, or becoming subject, to orders of court.—(1) The reception of a child into their care by a local authority under section one of this Act, and the passing of a resolution with respect to him under section two of this Act, shall not affect any supervision order or probation order previously made with respect to him by any court. [1727]

(2) Where an order of any court is in force giving the custody of a child to any person, the foregoing provisions of this Part of this Act shall have effect in relation to the child as if for references to the parents or guardians of the child or to a parent or guardian of his there were substituted references to that person. [1728]

(3) The following provisions shall have effect with respect to approved school orders and orders under the Children and Young Persons Act, 1933, or the Children and Young Persons (Scotland) Act, 1937, committing children to the care of fit persons, that is to say:—

(*a*) where an approved school order comes into force with respect to a child in the care of a local authority under section one of this Act he shall thereupon cease to be in the care of the authority under that section and any resolution under section two of this Act in force with respect to him shall thereupon cease to have effect;

(*b*) no resolution under the said section two shall be passed with respect to a child while an order is in force committing him to the care of a fit person under the said Act of 1933 or 1937;

(*c*) save as aforesaid the provisions of subsection (2) of this section shall apply as if the order were an order giving the custody of the child to the managers of the approved school or the person to whose care he was committed by the order, as the case may be. [1729]

(4) Where under section seventy-four of the said Act of 1933 or section seventy-eight of the said Act of 1937, a child is under the supervision of the managers of an approved school or under paragraph 6 of the Fourth Schedule to the said Act of 1933, or paragraph 6 of the Second Schedule to the said Act of 1937, the managers of an approved school by licence permit a child to live away from the school, and in either case it appears to the managers that the child has no home or that his home is unsatisfactory, then with the consent of the managers, in a case falling within the said section seventy-four or seventy-eight, or if the licence so provides, in a case falling within the

said paragraph 6, a local authority may (without prejudice to the provisions of section one of this Act if those provisions apply) receive the child into their care; and where they do so—

(*a*) the provisions of this Act, except subsections (4) and (5) of section one thereof and so much of subsection (3) of that section as requires a local authority to endeavour to secure that the care of a child is taken over by a parent, guardian, relative or friend, shall apply as if the child had been received into their care under the said section one; but

(*b*) the child shall not for the purposes of the said Act of 1933, or the said Act of 1937, be deemed to have ceased to be under the care of the managers of the school. [1730]

Supervision order.—This is an order placing a person under the age of seventeen "under the supervision of a probation officer or some other person appointed for the purpose by the Court" (see the Children and Young Persons Act, 1933, ss. 62 (1) (d); 26 Halsbury's Statutes 208). As to when such orders can be made, see s. 62 of that Act, and s. 64 thereof as amended by the Children and Young Persons Act, 1938 (31 Halsbury's Statutes 366); and the Education Act, 1944, s. 40 (3) (37 Halsbury's Statutes 169) and s. 40 (3A) (inserted by the Education (Miscellaneous Provisions) Act, 1948, s. 11 and Sched. I; 11 & 12 Geo. 6, c. 40).

Probation Order.—This is an order consequent on conviction of an offender and made instead of sentencing him, requiring him to be under the supervision of a probation officer for a specified period of not less than one year nor more than three years (Criminal Justice Act, 1948, s. 3; 11 & 12 Geo. 6, c. 58); as to the position before the coming into operation of that Act, see the Probation of Offenders Act, 1907, ss. 1, 2 (11 Halsbury's Statutes 365). A probation order thus differs from a supervision order, *supra*, in that it can only be made in relation to an offender.

Order for custody.—Orders for custody may be made either: (*a*) under the inherent jurisdiction of the former Court of Chancery which is now vested in the Chancery Division of the High Court (see the Supreme Court of Judicature (Consolidation) Act, 1925, ss. 18 (1), 56 (1); 4 Halsbury's Statutes (2nd Edn.) 347; 13 Halsbury's Statutes 219); or (*b*) under the Guardianship of Infants Act, 1886, s. 5 (9 Halsbury's Statutes 787), as amended by the Guardianship of Infants Act, 1925, s. 3 (9 Halsbury's Statutes 820).

Approved school orders.—As to when approved school orders may be made, see the Children and Young Persons Act, 1933, ss. 57, 62 (1) (*a*), 64 (26 Halsbury's Statutes 206, 208, 209), and the Education Act, 1944, s. 40 (3) (37 Halsbury's Statutes 169) and s. 40 (3A) (inserted by the Education (Miscellaneous Provisions) Act, 1948, s. 11 and Sched. I; 11 & 12 Geo. 6, c. 40).

Children and Young Persons Act, 1933, s. 74, Sched. IV, para. 6.—26 Halsbury's Statutes 215, 246.

"*Fit person*" *orders.*—As to orders committing children to the care of fit persons, see the General note to s. 5, *ante*

Definitions.—For definitions of "approved school order", "child", "guardian" and "parent", see s. 59 (1), *post*; as to "local authority", see s. 38, *post*.

7. Children in care of Minister of Pensions.—(1) Where a child in the care of a local authority under section one of this Act is a child for whose welfare the Minister of Pensions is responsible, that Minister may at any time require that the care of the child shall be transferred to him, and thereupon the child shall cease to be in the care of the local authority. [1731]

(2) Where immediately before the care of a child is transferred to the said Minister in pursuance of the last foregoing subsection a resolution under section two of this Act is in force with respect to the child, the rights and powers conferred on the local authority by the resolution—

(*a*) shall not thereafter be exercisable against the said Minister or so as to interfere with any arrangements for the welfare of the child made by the said Minister; but

(*b*) save as provided in the last foregoing paragraph, shall continue to be exercisable by the local authority so long as the resolution is in force. [1732]

(3) References in this section to a child for whose welfare the Minister of Pensions is responsible shall be construed as references to a child such that if he were suffering from neglect or want of proper care it would be the duty of that Minister to make provision for him under section nine of the War Pensions (Administrative Provisions) Act, 1918. [1733]

General note.—The effect of this section is to give the Minister of Pensions, in regard to any child for whom he is responsible under the War Pensions (Administrative Provisions)

Act, 1918, s. 9 (17 Halsbury's Statutes 540), as extended by the War Orphans Act, 1942 (35 Halsbury's Statutes 215), rights which will override the duty conferred on the local authority by s. 1, *ante*, and, so far as there may be conflict between them, the power to assume parental rights conferred on the local authority by s. 2, *ante*.

War Pensions (Administrative Provisions) Act, 1918, s. 9.—17 Halsbury's Statutes 540.

Definitions.—For definition of "child", see s. 9 of the Act of 1918, *supra*; as to "local authority", see s. 38, *post*.

8. Children becoming subject to Mental Deficiency or Lunacy and Mental Treatment Acts.—If a child who is in the care of a local authority under section one of this Act comes under the control of any person or authority under the provisions of the Mental Deficiency Acts, 1913 to 1938, or the Lunacy and Mental Treatment Acts, 1890 to 1930, or in Scotland the Mental Deficiency (Scotland) Acts, 1913 and 1940, or the Lunacy (Scotland) Acts, 1857 to 1919, he shall thereupon cease to be in the care of the local authority under this Act; but where, immediately before he comes under the control of a person or authority as aforesaid, a resolution under section two of this Act is in force with respect to him, the rights and powers conferred on the local authority by the resolution shall, so long as the resolution is in force, continue to be exercisable by the local authority, so however that the said rights and powers shall not be exercisable against the person or authority having control of the child or so as to interfere with anything done by the said person or authority with respect to the child. [1734]

Mental Deficiency Acts, 1913 *to* 1938.—These are the Mental Deficiency Act, 1913, the Mental Deficiency (Amendment) Act, 1925, the Mental Deficiency Act, 1927 and the Mental Deficiency Act, 1938 (11 Halsbury's Statutes 160, 199, 200; 31 Halsbury's Statutes 421). These Acts were extensively amended by the National Health Service Act, 1946, s. 50 and Sched. IX (39 Halsbury's Statutes 557, 580), as from July 1, 1947 (see S. R. & O., 1947 No. 983). As to the means whereby a person may become subject to these Acts, see the 1913 Act, ss. 3, 4 and 8, as amended (11 Halsbury's Statutes 162, 163, 166).

Lunacy and Mental Treatment Acts, 1890 *to* 1930.—These are the Lunacy Acts, 1890, 1891, 1908 and 1922 (11 Halsbury's Statutes 17, 144, 151, 198) and the Mental Treatment Act, 1930 (23 Halsbury's Statutes 154). These Acts were extensively amended by the National Health Service Act, 1946, s. 50 and Sched. IX (39 Halsbury's Statutes 557, 580), as from July 1, 1947 (see S. R. & O., 1947, No. 983). As to the means whereby a person may become subject to these Acts, see, *inter alia*, the 1890 Act, ss. 4 and 108, as amended (11 Halsbury's Statutes 18, 56).

Definitions.—For definition of "child", see s. 59 (1), *post*; as to "local authority", see s. 38, *post*.

9. Meaning of "parents or guardian".—Save as expressly provided in section six of this Act, any reference in this Part of this Act to the parents or guardian of a child shall be construed as a reference to all the persons who are parents of the child or who are guardians of the child. [1735]

Definitions.—For definitions of "child", "guardian" and "parent", see s. 59 (1), *post*.

10. Duty of parents to maintain contact with local authorities having their children in care.—(1) The parent of a child who has not attained the age of sixteen and is in the care of a local authority under section one of this Act shall secure that the appropriate local authority are informed of the parent's address for the time being. [1736]

(2) Where under subsection (4) of section one of this Act a local authority take over the care of a child from another local authority, that other authority shall where possible inform the parent of the child that the care of the child has been so taken over. [1737]

(3) For the purposes of subsection (1) of this section, the appropriate local authority shall be the authority in whose care the child is for the time being:

Provided that where under subsection (4) of section one of this Act a local authority have taken over the care of a child from another authority, then unless and until a parent is informed that the care of a child has been so taken over the appropriate local authority shall in relation to that parent continue to be the authority from whom the care of the child was taken over. [1738]

(4) Any parent who knowingly fails to comply with subsection (1) of this section shall be liable on summary conviction to a fine not exceeding five pounds:

Provided that it shall be a defence in any proceedings under this subsection to prove that the defendant was residing at the same address as the other parent of the child, and had reasonable cause to believe that the other parent had informed the appropriate authority that both parents were residing at that address. [1739]

General note.—This section imposes on the parents of a child under sixteen in the care of a local authority under s. 1, *ante*, the duty of keeping the authority informed of his address.

Summary conviction.—As to summary conviction, see the Summary Jurisdiction Act, 1879, s. 51 (11 Halsbury's Statutes 350). Also see, generally, 21 Halsbury's Laws (2nd Edn.) 511 *et seq.* and Stone's Justices' Manual (80th Edn.), pp. 62 *et seq.*

Definitions.—For definitions of "child" and "parent", see s. 59 (1), *post*; as to "local authority", see s. 38, *post*.

PART II

TREATMENT OF CHILDREN IN CARE OF LOCAL AUTHORITIES

11. Scope of Part II.—This Part of this Act relates to the powers and duties of local authorities in relation to children received by them into their care under section one of this Act and children who by an order of any court under the Children and Young Persons Act, 1933, or the Children and Young Persons (Scotland) Act, 1937, have been committed (whether as children or as young persons as defined in the said Act of 1933 or 1937) to their care as a fit person, and references in this Part of this Act to a child in the care of a local authority are references to a child for the time being in the care of the authority under the said section one or for the time being committed as aforesaid to the care of the authority as a fit person. [1740]

Children and Young Persons Act, 1933—26 Halsbury's Statutes 172. Orders for the committal of children and young persons to the care of a fit person, can be made under ss. 57, 62, 64 of that Act (26 Halsbury's Statutes 205, 208, 209).

Definitions.—For definition of "child", see s. 59 (1), *post*; as to "local authority", see s. 38, *post*.

12. General duty of local authority.—(1) Where a child is in the care of a local authority, it shall be the duty of that authority to exercise their powers with respect to him so as to further his best interests, and to afford him opportunity for the proper development of his character and abilities. [1741]

(2) In providing for a child in their care, a local authority shall make such use of facilities and services available for children in the care of their own parents as appears to the local authority reasonable in his case. [1742]

General note.—This section imposes on the local authority a continuing duty to "further the best interests" of the child, whether received into their care or committed to them by a fit person order, and to afford him "opportunity for the proper development of his character and abilities." The discharge of this duty involves constant attention, and will devolve upon the children's committee, if any (s. 39, *post*), and the children's officer (s. 41, *post*).

"*Child in the care of a local authority.*"—See s. 11, *ante*.

Definitions.—For definitions of "child" and "parent", see s. 59 (1), *post*; as to "local authority", see s. 38, *post*.

13. Mode of provision of accommodation and maintenance.—(1) Subject to the provisions of this section, a local authority shall discharge their duty to provide accommodation and maintenance for a child in their care—

(*a*) by boarding him out on such terms as to payment by the authority and otherwise as the authority may, subject to the provisions of this Act and regulations thereunder, determine; or

(*b*) where it is not practicable or desirable for the time being to make arrangements for boarding-out, by maintaining the child in a home provided under this Part of this Act or by placing him in a voluntary home the managers of which are willing to receive him. [1743]

(2) Where a child in the care of a local authority is under three years of age, a local authority may provide accommodation and maintenance for him in premises in which accommodation is being provided under the National Assistance Act, 1948, being premises approved by the Secretary of State for the purposes of this subsection which are and have since before the commencement of this Act been in use solely as a nursery.

The approval by the Secretary of State of any premises for the purposes of this subsection shall have effect for such period as he may from time to time determine, but—

(*a*) the Secretary of State may at any time withdraw his approval notwithstanding that the period for which it was given has not expired,

(*b*) the Secretary of State shall not give or continue his approval for the purposes of this subsection unless he is satisfied that suitable alternative accommodation is not for the time being available. [1744]

(3) Where a child in the care of a local authority has attained the age of three, the local authority, if it is necessary so to do, may provide accommodation and maintenance for the child in any premises in which accommodation is being provided under the said Act of 1948 :

Provided that a child shall not be accommodated and maintained as mentioned in this subsection for any period exceeding fourteen days except with the consent of the Secretary of State, and—

(*a*) the Secretary of State shall not give his consent for the purposes of this subsection for a period exceeding eight weeks, but may renew any such consent for a further such period or periods ;

(*b*) The Secretary of State may at any time withdraw his consent given for the purposes of this subsection notwithstanding that the period for which it was given or renewed has not expired. [1745]

(4) A child in the care of a local authority who is over compulsory school age may be accommodated and maintained in any hostel (whether provided by a local authority or not) which is wholly or mainly intended for persons who are over compulsory school age but have not attained the age of twenty-one. [1746]

(5) Nothing in this section shall be construed as preventing a local authority from making use, in the case of any child, of any such facilities and services as are referred to in subsection (2) of the last foregoing section, and for that purpose arranging for his accommodation and maintenance in any suitable manner not specified in the foregoing provisions of this section. [1747]

(6) Notwithstanding anything in the foregoing provisions of this section, a local authority may, where it appears to them necessary so to do, accommodate and maintain a child in their care in premises under the control of a local authority other than premises such as are mentioned in the foregoing provisions of this section :

Provided that a local authority shall only exercise their powers under this subsection with the authorisation of the Secretary of State given either generally or as respects particular premises, and subject to such conditions as may be imposed by him. [1748]

(7) Where under this section a local authority provide for a child by maintaining him in a home or hostel not provided by the authority, the terms, whether as to payment by the authority or other matters, upon which the child is so maintained shall be such as, subject to the provisions of this Act, may be agreed between the authority and the persons providing the home or hostel. [1749]

General duty.—The general duty of a local authority is to board out children, as recommended by the Curtis Committee's Report (Cmd. 6922), and it is only if boarding-out is

impracticable or undesirable that a local authority may maintain the child in a home provided by them, or by arrangement with another local authority (see s. 15), or in a voluntary home providing the requisite religious facilities (s. 16, *post*). The general duty to board out is, however, subject to the local authority's power to make other arrangements for accommodation under sub-ss. (2)–6, *supra*.

"*Child in the care of a local authority.*"—See s. 11, *ante*.

Boarding out regulations.—See s. 14, *post*.

Home provided under this Part of this Act.—For the duty of the local authority to provide homes, see s. 15, *post*.

National Assistance Act, 1948.—See title PUBLIC ASSISTANCE, *post*. As to the provision of accommodation by local authorities under that Act, see s. 21 thereof.

Hostel.—As to the power of the local authority to provide hostel accommodation for persons over compulsory school age, see s. 19, *post*.

Definitions.—For definitions of "child", "compulsory school age" and "voluntary home", see s. 59 (1), *post*; as to "local authority", see s. 38, *post*.

14. Regulations as to boarding-out.—(1) The Secretary of State may by regulations make provision for the welfare of children boarded out by local authorities under paragraph (*a*) of subsection (1) of the last foregoing section. [1750]

(2) Without prejudice to the generality of the last foregoing subsection, regulations under this section may provide—

(*a*) for the recording by local authorities of information relating to persons with whom children are boarded out as aforesaid and persons who are willing to have children so boarded out with them;

(*b*) for securing that children shall not be boarded out in any household unless that household is for the time being approved by such local authority as may be prescribed by the regulations;

(*c*) for securing that where possible the person with whom any child is to be boarded out is either of the same religious persuasion as the child or gives an undertaking that the child will be brought up in that religious persuasion;

(*d*) for securing that children boarded out as aforesaid, and the premises in which they are boarded out, will be supervised and inspected by a local authority and that the children will be removed from those premises if their welfare appears to require it. [1751]

Regulations.—Rules in force immediately before the commencement of this Act under the Children and Young Persons Act, 1933, s. 84 (2) (20 Halsbury's Statutes 222), with respect to boarding out have effect as regulations made under this Part of this Act and apply to children in the care of a local authority under s. 1, *ante* (see Sched. II, para. 4, *post*). These rules are the Children and Young Persons (Boarding Out) Rules, 1946 (S. R. & O., 1946, No. 2083).

As to regulations, generally, see s. 58, *post*.

Inspection.—See s. 54 (2), *post*.

Definitions.—For definition of "child", see s. 59 (1), *post*; as to "local authority", see s. 38, *post*.

15. Duty of local authorities to provide homes.—(1) A local authority may, and shall in so far as the Secretary of State so requires, provide, equip and maintain, either within or without their area, homes for the accommodation of children in their care. [1752]

(2) The accommodation provided under the last foregoing subsection by a local authority shall include separate accommodation for the temporary reception of children, with, in particular, the necessary facilities for observation of their physical and mental condition. [1753]

(3) A local authority may discharge their functions under the foregoing provisions of this section by making arrangements with another local authority for the provision in homes provided by that other local authority of accommodation for children in the care of the first-mentioned local authority; and arrangements under this subsection may contain provisions as to payment by the first-mentioned local authority and other terms upon which the accommodation is to be provided. [1754]

(4) The Secretary of State may make regulations as to the exercise by local authorities of their functions under this section and the conduct of

homes provided thereunder and for securing the welfare of the children in the homes, and regulations under this subsection may in particular—

(*a*) impose requirements as to the accommodation and equipment to be provided in homes and as to the medical arrangements to be made for protecting the health of the children in the homes;

(*b*) impose requirements as to the facilities which are to be given for the children to receive a religious upbringing appropriate to the persuasion to which they belong;

(*c*) require the approval of the Secretary of State to the construction, acquisition or appropriation of buildings with a view to the use thereof for the purposes of homes, or to the doing of anything (whether by way of addition, diminution or alteration) which materially affects the buildings or grounds or other facilities or amenities available for children in the homes;

(*d*) provide for consultation with the Secretary of State as to applicants for appointment to the charge of a home and empower the Secretary of State to prohibit the appointment of any particular applicant therefor except in the cases (if any) in which the regulations dispense with such consultation by reason that the person to be appointed possesses such qualifications as may be prescribed by the regulations;

(*e*) contain provisions for limiting the period during which children may remain in accommodation provided for the temporary reception of children;

and may contain different provisions for different description of cases and as respects different descriptions of homes. [1755]

(5) Where it appears to the Secretary of State that any premises used for the purposes of a home provided under this section are unsuitable therefor, or that the conduct of any such home is not in accordance with regulations made by him under the last foregoing subsection or is otherwise unsatisfactory, he may by notice in writing served on the local authority direct that as from such date as may be specified in the notice the premises shall not be used for the said purposes. [1756]

(6) A direction given under the last foregoing subsection may at any time be revoked by the Secretary of State. [1757]

General note.—The homes provided for children in the care of local authorities are, in general, for children who are not boarded out (s. 13, *ante*). The accommodation is to be of two kinds, namely, reasonably permanent and temporary, but the two kinds need not necessarily be provided in separate homes. The temporary accommodation seems primarily intended for health observation (see sub-s. (2), *supra*), since temporary accommodation for the purposes of s. 13 (3), *ante*, is not provided under this Act, but the temporary accommodation, as also the permanent accommodation, may be used under sub-s. (1) (*b*) of that section if boarding out is impracticable or undesirable. Homes so provided are also available for use as "places of safety" (s. 51, *post*). They need not be within the authority's area and may be provided by arrangement with other local authorities (sub-ss. (1), (3), *supra*).

"*Child in the care of a local authority.*"—See s. 11, *ante*.

Regulations.—As to regulations, generally, see s. 58, *post*. No regulations under this section had been made up to the date of going to press.

Definitions.—For definitions of "child" and "functions", see s. 59 (1), *post*; as to "local authority", see s. 38, *post*.

16.—Accommodation of children in voluntary homes.—(1) Notwithstanding any agreement made in connection with the placing of a child in a voluntary home under this Part of this Act by a local authority, the authority may at any time, and shall if required so to do by the Secretary of State or the managers of the home, remove the child from the home. [1758]

(2) No child in the care of a local authority shall be placed in a voluntary home which does not afford facilities for him to receive a religious upbringing appropriate to the persuasion to which he belongs. [1759]

"*Child in the care of a local authority.*"—See s. 11, *ante*.

Definitions.—For definitions of "child" and "voluntary home", see s. 59 (1), *post*; as to "local authority", see s. 38, *post*.

17. Power of local authorities to arrange for emigration of children.—(1) A local authority may, with the consent of the Secretary of State, procure or assist in procuring the emigration of any child in their care. [1760]

(2) The Secretary of State shall not give his consent under this section unless he is satisfied that emigration would benefit the child, and that suitable arrangements have been or will be made for the child's reception and welfare in the country to which he is going, that the parents or guardian of the child have been consulted or that it is not practicable to consult them, and that the child consents:

Provided that where a child is too young to form or express a proper opinion on the matter, the Secretary of State may consent to his emigration notwithstanding that the child is unable to consent thereto in any case where the child is to emigrate in company with a parent, guardian or relative of his, or is to emigrate for the purpose of joining a parent, guardian, relative or friend. [1761]

(3) In the last foregoing subsection the expression "parents or guardian" shall be construed in accordance with the provision of section nine of this Act. [1762]

General note.—This section which replaces, so far as persons under eighteen are concerned, s. 68 of the Poor Law Act, 1930 (12 Halsbury's Statutes 1092), which is repealed by the National Assistance Act, 1948, s. 62 (3), Sched. VII, Part I, title PUBLIC ASSISTANCE, *post*, authorises local authorities to arrange, subject to suitable safeguards, for the emigration of children in their care.

"*Child in the care of a local authority.*"—See s. 11, *ante*.

Definitions.—For definitions of "child", "guardian" and "parent", see s. 59 (1), *post*; as to "local authority", see s. 38, *post*.

18. Burial or cremation of deceased children.—(1) A local authority may cause to be buried or cremated the body of any deceased child who immediately before his death was in the care of the authority:

Provided that the authority shall not cause the body to be cremated where cremation is not in accordance with the practice of the child's religious persuasion. [1763]

(2) Where a local authority exercise the powers conferred to in subsection (1) of this section, they may if at the time of his death the child had not attained the age of sixteen years recover from any parent of the child any expenses incurred by them under the said subsection (1) and not reimbursed under subsection (5) of section twenty-two of the National Insurance Act, 1946 (which enables payments to be made to local authorities out of the National Insurance Fund in respect of the cost of burial or cremation of certain persons). [1764]

(3) Any sums recoverable by a local authority under subsection (2) of this section shall, without prejudice to any other method for the recovery thereof, be recoverable summarily as a civil debt. [1765]

(4) Nothing in this section shall affect any enactment regulating or authorising the burial, cremation or anatomical examination of the body of a deceased person. [1766]

General note.—This section makes provision for the burial or, where it is in accordance with the tenets of the child's religious denomination, the cremation of children who die while in the care of local authorities, and for recovery of the funeral expenses of any such child who is under sixteen. Local authorities are authorised by s. 22, *post*, to pay the expenses of persons attending the funerals of such children.

"*Child in the care of a local authority.*"—See s. 11, *ante*.

National Insurance Act, 1946, s. 22 (5).—38 Halsbury's Statutes 443.

Definitions.—For definitions of "child" and "parent", see s. 59 (1), *post*; as to "local authority", see s. 38, *post*.

19. Provision of hostels for persons under twenty-one.—(1) A local authority may, with the approval of the Secretary of State, provide hostels for persons—

(*a*) who are over compulsory school age but have not attained the age of twenty-one; and

(*b*) who are, or have at any time after ceasing to be or compulsory school age been, in the care of a local authority,

for their accommodation near the place where they may be employed, or seeking employment, or in receipt of education of training. [1767]

(2) A local authority may accommodate in hostels provided under this section persons who fulfil the conditions specified in paragraph (*a*), but not the conditions specified in paragraph (*b*), of subsection (1) of this section, as well as persons who fulfil the conditions specified in both those paragraphs; and a local authority, in determining how much hostel accommodation to provide under subsection (1) of this section, shall have regard to the desirability of facilitating the association of persons who fulfil the conditions specified in both those paragraphs with persons who do not. [1768]

General note.—This section enables local authorities, with the consent of the Secretary of State, to provide hostels for persons over compulsory school age but under twenty-one.

In the case of a child under eighteen who is in the care of a local authority the local authority's duty under s. 13, *ante*, to provide accommodation and maintenance will prevent any charge being made for residence in a hostel, though contributions towards maintenance may be recovered from the persons mentioned in s. 24, *post*, who include the child himself if he is over sixteen and engaged in full-time work. After the child attains the age of eighteen the local authority's duty ceases, but the authority has power under s. 20 (1), *post*, to give financial assistance towards the cost of his maintenance in a hostel.

"*In the care of a local authority.*"—See s. 11, *ante*.

Definitions.—For definition of "compulsory school age", see s. 59 (1), *post*; as to "local authority", see s. 38, *post*.

20. Financial assistance towards expenses of maintenance, education or training of persons over eighteen.—(1) A local authority may make contributions to the cost of the accommodation and maintenance of any such person as is mentioned in subsection (1) of the last foregoing section, being a person who has attained the age of eighteen, in any place near the place where he may be employed, or seeking employment, or in receipt of education or training. [1769]

(2) A local authority may make grants to persons who have attained the age of eighteen, but have not attained the age of twenty-one and who immediately before they attained the age of eighteen were in the care of a local authority, to enable them to meet expenses connected with their receiving suitable education or training. [1770]

(3) Where a person—

(*a*) is engaged in a course of education or training at the time when he attains the age of twenty-one; or

(*b*) having previously been engaged in a course of education or training which has been interrupted by any circumstances, resumes the course as soon as practicable,

then if a local authority are at the said time, or were at the time when the course was interrupted, as the case may be, making any contributions or grants in respect of him under any of the foregoing provisions of this section their powers under those provisions shall continue with respect to him until the completion of the course. [1771]

General note.—This section confers two distinct powers on a local authority:

(*a*) power to contribute towards the maintenance of persons between the ages of eighteen and twenty-one who at any time since they were above compulsory school age were in the authority's care (sub-s. (1); and

(*b*) power to make grants towards the expenses of education or training of persons between the ages of eighteen and twenty-one who were in the authority's care immediately before they attained the age of eighteen (sub-s. (2)).

"*In the care of a local authority.*"—See s. 11, *ante*.

Definitions.—For definition of "compulsory school age", see s. 59 (1), *post*; as to "local authority", see s. 38, *post*.

21. Allocation of functions as between local authority and local education authority.—The Secretary of State and the Minister of Education, or in

Scotland the Secretary of State, may make regulations for providing, where a local authority under this Part of this Act and a local education authority as such have concurrent functions, by which authority the functions are to be exercised, and for determining as respects any functions of a local education authority specified in the regulations whether a child in the care of a local authority is to be treated as a child of parents of sufficient resources or a child of parents without resources. [1772]

General note.—This section empowers the making of regulations for the allocation of concurrent functions between the local authority for the purposes of this Act and the local education authority.

The functions of the local authority under the present Act which overlap with those of the local education authority as such, and with regard to which it is contemplated that regulations will be made, are those under s. 12, *ante*, and under s. 20, *ante*.

Regulations.—As to regulations, generally, see s. 58, *post*. No regulations under the present section had been made up to the date of going to press.

Child of parents of sufficient resources.—This expression is not defined in the Education Acts, 1944 to 1946, or in the present Act. It is, however, an underlying principle of the Education Acts that no sums are to be recoverable in respect of benefits provided for a child if to do so would involve the parents in "financial hardship"; for the use of this term see the Education Act, 1944, s. 52 (37 Halsbury's Statutes 179).

"*Child in the care of a local authority.*"—See s. 11, *ante*.

Definitions.—For definitions of "child", "functions" and "local education authority", see s. 59 (1), *post*; as to "local authority", see s. 38, *post*.

22. Power of local authority to defray expenses of parents, etc., visiting children or attending funerals.—A local authority may make payments to any parent or guardian of, or other person connected with, a child in their care in respect of travelling, subsistence or other expenses incurred by the parent, guardian or other person in visiting the child or attending his funeral, if it appears to the authority that the parent, guardian or other person would not otherwise be able to visit the child or attend the funeral without undue hardship and that the circumstances warrant the making of the payments. [1773]

"*Child in the care of a local authority.*"—See s. 11, *ante*.

Funeral.—By s. 18, *ante*, a local authority is empowered to cause the body of any child dying while in their care to be buried or cremated.

Definitions.—For definitions of "child", "guardian" and "parent", see s. 59 (1), *post*; as to "local authority", see s. 38, *post*.

PART III

CONTRIBUTIONS TOWARDS MAINTENANCE OF CHILDREN

23. Contributions in respect of children in care of local authority.—(1) Subject to the provisions of this Part of this Act, sections eighty-six to eighty-eight of the Children and Young Persons Act, 1933, and sections ninety to ninety-two of the Children and Young Persons (Scotland) Act, 1937 (which provide for the making of contributions in respect of children committed to the care of a fit person or sent to approved schools and for the payment to local authorities of sums due under affiliation orders or decrees for aliment) shall apply to children received into the care of a local authority under section one of this Act as they apply to children committed to the care of a local authority as a fit person. [1774]

(2) Subject to the provisions of this Part of this Act, to the provisions of the said Acts of 1933 and 1937 as to appeals and to the provisions of the said Act of 1937 as to revocation or variation, a contribution order in respect of a child in the care of a local authority under section one of this Act shall remain in force so long as he remains in the care of a local authority under the said section one. [1775]

(3) In the application of the said section eighty-eight to children in the care of a local authority under section one of this Act, subsection (4) of the said section eighty-eight (which relates to the duration of affiliation orders)

shall have effect as if for paragraphs (*a*) and (*b*) thereof there were substituted—

"after the child or young person has ceased to be in the care of a local authority under section one of the Children Act, 1948." [1776]

General note.—This section ensures that no greater financial burden is placed on a local authority if of their own motion they receive a child into their care pursuant to s. 1, *ante*, than if the same child were committed to their care by the court under a "fit person order," as to which see s. 5, *ante*, and notes thereto.

Children and Young Persons Act, 1933, *ss.* 86–88.—26 Halsbury's Statutes 223–225. These sections are amended by s. 60, Sched. III and Sched. IV, Part I, *post*.

For the provisions as to appeals, see s. 102 (1) (26 Halsbury's Statutes 236), as amended.

Definitions.—For definitions of "child" and "contribution order", see s. 59 (1), *post*; as to "local authority", see s. 38, *post*.

24. Persons liable to make contributions.—(1) The persons liable under section eighty-six of the said Act of 1933 or section ninety of the said Act of 1937 to make contributions shall be the persons specified in that behalf in the following provisions of this section, and no others. [1777]

(2) The father and the mother of a child shall be liable to make contributions in respect of the child, but only so long as the child has not attained the age of sixteen; and no payments shall be required to be made under a contribution order made on the father or mother of a child in respect of any period after the child has attained that age. [1778]

(3) A person who has attained the age of sixteen and is engaged in remunerative full-time work shall be liable to make contributions in respect of himself. [1779]

General note.—The effect of sub-ss. (1) and (2), *supra*, is that the only persons liable to make contributions in respect of a child committed to the care of a fit person and sent to an approved school or received into the care of a local authority, are the father and mother, and their liability ceases when the child attains the age of sixteen. This follows the principle adopted in the National Assistance Act, 1948 (see ss. 42, 64 (1) thereof, title PUBLIC ASSISTANCE, *post*).

Sub-s. (3), *supra*, makes the child himself liable for contributions after he has attained sixteen if he is engaged in full-time remunerative employment. There is no longer any limit to the aggregate of the weekly contributions in respect of any child (see s. 25, *post*).

Said Act of 1933.—The Children and Young Persons Act, 1933. For s. 86 thereof, see 26 Halsbury's Statutes 223.

Definitions.—For definitions of "child" and "contribution order", see s. 59 (1), *post*.

25. Repeal of limit to amount of contributions.—The proviso to subsection (1) of section eighty-seven of the said Act of 1933 and the proviso to subsection (1) of section ninety-one of the said Act of 1937 (under which the aggregate of the weekly amounts payable under contribution orders and certain affiliation orders in respect of any one child may not exceed such sum as may be prescribed by the Secretary of State) shall cease to have effect. [1780]

General note.—The effect of this section is to remove the limit on the amount of a weekly contribution under a contribution order.

Said Act of 1933.—The Children and Young Persons Act, 1933. For s. 87 (1), proviso thereof, see 26 Halsbury's Statutes 224.

26. Affiliation orders.—(1) In England or Wales, where—

(*a*) an illegitimate child is in the care of a local authority under section one of this Act, or

(*b*) an order is in force for the committal of an illegitimate child in the care of a local authority as a fit person, or

(*c*) a local authority are maintaining an illegitimate child in an approved school of which they are the managers or are liable in respect of an illegitimate child to make contributions to the managers of any other approved school under whose care the child is,

and no affiliation order has been made in respect of the child, the local authority whose area includes the place where the mother of the child resides

may make application to a court of summary jurisdiction having jurisdiction in that place for a summons to be served under section three of the Bastardy Laws Amendment Act, 1872:

Provided that no application shall be made under this subsection—

(i) in a case falling within paragraph (*a*) of this subsection, after the expiration of three years from the time when the child was received or last received into the care of the local authority or of another local authority from whom the care of the child was taken over by the first-mentioned authority;

(ii) in a case falling within paragraph (*b*) or (*c*) of this subsection, after the expiration of three years from the coming into force of the order mentioned in the said paragraph (*b*) or, as the case may be, the time when the local authority began to maintain the child or became liable in respect of him, as mentioned in the said paragraph (*c*). [1781]

(2) In any proceedings on an application under the last foregoing subsection the court shall hear such evidence as the local authority may produce, in addition to the evidence required to be heard by section four of the said Act of 1872, and shall in all other respects, but subject to the provisions of the next following subsection, proceed as on an application made by the mother under the said section three. [1782]

(3) An order made under section four of the said Act of 1872 on an application under subsection (1) of this section shall provide that the payments to be made under the order shall, in lieu of being made to the mother or a person appointed to have the custody of the child, be made to the person who is from time to time entitled under section eighty-six of the said Act of 1933 to receive contributions in respect of the child. [1783]

(4) Where in accordance with subsection (4) of section eighty-eight of the Children and Young Persons Act, 1933 (which limits the duration of affiliation orders) an affiliation order has ceased to be in force, and but for that subsection the order would still be in force, then if the condition specified in paragraph (*a*), (*b*) or (*c*) of subsection (1) of this section is fulfilled, the local authority whose area includes the place where the putative father of the child resides may make application to a court of summary jurisdiction having jurisdiction in that place—

(*a*) for the affiliation order to be revived, and

(*b*) for payments thereunder to be made to the person who is from time to time entitled under section eighty-six of the said Act of 1933 to receive contributions in respect of the child,

and the court may make an order accordingly. [1784]

(5) Part IV of the said Act of 1933 shall apply in relation to an order made on an application under subsection (1) of this section or to an affiliation order revived under the last foregoing subsection as if it were an affiliation order in respect of which an order had been made under subsection (1) of section eighty-eight of that Act. [1785]

(6) Paragraph (*a*) of subsection (2) of the said section eighty-eight of the said Act of 1933 (which paragraph provides for the enforcement and variation of affiliation orders where an order under that section is in force) shall have effect notwithstanding anything in paragraphs 5 and 6 of the Second Schedule to the Emergency Laws (Miscellaneous Provisions) Act, 1947 (which contain general provisions for the variation and revocation of affiliation orders). [1786]

(7) The Secretary of State may issue new or altered forms of proceedings as he may deem necessary or expedient for giving effect to the foregoing provisions of this section. [1787]

(8) In Scotland, where the condition specified in paragraph (*a*) (*b*) or (*c*) of subsection (1) of this section is fulfilled and no decree for aliment has been granted in respect of the child—

(*a*) the local authority shall have the like right as the mother to raise an action of affiliation and aliment concluding for payment of aliment for the child;

(*b*) where in an action of affiliation and aliment raised under the last foregoing paragraph, the court grants decree against any person for aliment of the child, Part V of the said Act of 1937 shall apply to payments under the decree as if they were payments in respect of which an order had been made under subsection (1) of section ninety-two of that Act;

(*c*) the local authority or other person in whose favour any such order as aforesaid is made shall have the like right to enforce the decree (so far as relating to the said sums) by diligence, including the right to take proceedings under the Civil Imprisonment (Scotland) Act, 1882, as if the decree were a decree in favour of the authority or person.

In this subsection, references to the local authority include, where the context so requires, references to the education authority, and the reference to paragraph (*c*) of subsection (1) of this section shall be construed accordingly. [1788]

General note.—The Children and Young Persons Act, 1933, s. 88 (26 Halsbury's Statutes 225), enables a local authority to obtain an order that payments under an affiliation order in respect of an illegitimate child committed to their care as a fit person, or sent to an approved school, be made to them; and the section as applied by s. 23, *ante*, enables the authority to obtain a like variation of an affiliation order in respect of an illegitimate child received into their care under s. 1, *ante*. The present section goes a step further, and enables a local authority to apply for an affiliation order in respect of any such child where no such order has been made on the mother's application.

The section is complementary to s. 44 of the National Assistance Act, 1948, title PUBLIC ASSISTANCE, *post*, which gives a similar power of applying for affiliation orders to the National Assistance Board and to local authorities for the purposes of that Act.

Fit person orders.—See s. 5, *ante*, and the notes thereto.

Approved school.—As to the circumstances in which an approved school order may be made, see the notes to s. 6, *ante*.

Bastardy Laws Amendment Act, 1872, ss. 3, 4.—2 Halsbury's Statutes (2nd Edn.) 478, 480.

Said Act of 1933.—The Children and Young Persons Act, 1933. For ss. 86, 88 thereof, see 26 Halsbury's Statutes 223, 225; for Part IV thereof (ss. 77–91), see 26 Halsbury's Statutes 216–229.

These sections are extensively amended by s. 60 and Scheds. III and IV, Part I, *post*.

Emergency Laws (Miscellaneous Provisions) Act, 1947, Sched. II. paras. 5, 6.—40 Halsbury's Statutes 1306, 1307.

Definitions.—For definitions of "child" and "local education authority", see s. 59 (1), *post*; as to "local authority", see s. 38, *post*.

PART IV

VOLUNTARY HOMES AND VOLUNTARY ORGANISATIONS

27. Provisions as to voluntary homes to extend to homes supported wholly or partly by endowments.—Section ninety-two of the Children and Young Persons Act, 1933, and section ninety-six of the Children and Young Persons (Scotland) Act, 1937 (which define the expression "voluntary home") shall have effect as if to the reference therein to a home or other institution supported wholly or partly by voluntary contributions there were added a reference to a home or other institution supported wholly or partly by endowments, not being a school within the meaning of the Education Act, 1944, or the Education (Scotland) Act, 1946. [1789]

Children and Young Persons Act, 1933, s. 92.—26 Halsbury's Statutes 230.

Education Act, 1944.—37 Halsbury's Statutes 123. For the definition of "school", see s. 114 (1) thereof (37 Halsbury's Statutes 216).

28. Extension of age limits in provisions relating to voluntary homes.—A person shall not be deemed for the purposes of Part V of the Children and Young Persons Act, 1933, or Part VI of the Children and Young Persons (Scotland) Act, 1937, to cease to be a young person until he attains the age of eighteen, and accordingly references to young persons in the said Part V or the said Part VI, or any other enactment in so far as it relates to the said Part V or the said Part VI, shall be construed as including references to all persons over the age of fourteen who have not attained the age of eighteen. [1790]

Children and Young Persons Act, 1933, *Part V.*—26 Halsbury's Statutes 230–231.

29. Registration of voluntary homes.—(1) After the end of the year nineteen hundred and forty-eight no voluntary home shall be carried on unless it is for the time being registered in a register to be kept for the purposes of this section by the Secretary of State. [1791]

(2) Application for registration under this section shall be made by the persons carrying on or intending to carry on the home to which the application relates, and shall be made in such manner, and accompanied by such particulars, as the Secretary of State may by regulations prescribe. [1792]

(3) On an application duly made under the last foregoing subsection—

(*a*) if the home to which the application relates was at the commencement of this Act open for the reception of children, the application shall be granted ;

(*b*) in any other case, the Secretary of State may either grant or refuse the application, as he thinks fit, but where he refuses the application he shall give the applicant notice in writing of the refusal. [1793]

(4) Where at any time after the end of the year nineteen hundred and forty-eight it appears to the Secretary of State that the conduct of any voluntary home is not in accordance with regulations made or directions given under section thirty-one of this Act or is otherwise unsatisfactory, he may, after giving to the persons carrying on the home not less than twenty-eight days' notice in writing of his proposal so to do, remove the home from the register. [1794]

(5) Any person who carries on a voluntary home in contravention of the provisions of subsection (1) of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifty pounds and to a further fine not exceeding two pounds in respect of each day during which the offence continues after conviction. [1795]

(6) Where—

(*a*) a voluntary home is carried on in contravention of the provisions of subsection (1) of this section ; or

(*b*) notice of a proposal to remove a voluntary home from the register is given under subsection (4) thereof,

the Secretary of State may, notwithstanding that the time for any appeal under the next following section has not expired or that such an appeal is pending, notify the local authority in whose area the home is situated, and require them forthwith to remove from the home and receive into their care under section one of this Act all or any of the children for whom accommodation is being provided in the home ; and the local authority shall comply with the requirement whether or not the circumstances of the children are such that they fall within paragraphs (*a*) to (*c*) of subsection (1) of the said section one and notwithstanding that any of the children may appear to the local authority to be over the age of seventeen.

For the purpose of carrying out the duty of the local authority under this subsection, any person authorised in that behalf by the local authority may enter any premises in which the home in question is being carried on. [1796]

(7) Where the Secretary of State registers a home under this section or removes a home from the register, he shall notify the local authority in whose area the home is situated. [1797]

(8) Any notice under this section required to be given by the Secretary of State to the persons carrying on, or intending to carry on, a voluntary home may be given to those persons by being delivered personally to any one of them, or being sent by post in a registered letter to them or any one of them.

For the purposes of section twenty-six of the Interpretation Act, 1889 (which defines "service by post") a letter enclosing a notice under this section to the persons carrying on a voluntary home or any one of them shall be deemed to be properly addressed if it is addressed to them or him at the home. [1798]

(9) Section ninety-five of the Children and Young Persons Act, 1933, and section ninety-nine of the Children and Young Persons (Scotland) Act, 1937, are hereby repealed as from the first day of January, nineteen hundred and forty-nine. [1799]

General note.—This section which, as from January 1, 1949, replaces s. 95 of the Children and Young Persons Act, 1933 (26 Halsbury's Statutes 231), which is repealed as from that date by sub-s. (9), *supra*, and s. 60 (3) and Sched. IV, Part II, *post*), imposes a new and much stricter system of control over voluntary homes for children.

As from January 1, 1949, it is unlawful to carry on a voluntary home unless it is for the time being registered in the register of voluntary homes which is kept by the Secretary of State, and heavy penalties may be imposed on those who fail to register.

The section should be read in conjunction with ss. 30–32, *post*.

Regulations.—See the Voluntary Homes (Registration) Regulations, 1948 (S.I. 1948 No. 2408). These regulations prescribe three different forms of application for registration of a voluntary home according as to whether the home (*a*) was opened before July 5, 1948 (when the Act came into operation); (*b*) was opened during the period July 5, 1948—December 31, 1948; or (*c*) was or is to be opened on or after January 1, 1949.

As to regulations generally, see s. 58, *post*.

Interpretation Act, 1889, *s.* 26.—18 Halsbury's Statutes 1002.

Children and Young Persons Act, 1933, *s.* 95.—26 Halsbury's Statutes 231. The section was temporarily amended by s. 60 (2) and Sched. III, *post*, and is repealed as from January 1, 1949, by sub-s. (9), *supra*, and s. 60 (3) and Sched. IV, Part II, *post*.

Definitions.—For definitions of "child" and "voluntary home", see s. 59 (1), *post*; as to "local authority", see s. 38, *post*.

30. Appeals.—(1) Where under the last foregoing section application for the registration of a voluntary home is refused, or it is proposed to remove a voluntary home from the register, the persons intending to carry on or carrying on the home, as the case may be, may within fourteen days from the giving of the notice under subsection (3) or subsection (4) of that section appeal against the refusal or proposal; and where the appeal is brought against a proposal to remove a home from the register, the home shall not be removed therefrom before the determination of the appeal. [1800]

(2) An appeal under this section shall be brought by notice in writing addressed to the Secretary of State requiring him to refer the refusal or proposal to an appeal tribunal constituted in accordance with the provisions of Part I of the First Schedule to this Act. [1801]

(3) On an appeal under this section the appeal tribunal may confirm the refusal or proposal of the Secretary of State or may direct that the home shall be registered or, as the case may be, shall not be removed from the register, and the Secretary of State shall comply with the direction. [1802]

(4) The Lord Chancellor may with the concurrence of the Lord President of the Council make rules as to the practice and procedure to be followed with respect to the constitution of appeal tribunals for the purposes of this section, as to the manner of making appeals to such tribunals, and as to

proceedings before such tribunals and matters incidental to or consequential on such proceedings; and without prejudice to the generality of the foregoing provisions of this subsection such rules may make provision as to the particulars to be supplied by or to the Secretary of State of matters relevant to the determination of the appeal, and as to representation before such tribunals, whether by counsel or solicitor or otherwise. [1803]

(5) The Secretary of State may out of moneys provided by Parliament—

(*a*) pay to members of tribunals constituted for the purposes of this section such fees and allowances as he may with the consent of the Treasury determine,

(*b*) defray the expenses of such tribunals up to such amount as he may with the like consent determine. [1804]

(6) The provisions of the Arbitration Acts, 1889 to 1934, shall not apply to any proceedings before a tribunal constituted for the purposes of this section except so far as any provisions thereof may be applied thereto with or without modifications by rules made under this section. [1805]

(7) In the application of this section to Scotland, for the reference to Part I of the First Schedule to this Act there shall be substituted a reference to Part II of that Schedule, and for the references to the Lord Chancellor and the Lord President of the Council there shall respectively be substituted references to the Lord President of the Court of Session and to the Secretary of State; and rules made under subsection (4) of this section may make provision for a reference to the Court of Session, by way of stated case, of any question of law arising in such proceedings. [1806]

General note.—This section confers a right of appeal to an *ad hoc* appeal tribunal, constituted in accordance with Sched. 1, *post*, on a person carrying on or proposing to carry on a voluntary home against a proposal to remove the home from the register kept pursuant to s. 29 (1), *ante*, or refusal to register the home, as the case may be.

Arbitration Acts, 1889 to 1934.—These Acts are the Arbitration Act, 1889; the Arbitration Clauses (Protocol) Act, 1924; the Arbitration (Foreign Awards) Act, 1930; and the Arbitration Act, 1934 (2 Halsbury's Statutes (2nd Edn.) 4, 31, 23, 29).

Definition.—For definition of "voluntary home", see s. 59 (1), *post*.

31. Regulations as to conduct of voluntary homes.—(1) The Secretary of State may make regulations as to the conduct of voluntary homes and for securing the welfare of the children therein, and regulations under this section may in particular—

(*a*) impose requirements as to the accommodation and equipment to be provided in homes, authorise the Secretary of State to give directions prohibiting the provision for the children in any home of clothing of any description specified in the directions, and impose requirements as to the medical arrangements to be made for protecting the health of the children in the homes;

(*b*) require the furnishing to the Secretary of State of information as to the facilities provided for the parents and guardians of children in the homes to visit and communicate with the children, and authorise the Secretary of State to give directions as to the provision of such facilities;

(*c*) authorise the Secretary of State to give directions limiting the number of children who may at any one time be accommodated in any particular home;

(*d*) provide for consultation with the Secretary of State as to applicants for appointment to the charge of a home and empower the Secretary of State to prohibit the appointment of any particular applicant therefor except in the cases (if any) in which the regulations dispense with such consultation by reason that the person to be appointed possesses such qualifications as may be prescribed by the regulations;

(*e*) require notice to be given to the Secretary of State of any change of the person in charge of a home; and

(*f*) impose requirements as to the facilities which are to be given for children to receive a religious upbringing appropriate to the persuasion to which they belong,

and may contain different provisions for different descriptions of cases and as respects different descriptions of homes. [1807]

(2) Where any regulation under this section provides that this subsection shall have effect in relation thereto, any person who contravenes or fails to comply with the regulation or any requirement or direction thereunder shall be liable on summary conviction to a fine not exceeding fifty pounds. [1808]

Regulations.—As to regulations generally, see s. 58, *post*.
No regulations under this section had been made up to the date of going to press.
Penalties.—As to prosecutions, see s. 55, *post*. A more serious sanction than the fines which may be imposed under sub-s. (2), *supra*, is provided by the power conferred on the Secretary of State by s. 39 (4), *ante*, to remove from the register any voluntary home which appears to him not to be conducted in accordance with regulations under the present section.
Definitions.—For definitions of "child" and "voluntary home", see s. 59 (1), *post*.

32. Provisions where particulars to be sent of voluntary homes are varied.—(1) Where the Secretary of State by regulations made under section ninety-three of the Children and Young Persons Act, 1933, or section ninety-seven of the Children and Young Persons (Scotland) Act, 1937, varies the particulars which are to be sent by persons in charge of voluntary homes—

(*a*) the person in charge of such a home shall send the prescribed particulars to the Secretary of State within three months from the date of the making of the regulations;

(*b*) where any such home was established before, but not more than three months before, the making of the regulations, compliance with the last foregoing paragraph shall be sufficient compliance with the requirement of the said section ninety-three or ninety-seven to send the prescribed particulars within three months from the establishment of the home;

(*c*) in the year in which the particulars are varied, compliance with paragraph (*a*) of this subsection by the person in charge of any voluntary home shall be sufficient compliance with the requirement of the said section ninety-three or ninety-seven to send the prescribed particulars before the prescribed date in that year. [1809]

(2) Any default in complying with the requirements of paragraph (*a*) of the last foregoing subsection shall be deemed to be such a default as is mentioned in subsection (2) of the said section ninety-three or in subsection (3) of the said section ninety-seven, as the case may be. [1810]

General note.—S. 93 of the Children and Young Persons Act, 1933 (26 Halsbury's Statutes 230), provides that particulars prescribed by regulations with regard to every voluntary home must be sent to the Home Secretary by the person in charge of the home within three months after the commencement of the Act or the establishment of the home, as the case may be, and in subsequent years before such date as may be prescribed. The regulations under this section at present in force are the Children and Young Persons (Voluntary Homes) Regulations, 1945 (S. R. & O., 1945, No. 1196), which provide that in 1945 and subsequent years, the date on or before which the particulars are to be sent to the Secretary of State is to be July 1.
The present section contemplates the making of new regulations varying those now prescribed by S. R. & O., 1945, No. 1196, *supra*, and provides that the particulars to be prescribed by such new regulations shall be sent in within three months after the regulations are made (sub-s. (1) (*a*)). Compliance with this obligation is, in the case of a home established within three months before the making of the new regulations, to override the obligation to send in particulars within three months after a new home is established (sub-s. (1) (*b*)), and in any other case, to override the obligation to send in particulars before the prescribed date in the year in which the new regulations are made (sub-s. (1) (*c*)).

Newly established homes.—Existing homes which are first brought within the definition of voluntary homes by ss. 27 or 28, *ante*, are deemed to have been established at the commencement of the present Act (see Sched. II, para. 7, *post*).

Definition.—For definition of "voluntary home", see s. 59 (1), *post*.

33. Powers of Secretary of State as to voluntary organisations.—(1) The Secretary of State may by regulations control the making and carrying out by voluntary organisations of arrangements for the emigration of children. [1811]

(2) Any such regulations may contain such consequential and incidental provisions as appear to the Secretary of State to be necessary or expedient, including, in particular, provisions for requiring information to be given to the Secretary of State as to the operations or intended operations of the organisation and for enabling the Secretary of State to be satisfied that suitable arrangements have been or will be made for the children's reception and welfare in the country to which they are going. [1812]

(3) The power conferred by Part II of this Act on the Secretary of State to make regulations as to the boarding-out of children by local authorities shall extend also to the boarding-out of children by voluntary organisations:

Provided that in the provisions of the said Part II conferring that power any reference to the supervision and inspection by a local authority of boarded-out children and the premises in which they are boarded out shall, in relation to children boarded out by voluntary organisations, be deemed to be a reference to supervision and inspection either by a local authority or, where it is so provided by or under the regulations, by a voluntary organisation. [1813]

(4) Where any regulation under this section provides that this subsection shall have effect in relation thereto, any person who contravenes or fails to comply with the regulation shall be liable on summary conviction to a fine not exceeding fifty pounds. [1814]

General note.—This section authorises the making of regulations controlling child emigration arranged through the agency of voluntary organisations (sub-ss. (1) and (2)), and the boarding-out of children by voluntary organisations (sub-s. (3)). Breach of specified regulations may be made punishable by a fine of not more than £50 (sub-s. (4)).

Regulations.—As to regulations generally, see s. 58, *post*. No regulations under the present section had been made up to the date of going to press.

Emigration.—As to local authorities' powers to assist the emigration of children, see s. 17, *ante*.

Regulations as to the boarding-out of children.—See s. 14, *ante*.

Offences.—As to the prosecution of offences, see s. 58, *post*.

Definitions.—For definitions of "child" and "voluntary organisation", see s. 59 (1), *post*; as to "local authority", see s. 38, *post*.

34. After-care of children formerly in care of local authorities or voluntary organisations.—(1) Where it comes to the knowledge of a local authority that there is in their area any child over compulsory school age who at the time when he ceased to be of that age or at any subsequent time was, but is no longer,—

(*a*) in the care of a local authority under section one of this Act, or
(*b*) in the care of a voluntary organisation,

then, unless the authority are satisfied that the welfare of the child does not require it, they shall be under a duty so long as he has not attained the age of eighteen to advise and befriend him:

Provided that where in a case falling within paragraph (*b*) of this subsection the local authority are satisfied that the voluntary organisation have the necessary facilities for advising and befriending him, the local authority may make arrangements whereby, while the arrangements continue in force, he shall be advised and befriended by the voluntary organisation instead of by the local authority. [1815]

(2) Where a child over compulsory school age—

(*a*) ceases to be in the care of a local authority under section one of this Act and proposes to reside in the area of another local authority, or

(*b*) ceases to be in the care of a voluntary organisation,

the authority or organisation shall inform the local authority for the area in which the child proposes to reside. [1816]

(3) Where it comes to the knowledge of a local authority or a voluntary organisation that a child whom they have been advising and befriending in pursuance of this section proposes to transfer or has transferred his residence to the area of another local authority, the first-mentioned local authority or, as the case may be, the voluntary organisation, shall inform the said other local authority. [1817]

General note.—This section imposes on local authorities the duty of providing, or arranging for suitably-equipped voluntary organisations to provide, after-care for children in certain circumstances. These circumstances are (i) that the children affected are over fifteen and under eighteen, (ii) that they have ceased to be in the care of a local authority or voluntary organisation, and (iii) that the circumstances of the children is not such as to render after-care unnecessary for their welfare.

Definitions.—For definitions of "child", "compulsory school age" and "voluntary organisation", see s. 59 (1), *post*; as to "local authority", see s. 38, *post*.

PART V

CHILD LIFE PROTECTION

35. General extension of Child Life Protection provisions to all children below school leaving age.—The following provisions, that is to say—

(*a*) Part VII of the Public Health Act, 1936, Part XIII of the Public Health (London) Act, 1936, and Part I of the Children and Young Persons (Scotland) Act, 1937 (which provide for the protection of children under the age of nine who are maintained apart from their parents for reward); and

(*b*) section seven of the Adoption of Children (Regulation) Act, 1939 (which provides for the supervision of children under the age of nine where arrangements are made through third parties for placing them in the care and possession of persons other than their parents),

shall be extended so as to apply to children of compulsory school age who are over the age of nine as they apply to children who are under that age; and subject to the provisions of the next following section reference in the said provisions to the age of nine, and to nursing and maintaining, shall be construed accordingly. [1818]

General note.—This section, which should be read together with ss. 36 and 37, *post*, extends the period of a child's life during which the child protection provisions of the Public Health Acts, *infra*, and of the Adoption of Children (Regulation) Act, 1939, *infra*, are to operate. Principally through the agency of child protection visitors, the Public Health Acts provide for protecting children who are maintained apart from their parents for reward. The 1939 Act provides for the supervision by welfare authorities in certain circumstances of children placed in the care of strangers pending adoption. In all cases the provisions of these Acts previously applied only to children under nine years of age, but the present section now extends these provisions to cover children up to the upper limit of the compulsory school age (at present, fifteen years).

S. 36, *post*, further extends the provisions to cover children up to eighteen if such provisions applied at the time the child ceased to be of compulsory school age; and by s. 37, *post*, the class of children protected under the Public Health Acts is enlarged to include orphans in respect of whom State allowances are paid to the persons maintaining them.

As to the local authorities for the purposes of the child protection provisions of the above-mentioned Acts, see s. 38, *post*.

Consequential amendments are made by s. 60 (2) and Sched. III, *post*.

Public Health Act, 1936, *Part VII.*—29 Halsbury's Statutes 460–470.

Public Health (London) Act, 1936, *Part XIII.*—30 Halsbury's Statutes 581–588.

Adoption of Children (Regulation) Act, 1939, s. 7.—32 Halsbury's Statutes 210.

Definitions.—For definitions of "child" and "compulsory school age", see s. 59 (1), *post*.

36. Extension of certain Child Life Protection provisions to children up to eighteen.—Where any of the provisions specified in paragraphs (*a*) and (*b*) of the last foregoing section apply in respect of a child at the time when he ceases to be of compulsory school age, the said provisions and the provisions of this Act relating thereto shall continue to apply in respect of him—

(*a*) until the time when he attains the age of eighteen or ceases to live apart from his parents with the person with whom he was living when he ceased to be of compulsory school age;

(*b*) if he dies before attaining the age of eighteen and while living as aforesaid, as respects the notice to be given under the said provisions on his death. [1819]

General note.—This section should be read with s. 35, *ante*, and s. 37, *post*; see the notes to s. 35, *ante*.

Notice to be given on his death.—This notice is required to be given within twenty-four hours after the death of a foster child by the foster parent to the coroner (see the Public Health Act, 1936, s. 212 (20 Halsbury's Statutes 468); and the Public Health (London) Act, 1936, s. 204 (20 Halsbury's Statutes 585)).

Definitions.—For definitions of "child" and "compulsory school age", see s. 59 (1), *post*.

37. Miscellaneous amendments of Child Life Protection provisions.—(1) Where a child one or both of whose parents are dead is being maintained by a person who is not a parent, guardian or relative of his, and by reason of his being so maintained a guardian's allowance under the National Insurance Act, 1946, or a family allowance under the Family Allowances Act, 1945, is payable to that person, the said person shall be treated for the purposes of the provisions specified in paragraph (*a*) of the last but one foregoing section as having undertaken, on the date hereinafter specified, the nursing and maintenance of the child for reward.

The date hereinbefore referred to is the last of the following dates, that is to say—

(*a*) the date on which the application for the allowance was granted or, where the application was granted before the commencement of this Act but so as to take effect at a subsequent date not earlier than the commencement thereof, the date on which the allowance became payable;

(*b*) the date of the death of the first to die of the child's parents;

(*c*) where it is proved that at the later of the dates mentioned in the foregoing paragraphs the person in question had reasonable cause to believe that both parents of the child were alive, the date on which the said person became aware that one of the child's parents had died. [1820]

(2) A voluntary home shall be exempted from the provisions of Part VII of the Public Health Act, 1936, whether or not it is such a home as is mentioned in paragraphs (*a*) to (*c*) of subsection (1) of section two hundred and nineteen of that Act. [1821]

(3) Nothing in the said Part VII, in Part XIII of the Public Health (London) Act, 1936, or in Part I of the Children and Young Persons (Scotland) Act, 1937, shall apply in relation to any undertaking given by a person with whom a child is boarded out by the Minister of Pensions, by a local authority under Part II of this Act or by a voluntary organisation. [1822]

(4) The provisions of section seven of the Adoption of Children (Regulation) Act, 1939, shall not have effect in relation to any arrangements for the boarding-out of a child by a voluntary organisation or in relation to any arrangements in which the Minister of Pensions participates. [1823]

(5) Nothing in any of the provisions mentioned in section thirty-five of this Act shall apply in relation to a child on whom a requirement as to residence is imposed by a supervision order or probation order. [1824]

(6) For the avoidance of doubt it is hereby declared that the references in section two hundred and nineteen of the Public Health Act, 1936, section two hundred and seventy-one of the Public Health (London) Act, 1936, and section eleven of the Children and Young Persons (Scotland) Act, 1937, to hospitals maintained by a Government department include references to hospitals maintained by Regional Hospital Boards on behalf of the Minister of Health or the Secretary of State. [1825]

General note.—This section, which adds a number of new exemptions from the operation of the child life protection enactments, should be read with ss. 35 and 36, *ante*; see the notes to s. 35, *ante*.

Consequential amendments are made by s. 60 (2) and Sched. III, *post*.

National Insurance Act, 1946.—39 Halsbury's Statutes 412. S. 19 thereof (39 Halsbury's Statutes 439) deals with guardian's allowance.

Family Allowances Act, 1945.—38 Halsbury's Statutes 340.

Public Health Act, 1936, *Part VII*, s. 210.—30 Halsbury's Statutes 460 *et seq.*, 469.

Public Health (London) Act, 1936, *Part XIII*, s. 271.—30 Halsbury's Statutes 581 *et seq.*, 587.

Adoption of Children (Regulation) Act, 1939, s. 7.—32 Halsbury's Statutes 210.

Boarding-out.—Children who may be boarded out by the Minister of Pensions are those for whom he is responsible under s. 9 of the War Pensions (Administrative Provisions) Act, 1918 (17 Halsbury's Statutes 540), as extended by the War Orphans Act, 1942 (35 Halsbury's Statutes 315); see further s. 7, *ante*. The power of a local authority under Part II of this Act to board out children in its care is conferred by s. 13 (1) (*a*), *ante*. Boarding-out by voluntary organisations is to be controlled by regulations under s. 33 (3), *ante*.

Definitions.—For definitions of "child", "parent", "voluntary home" and "voluntary organisation", see s. 59 (1), *post*; as to "local authority", see s. 38, *infra*.

PART VI

ADMINISTRATIVE AND FINANCIAL PROVISIONS

38. Local authorities.—(1) In England and Wales, the local authorities for the purposes of this Act and of Parts III and IV of the Children and Young Persons Act, 1933, and the welfare authorities for the purposes of the provisions relating to child life protection of Part VII of the Public Health Act, 1936, shall be the councils of counties and county boroughs, and the local authority for the purposes of Part XIII of the Public Health (London) Act, 1936, shall be the London County Council. [1826]

(2) In Scotland, the local authorities for the purposes of this Act shall be the councils of counties and large burghs. [1827]

General note.—The effect of this section is that county councils (including the London County Council) and county borough councils become the local authorities not only for the purposes of the present Act, but also for the purposes of the provisions of the Children and Young Persons Act, 1933, *infra*, relating to children and young persons committed to the care of fit persons or sent to approved schools or remand homes, and of the child life protection provisions of the Public Health Acts, *infra*. By virtue of s. 16 (2), (3) of the Adoption of Children (Regulation) Act, 1939 (32 Halsbury's Statutes 215), the same local authorities are welfare authorities for the purposes of s. 7 of that Act.

Consequential amendments are made by s. 60 (2) and Sched. III, *post*.

Children and Young Persons Act, 1933, *Parts III and IV*.—26 Halsbury's Statutes 192–229.

Public Health Act, 1936, *Part VII*.—29 Halsbury's Statutes 460 *et seq.*

Public Health (London) Act, 1936, *Part XIII*.—30 Halsbury's Statutes 581 *et seq.*

39. Children's committee.—(1) Subject to the provisions of the next following section, every local authority shall establish a children's committee for the purposes of their functions under the following enactments, that is to say—

(*a*) Parts III and IV of the Children and Young Persons Act, 1933, or, as the case may be, Parts IV and V of the Children and Young Persons (Scotland) Act, 1937;

(*b*) the provisions relating to child life protection of Part VII of the Public Health Act, 1936, the provisions of Part XIII of the Public Health (London) Act, 1936, or the provisions of Part I of the

Children and Young Persons (Scotland) Act, 1937, as the case may be;

(*c*) the Adoption of Children (Regulation) Act, 1939; and

(*d*) this Act. [1828]

(2) All matters relating to the discharge of the functions of a local authority under the enactments specified in subsection (1) of this section shall stand referred to the children's committee, and except with the consent of the Secretary of State no matter not relating to the discharge of the said functions shall be referred to or dealt with by the children's committee. [1829]

(3) Before exercising any of the said functions a local authority shall, unless the matter is urgent, consider a report of the children's committee with respect thereto, and they may authorise the children's committee to exercise on their behalf any of the said functions except the power to borrow money or to levy or to issue a precept for a rate. [1830]

(4) The children's committee may include persons specially qualified by reason of experience or training in matters relating to the functions of the committee, notwithstanding that they are not members of the local authority:

Provided that at least a majority of the members of the committee shall be members of the authority. [1831]

(5) A children's committee may, subject to any restrictions imposed by the local authority, establish such sub-committees as the children's committee may determine, and any sub-committee established under this subsection shall be constituted in such manner as the children's committee may, subject to any restrictions so imposed, determine, and may include persons specially qualified as aforesaid notwithstanding that they are not members of the local authority or of the children's committee:

Provided that every such sub-committee shall include at least one member of the local authority. [1832]

(6) A sub-committee under the last foregoing subsection may be appointed by the children's committees of two or more local authorities jointly, so however that a sub-committee so appointed shall include at least one member of each of the local authorities. [1833]

(7) The children's committee or committees by which a sub-committee is appointed under this section may, subject to any restrictions imposed by the local authority or any of the respective local authorities, authorise the sub-committee to exercise on behalf of the children's committee or committees, as the case may be, any of their functions. [1834]

(8) The provisions of subsection (2) of this section shall not prevent a local authority from referring to any committee appointed by them other than the children's committee any matter relating to the discharge of their functions under the enactments specified in subsection (1) of this section which, by reason that it relates also to a general service of the authority, ought in the opinion of the authority to be so referred, and the provisions of subsections (2) and (3) of this section shall not apply to any matter which is so referred:

Provided that before deciding on any proposal for a reference under this subsection, the local authority shall receive and consider a report on the proposal from the children's committee. [1835]

General note.—Every local authority for the purposes of this Act, unless excused (see s. 40 (1), *post*), or concurring in the appointment of a joint committee (see s. 40 (4), *post*), is required to appoint a children's committee to deal with all matters concerning the authority's functions under specified enactments relating to children deprived of a *normal* home life (sub-s. (1), *supra*). Such matters are to stand referred automatically to the children's committee, which, except with the consent of the Secretary of State, is to deal with no other matters (sub-s. (2)), and, except in cases of urgency, the authority must consider a report of the committee before acting (sub-s. (3)). The authority may delegate all its said functions to the committee, other than those which involve borrowing or the raising of a rate (sub-s. (3)); and the committee may establish, or join with the children's committee of other local

authorities in establishing, sub-committees with authority to exercise on behalf of the committee any of their functions (sub-ss. (5), (6), (7)). A majority of the members of the committee (sub-s. (4)), and at least one member of each sub-committee, must be members of the local authority, while every joint sub-committee must include at least one member of each local authority appointing the joint committee (sub-s. (6)). Other committee, sub-committee and joint sub-committee members may be specially qualified persons who are not members of the local authority or, as the case may be, of any of the local authorities appointing the joint sub-committee (sub-ss. (4), (5), (6)).

As to the appointment of a children's officer, see s. 41, *post*, and as to the power of the Secretary of State to control the exercise of functions under the enactments specified in sub-s. (1), *supra*, see s. 42, *post*.

Children and Young Persons Act, 1933, *Parts III, IV*.—26 Halsbury's Statutes 192–220.
Public Health Act, 1936, *Part VII*.—29 Halsbury's Statutes 460 *et seq*.
Public Health (London) Act, 1936, *Part XIII*.—30 Halsbury's Statutes 581 *et seq*.
Adoption of Children (Regulation) Act, 1939.—32 Halsbury's Statutes 205.
Definitions.—For definition of "functions", see s. 59 (1), *post*; as to "local authority", see s. 38, *ante*.

40. Modification, in certain cases, of requirements of last foregoing section.—(1) If, before a local authority have appointed a children's committee under the last foregoing section, the Secretary of State is satisfied that owing to special circumstances the authority can better discharge their functions under the enactments specified in subsection (1) of that section without establishing a children's committee, he may direct that the said section shall not apply to the authority. [1836]

(2) If, at any time after three years from the commencement of this Act, a local authority which have established a children's committee satisfy the Secretary of State that owing to special circumstances the authority can better discharge their functions under the enactments specified in subsection (1) of the last foregoing section without a children's committee, the Secretary of State may direct that thenceforth the said section shall not apply to the authority. [1837]

(3) A direction under subsection (1) or subsection (2) of this section may be revoked by the Secretary of State either—

(*a*) on the application of the local authority concerned; or

(*b*) without any such application, if the Secretary of State is of the opinion that experience of the arrangements made by the authority for the discharge of their functions under the enactments specified in subsection (1) of the last foregoing section has shown that the arrangements are not satisfactory. [1838]

(4) Nothing in this or the last foregoing section shall be construed as prejudicing the powers conferred by section ninety-one of the Local Government Act, 1933, as to the appointment of joint committees, and references to the appointment of a children's committee by an authority, and to the children's committee of an authority, shall accordingly be construed, as respects England and Wales, as including references to concurrence in the appointment of a joint committee under the said section ninety-one, and to any joint committee so appointed; and the requirement of the last foregoing section that a sub-committee shall include at least one member of the local authority shall, in relation to a sub-committee of any such joint committee, be construed as a requirement that the sub-committee shall include at least one member of each local authority. [1839]

(5) In Scotland, any two or more local authorities may agree to combine in the establishment of a children's committee for the discharge of their functions under the enactments specified in subsection (1) of the last foregoing section, and the provisions of sections one hundred and nineteen and one hundred and twenty-one of the Local Government (Scotland) Act, 1937, shall apply in so far as they are not inconsistent with the provisions of the last foregoing section. In relation to a sub-committee of any such joint committee, the requirement of the last foregoing section that a sub-committee shall include one member of the local authority shall be construed as

a requirement that a sub-committee shall include at least one member of each local authority:

Provided that nothing in this or the last foregoing section shall be construed as precluding a local authority from joining another local authority in establishing remand homes in accordance with the provisions of subsection (1) of section eighty-one of the Children and Young Persons (Scotland) Act, 1937, and subsections (2) and (3) of the last foregoing section shall not apply to any arrangement so made. [1840]

General note.—This section makes provision for the modification of the requirements of s. 39, *ante*, in a number of special cases.
Commencement of the Act.—July 5, 1948.
Local Government Act, 1933, s. 91.—26 Halsbury's Statutes 355.
Definitions.—For definition of "function", see s. 59 (1), *post*; as to "local authority", see s. 38, *ante*.

41. The children's officer.—(1) For the purposes of their functions under the enactments specified in subsection (1) of section thirty-nine of this Act, a local authority shall in accordance with the provisions of this section appoint an officer to be known as the children's officer. [1841]

(2) A local authority shall not appoint a person to be the children's officer except after consultation with the Secretary of State, and for the purpose of such consultation shall send to the Secretary of State particulars showing the name, age, experience and qualifications of the persons from whom they propose to make a selection, and if the Secretary of State is of opinion that any of those persons is not a fit person to be the children's officer of the authority he may give directions prohibiting his appointment:

Provided that the Secretary of State may, if he thinks fit so to do in the case of the first appointment made under this section by any particular local authority, dispense with compliance with this subsection if the authority are proposing to appoint a person who, on the date of the passing of this Act, was performing as an officer of the authority functions corresponding to those falling to be performed after the commencement of this Act by the children's officer. [1842]

(3) Where the Secretary of State is satisfied that the same person can efficiently discharge the functions of children's officer for two or more local authorities, he may approve the appointment of one person as the children's officer by each of the authorities. [1843]

(4) The children's officer of an authority shall not, except with the consent of the Secretary of State, be employed by that authority in any other capacity. [1844]

(5) A local authority shall secure the provision of adequate staff for assisting the children's officer in the exercise of his functions. [1845]

(6) The provisions as to remuneration and tenure of office contained in sections one hundred and five and one hundred and six of the Local Government Act, 1933, section seventy-five of the London Government Act, 1939, or sections eighty-two and ninety-two of the Local Government (Scotland) Act, 1947, as the case may be, shall apply to children's officers. [1846]

General note.—This section requires every local authority to appoint a children's officer for the purpose of the functions entrusted to the children's committee (as to which see s. 39 (1), *ante*). The children's officer is intended to be a "field officer", most of whose time will be spent outside the authority's office in making contacts with children, parents, homes and institutions.
Local Government Act, 1933, ss. 105, 106.—26 Halsbury's Statutes 361.
London Government Act, 1939, s. 75.—32 Halsbury's Statutes 296.
Definitions.—For definition of "functions", see s. 59 (1), *post*; as to "local authority", see s. 38, *ante*.

42. Powers of Secretary of State with respect to functions of local authorities.—(1) Local authorities shall exercise their functions under the enactments specified in subsection (1) of section thirty-nine of this Act (including

any discretion conferred on them thereunder) under the general guidance of the Secretary of State. [1847]

(2) Sections three hundred and twenty-two, three hundred and twenty-four and three hundred and twenty-five of the Public Health Act, 1936 (which make provision for the exercise by the Minister of Health of certain functions otherwise exercisable by certain authorities) shall not apply in relation to any functions of local authorities under Part VII of that Act, being functions relating to child life protection. [1848]

Public Health Act, 1936, *Part VII*, *ss.* 322, 324, 325.—29 Halsbury's Statutes 460 *et seq.*, 525, 526, 527.
Definitions.—For definition of "functions", see s. 59 (1), *post*; as to "local authority", see s. 38, *ante*.

43. Advisory Council on Child Care.—(1) There shall be a council, to be known as the Advisory Council on Child Care, for the purpose of advising the Secretary of State on matters connected with the discharge of his functions in England and Wales under this Act, Parts IV and V of the Children and Young Persons Act, 1933, or any of the enactments specified in paragraphs (*b*) and (*c*) of subsection (1) of section thirty-nine of this Act. [1849]

(2) The said council shall consist of such persons, to be appointed by the Secretary of State, as the Secretary of State may think fit, being persons specially qualified to deal with matters affecting the welfare of children and persons having such other qualifications as the Secretary of State considers requisite.

Among the persons appointed under this subsection there shall be persons having experience in local government. [1850]

(3) The Secretary of State shall appoint a person to be chairman, and a person to be the secretary, of the said council. [1851]

(4) It shall be the duty of the said council to advise the Secretary of State on any matter which the Secretary of State may refer to them, being such a matter as is mentioned in subsection (1) of this section, and they may also, of their own motion, make representations to the Secretary of State as respects any such matter as is mentioned in that subsection. [1852]

(5) The Secretary of State may make out of moneys provided by Parliament such payments to the members of the said council in respect of travelling, subsistence and other expenses as he may with the consent of the Treasury determine. [1853]

Children and Young Persons Act, 1933, *Parts IV, V.*—26 Halsbury's Statutes 216–231.
Definitions.—For definitions of "child" and "functions", see s. 59 (1), *post*.

44. Advisory Council on Child Care for Scotland. [1854]

45. Grants for training in child care.—(1) The Secretary of State with the consent of the Treasury may out of moneys provided by Parliament defray or contribute towards any fees or expenses incurred by persons undergoing training approved by the Secretary of State with a view to, or in the course of, their employment for the purposes of any of the enactments specified in subsection (1) of section thirty-nine of this Act, or their employment by a voluntary organisation for similar purposes, and may defray or contribute towards the cost of maintenance of persons undergoing such training. [1855]

(2) The Secretary of State may out of moneys provided by Parliament make grants of such amounts, and subject to such conditions, as he may with the consent of the Treasury determine towards expenses incurred by any body of persons in providing courses suitable for persons undergoing training as aforesaid. [1856]

General note.—This section authorises the Secretary of State, with the consent of the Treasury, to make out of public funds two distinct kinds of training grants

(*a*) grants, defraying fees or expenses or cost of maintenance, in respect of students taking courses of instruction with a view to, or in the course of, certain kinds of employment relating to children deprived of a normal home life (sub-s. (1), *supra*); and

(*b*) grants for the provision of courses for such students (sub-s. (2), *supra*).

Definition.—For definition of "voluntary organisation", see s. 59 (1), *post*.

46. Grants to voluntary organisations.—(1) The Secretary of State may make out of moneys provided by Parliament grants of such amounts, and subject to such conditions, as he may with the consent of the Treasury determine towards expenses incurred or to be incurred by voluntary organisations, in circumstances such that it appears to the Secretary of State requisite that the grants should be made, for improving premises in which voluntary homes are being carried on or the equipment of voluntary homes, or for securing that voluntary homes will be better provided with qualified staff. [1857]

(2) A local authority may, with the consent of the Secretary of State, make contributions to any voluntary organisation the object or primary object of which is to promote the welfare of children. [1858]

General note.—Sub-s. (1), *supra*, authorises the Secretary of State, in certain circumstances, to make grants towards the improvement of voluntary homes. By s. 47 (1), *post*, he may deduct a proportion, not exceeding 50 per cent. of this expenditure, from the grants payable to local authorities.

Sub-s. (2), *supra*, empowers local authorities, with the consent of the Secretary of State, to make contributions to voluntary organisations concerned with child welfare. Such contributions will rank for grant under s. 47 (1), *post*.

Definitions.—For definitions of "voluntary home" and "voluntary organisation", see s. 59 (1), *post*; as to "local authority", see s. 38, *ante*.

47. Grants to local authorities.—(1) There shall be paid out of moneys provided by Parliament to a local authority in respect of expenditure incurred by them for the purpose of the discharge of their functions under any of the enactments specified in subsection (1) of section thirty-nine of this Act, other than expenses incurred as managers of an approved school or in respect of children sent to an approved school or in respect of remand homes,—

(*a*) such sums not exceeding fifty per cent. of the expenditure as the Secretary of State may with the consent of the Treasury direct, and subject to such conditions as he may with the like consent determine;

(*b*) such additional sums as he may with the like consent direct as representing the share appropriate to the local authority of sums received under the provisions of the Children and Young Persons Act, 1933, or the Children and Young Persons (Scotland) Act, 1937, as the case may be, as to contributions towards expenses, or under subsection (3), or paragraph (*b*) of subsection (8), of section twenty-six of this Act, and paid over to the Secretary of State, other than such sums so paid over which were received in respect of children sent to approved schools,

subject however to the deduction of an amount equal to such proportion not exceeding fifty per cent. as the Secretary of State may with the consent of the Treasury determine of so much of the expenditure incurred by the Secretary of State under the two last foregoing sections as he may with the like consent allocate to that authority. [1859]

(2) No payment shall be made under section one hundred and four of the Children and Young Persons Act, 1933, or section one hundred and seven of the Children and Young Persons (Scotland) Act, 1937, (which provide for Exchequer grants for certain expenditure under those Acts) in respect of any expenditure in respect of which payments are authorised to be made under the last foregoing subsection. [1860]

General note.—The principle behind the financial arrangements of this section is that the cost over the whole field of care of children deprived of a normal home life is to be shared equally between the Exchequer and the local authorities.

In addition to the grant based on expenditure, local authorities may be allowed a proportion of the sums received by the Secretary of State in respect of contributions towards expenses or under affiliation orders made at the instance of the local authority.

In calculating a local authority's expenditure for grant purposes, expenditure incurred as managers of an approved school, or in respect of children sent to an approved school or in respect of remand homes, is to be ignored. Likewise, in calculating sums received by the Secretary of State in respect of contributions, or under affiliation orders made at the instance of local authorities, sums in respect of children sent to approved schools are to be ignored (sub-s. (1), *supra*).

Sub-s. (2), *supra*, prevents the same expenditure from ranking for grants under both the Children and Young Persons Act, 1933, and the present Act.

Children and Young Persons Act, 1933, *s.* 104.—26 Halsbury's Statutes 237. For the provisions of this Act as to contributions towards expenses, see s. 8 thereof (26 Halsbury's Statutes 224).

Definitions.—For definition of "functions", see s. 59 (1), *post*; as to "local authority", see s. 38, *ante*.

48. Administrative expenses of Secretary of State.—The administrative expenses incurred by the Secretary of State under this Act shall be defrayed out of moneys provided by Parliament. [1861]

49. Accounts of councils of county boroughs.—(1) The council of every county borough shall keep separate accounts of the sums received and expended by them in the exercise of their functions under any of the enactments mentioned in subsection (1) of section thirty-nine of this Act, other than sums received or expended by them as managers of an approved school or in respect of children sent to an approved school or in respect of remand homes. [1862]

(2) The accounts to be kept under this section shall be made up and audited in like manner as the accounts of a county council. [1863]

(3) The enactments relating to the audit of accounts by a district auditor and to the matters incidental to such audit and consequential thereon shall have effect in relation to the accounts which the council of a county borough are required to keep under this section as they have effect in relation to the accounts of a county council. [1864]

General note.—The necessity for this section arises from the fact that although by s. 219 of the Local Government Act, 1933 (26 Halsbury's Statutes 424), all county council accounts are automatically subject to district audit, yet by ss. 237–240 of that Act (26 Halsbury's Statutes 433–436), borough council accounts are not so subject unless there is special statutory provision to that effect or the council so determines.

PART VII

MISCELLANEOUS AND GENERAL

50. Appointment of guardians.—In section four of the Guardianship of Infants Act, 1925, the following subsection shall be inserted after subsection (2):—

> "(2A) Where an infant has no parent, no guardian of the person, and no other person having parental rights with respect to him, the court, on the application of any person, may if it thinks fit appoint the applicant to be the guardian of the infant." [1865]

General note.—This section amends the Guardianship of Infants Act, 1925 (9 Halsbury's Statutes 820), so as to enable a court of summary jurisdiction or a county court to appoint a person on his own application to be guardian of a child if the latter has no parent or guardian living and no one else has parental rights over him. Formerly, although under s. 4 of the Guardianship of Infants Act, 1925, as originally enacted (see *infra*), the High Court, the county court and a court of summary jurisdiction, all had power to appoint a guardian to act jointly with a surviving parent in cases where there was no testamentary guardian appointed by the deceased parent, there was no statutory jurisdiction to appoint a guardian of an infant who had no living parents or guardian. Such an appointment could be made by the Chancery Division in the exercise of its inherent jurisdiction over infants (see 17

Halsbury's Laws (2nd Edn.) 695), but the expense involved in an application to the High Court deterred persons of small means from seeking the exercise of this jurisdiction.

Guardianship of Infants Act, 1925, s. 4.—9 Halsbury's Statutes 821.

No other person having parental rights.—These words prevent an application for appointment of a guardian being made where a resolution of a local authority assuming parental rights under s. 2, *ante*, is in force.

51. Provisions as to places of safety.—(1) Local authorities shall make provision, in homes provided by them under Part II of this Act, for the reception and maintenance of children removed to a place of safety under the Children and Young Persons Act, 1933, the Children and Young Persons (Scotland) Act, 1937, the Public Health Act, 1936, the Public Health (London) Act, 1936, or the Adoption of Children (Regulation) Act, 1939. [1866]

(2) The provision to be made in pursuance of the last foregoing subsection shall as far as practicable be made in such separate accommodation for the temporary reception of children as is required to be provided by subsection (2) of section fifteen of this Act. [1867]

(3) Where under any of the enactments mentioned in subsection (1) of this section a child is removed to a place of safety not being a home provided by a local authority under Part II of this Act and not being a hospital vested in the Minister of Health or the Secretary of State, the expenses of the child's maintenance there shall be recoverable from the local authority within whose area the child was immediately before his removal. [1868]

General note.—The effect of sub-ss. (1) and (2), *supra*, is to make homes provided by local authorities pursuant to s. 15, *ante*, and in particular, wherever this is practicable, temporary reception homes, available for use as places of safety.

Sub-s. (3), *supra*, makes the expenses of maintaining a child in a place of safety (other than a local authority's home or a State hospital) recoverable from the authority in whose area the child was immediately before removal to a place of safety. It should be noted that there is no obligation on such authority to pay these expenses until they are demanded.

Consequential amendments to the enactments referred to below, are made by s. 60 (2) and Sched. III, *post*.

Children and Young Persons Act, 1933.—26 Halsbury's Statutes 168. As to the removal of children to a place of safety, see ss. 26, 40, 67, thereof (26 Halsbury's Statutes 190, 197, 210).

Public Health Act, 1936.—29 Halsbury's Statutes 310. As to the removal of children to a place of safety, see s. 212 thereof (29 Halsbury's Statutes 467).

Public Health (London) Act, 1936.—30 Halsbury's Statutes 438. As to the removal of children to a place of safety, see s. 201 thereof (30 Halsbury's Statutes 584).

Adoption of Children (Regulation) Act, 1939.—32 Halsbury's Statutes 205. As to the removal of children to a place of safety, see s. 7 thereof (32 Halsbury's Statutes 211).

Definitions.—For definition of "child", see s. 59 (1), *post*; as to "local authority", see s. 38, *ante*.

52. Amendment of Family Allowances Act, 1945, ss. 11 and 26.—(1) In section eleven of the Family Allowances Act, 1945, the following subsection shall be substituted for subsection (3):—

> "(3) A child in respect of whom there is in force a resolution of a local authority passed under subsection (1) of section two of the Children Act, 1948, shall not, for the purposes of this Act, be treated as included in any family:
>
> Provided that this subsection shall not have effect as respects any period during which under the provisions of section three or section four of the said Act of 1948 the child is allowed by the local authority to be, either for a fixed period or otherwise, under the control of a parent, guardian, relative or friend of the child." [1869]

(2) Subsection (1) of this section shall have effect both as respects England and Wales and as respects Scotland. [1870]

(3) For the avoidance of doubt it is hereby declared that references in the said section eleven to an order or resolution made or passed under any enactment include references to an order or resolution which by virtue of any other provision is deemed to be made or passed under the said enactment. [1871]

General note.—The replacement of s. 11 (3) of the Family Allowances Act, 1945, *infra*, effected by this section is consequential on the replacement of the Poor Law Act, 1930, s. 52

(12 Halsbury's Statutes 994; repealed by the National Assistance Act, 1948, s. 62 (3), Sched. VII, title PUBLIC ASSISTANCE, *post*), which gave power to a poor law authority by resolution to assume parental rights over certain children, by s. 2, *ante*, which enables a local authority by resolution to assume parental rights over a similar class of children.

A consequential amendment is made by s. 60 (3) and Sched. IV, Part I, *post*.

Family Allowances Act, 1945, s. 11 (3).—38 Halsbury's Statutes 348.

53. Enforcement of orders for payment of money under Guardianship of Infants Acts.—An order of a court of summary jurisdiction for the payment of money under the Guardianship of Infants Act, 1886, whether made before or after the commencement of this Act, may be enforced, varied or revoked in like manner as an affiliation order, and the enactments relating to affiliation orders shall apply accordingly, with the necessary modifications. [1872]

General note.—The effect of the present section, which enables orders for maintenance under the Guardianship of Infants Act, 1886, *infra*, to be enforced, varied or revoked in the same way as affiliation orders, is to make them enforceable by distress and committal (cf. *Re Bidie, Bidie* v. *General Accident Fire and Life Assurance Corporation, Ltd.*, [1948] Ch. 697; [1948] 1 All E. R. 885), and to apply to maintenance orders the provisions reproducing Regulations 17B, 17C and 17D of the Defence (Administration of Justice) Regulations, 1940, contained in paras. 5–7 of Sched. II to the Emergency Laws (Miscellaneous Provisions) Act, 1947, (40 Halsbury's Statutes 1306), and which are made permanent by s. 2 of that Act. The purpose of those provisions is to enable proceedings for enforcement, variation and revocation of orders to be taken in the most convenient court.

Guardianship of Infants Act, 1886.—9 Halsbury's Statutes 787.

54. Provisions as to entry and inspection.—(1) In section one hundred and three of the Children and Young Persons Act, 1933, and section one hundred and six of the Children and Young Persons (Scotland) Act, 1937, (which provide for the appointment by the Secretary of State of inspectors for the purposes of the enactments relating to children and young persons) the references to the enactments relating to children and young persons shall include references to this Act. [1873]

(2) Any inspector appointed under the said section one hundred and three or the said section one hundred and six may enter any of the following places, that is to say—

(*a*) any premises provided by a local authority under Part II of this Act;

(*b*) any premises in which under subsection (2) or subsection (3) of section thirteen of this Act accommodation and maintenance are for the time being provided for a child in the care of a local authority;

(*c*) any place where a foster child within the meaning of Part VII of the Public Health Act, 1936, or Part XIII of the Public Health (London) Act, 1936, is being maintained;

(*d*) any place where a child in respect of whom a notice is required to be given under Part I of the Children and Young Persons (Scotland) Act, 1937, is being maintained;

(*e*) any place where a child is being maintained in pursuance of any arrangements to which subsection (1) of section seven of the Adoption of Children (Regulation) Act, 1939 (which relates to arrangements for taking over the care of children effected through third parties) applies; and

(*f*) any place where a child is for the time being boarded out either by a local authority or by a voluntary organisation,

and inspect the place and any children therein. [1874]

(3) It shall be the duty of local authorities from time to time to cause children in voluntary homes in their area to be visited in the interests of the wellbeing of the children, and any person authorised in that behalf by a local authority may enter any voluntary home in the area of the authority for the purpose of visiting the children in the home. [1875]

(4) Any person authorised in that behalf by a local authority may enter any voluntary home outside the area of the authority for the purpose of visiting children in the home who are in the care of the authority under

section one of this Act or are for the time being committed to the care of the authority as a fit person by an order of any court under the Children and Young Persons Act, 1933 or the Children and Young Persons (Scotland) Act, 1937. [1876]

(5) Nothing in the two last foregoing subsections shall apply to a voluntary home which, otherwise than by virtue of section ninety-four of the said Act of 1933 or section ninety-eight of the said Act of 1937, is as a whole subject to inspection by, or under the authority of, a Government department. [1877]

(6) A person who proposes to exercise any power of entry or inspection conferred by this Act shall if so required produce some duly authenticated document showing his authority to exercise the power. [1878]

(7) Any person who obstructs the exercise of any such power as aforesaid shall be guilty of an offence and liable on summary conviction to a fine not exceeding five pounds in the case of a first offence or twenty pounds in the case of a second or any subsequent offence. [1879]

Children and Young Persons Act, 1933, *ss.* 94, 103.—26 Halsbury's Statutes 230, 236.
Public Health Act, 1936, *Part VII.*—29 Halsbury's Statutes 460 *et seq.*
Public Health (London) Act, 1936, *Part XIII.*—30 Halsbury's Statutes 581 *et seq.*
Adoption of Children (Regulations) Act, 1939, *s.* 7 (1).—32 Halsbury's Statutes 211.
Summary conviction.—As to summary conviction, see the Summary Jurisdiction Act, 1879, s. 51 (11 Halsbury's Statutes 350). See also, generally, 21 Halsbury's Laws (2nd Edn.) 511 *et seq.*, and Stone's Justices' Manual (80th Edn.), pp. 62 *et seq.*

55. Prosecution of offences.—(1) In England and Wales, a local authority may institute proceedings for any offence under this Act, the provisions of the Children and Young Persons Act, 1933, other than the provisions of Parts I and II thereof, or the provisions relating to child life protection of Part VII of the Public Health Act, 1936, or Part XIII of the Public Health (London) Act, 1936. [1880]

(2) Subsection (5) of section twenty-three and subsection (1) of section one hundred and two of the Children and Young Persons (Scotland) Act, 1937 shall cease to have effect. [1881]

General note.—Under s. 98 (1) of the Children and Young Persons Act, 1933 (26 Halsbury's Statutes 234), as originally enacted, a local education authority or a poor law authority could institute proceedings for an offence under that Act. By s. 60 (2) and Sched. III, *post*, a new subsection is substituted which empowers the local education authority to prosecute for offences under Parts I and II of that Act, *infra*, which deal with matters not directly relating to the care of deprived children. By the present section offences under the other Parts of the 1933 Act, as well as under the present Act and the enactments relating to child life protection, may be prosecuted by the local authority, as defined in the present Act (see s. 38, *ante*).
Children and Young Persons Act, 1933.—26 Halsbury's Statutes 168. For Parts I and II thereof, see 26 Halsbury's Statutes 172–192.
Public Health Act, 1936, *Part VII.*—29 Halsbury's Statutes 460 *et seq.*
Public Health (London) Act, 1936, *Part XIII.*—30 Halsbury's Statutes 581 *et seq.*

56. Acquisition of land.—(1) The council of a county borough may be authorised by the Minister of Health to purchase compulsorily any land, whether situated within or outside the area of the council, for the purpose of any of their functions under this Act; and the council of a county or large burgh in Scotland may be authorised by the Secretary of State to purchase compulsorily any land, whether situated within or outside the county or burgh, for the purpose of any of their functions under this Act. [1882]

(2) The Acquisition of Land (Authorisation Procedure) Act, 1946, shall apply in relation to the compulsory purchase of land under this section by the council of a county borough as, by virtue of subsection (1) of section one hundred and fifty-nine of the Local Government Act, 1933, it applies to the compulsory purchase of land by a county council for the purpose of their functions under this Act; and accordingly for the purposes of the said Act of 1946 subsection (1) of this section shall be deemed to have been in force immediately before the commencement of that Act. [1883]

(3) Section two of the said Act of 1946 (which confers temporary powers for the speedy acquisition of land in urgent cases) shall not apply to the acquisition of land for the purposes of this Act, whether by a county council or by a county borough council. [1884]

(4) The Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947 (other than section two thereof) shall apply in relation to the compulsory purchase of land under this section as if subsection (1) thereof had been in force immediately before the commencement of the said Act. [1885]

Acquisition of Land (Authorisation Procedure) Act, 1946.—39 Halsbury's Statutes 53.
Local Government Act, 1933, s. 159 (1).—26 Halsbury's Statutes 392. That subsection was amended by the Acquisition of Land (Authorisation Procedure) Act, 1946, s. 6, Sched. IV (39 Halsbury's Statutes 60, 73).
Definition.—For definition of " functions ", see s. 59 (1), *post*.

57. Transfer, superannuation and compensation of officers.—(1) The Secretary of State may by regulations provide—

(*a*) for the transfer to a local authority of officers employed immediately before the commencement of this Act by the Common Council of the City of London or the council of a metropolitan borough or county district solely or mainly for the purposes of functions transferred by this Act from that council to the said local authority ;

(*b*) for enabling the Common Council of the City of London and the council of any metropolitan borough or county district in the case of any officer of the council who is a contributory employee or local Act contributor within the meaning of the Local Government Superannuation Act, 1937, and is transferred under the regulations to secure, by resolution passed in respect of him not later than three months after his transfer under the regulations, that for the purposes of the said Act of 1937 any non-contributing service of his shall be reckonable as contributing service and, in the case of any such officer on whom if he had remained in their employment a similar benefit could have been conferred by the council on his becoming entitled to a superannuation allowance, that the length of his service shall be deemed for the purposes of the said Act of 1937 or, as the case may be, the local Act in question, to be increased by such period as may be specified in the resolution ;

(*c*) for granting to persons who immediately before being transferred under the regulations were, by virtue of the employment from which they are so transferred, entitled to participate in superannuation benefits, an option either to participate, by virtue of their employment by the local authority to which they are transferred under the regulations, in superannuation benefits under a superannuation scheme of the local authority specified in the regulations or to retain rights corresponding with those previously enjoyed by them ;

(*d*) for the payment by local authorities, subject to such exceptions or conditions (if any) as may be prescribed by the regulations, of compensation to persons of such descriptions as may be so prescribed who immediately before such date as may be so prescribed were employed by the Common Council of the City of London, the council of a metropolitan borough or the council of a county district in such full-time work as may be prescribed by the regulations and who suffer loss of employment or loss or diminution of emoluments which is attributable to the passing of this Act ;

(*e*) for extending any provision made under paragraph (*d*) of this subsection to persons of such descriptions as may be prescribed by the regulations who, having before such date as aforesaid been employed as aforesaid and being persons who would have been so

employed immediately before that date but for any national service (as defined in the regulations) in which they have been engaged, lose the prospect of their re-employment in any such work as a consequence of the passing of this Act;

(*f*) for such matters supplementary to and consequential on the matters aforesaid as appear to the Secretary of State to be necessary. [1886]

(2) Regulations under this section may provide for the determination by the Secretary of State of all questions arising under the regulations and may make different provisions for different classes of cases. [1887]

Regulations.—See the Children Act (Compensation of Officers) Regulations, 1948 (S.I. 1948 No. 1501), *post*, and the Children Act (Transfer and Superannuation of Officers) Regulations, 1948 (S.I. 1948 No. 1502), *post*.
Local Government Superannuation Act, 1937.—30 Halsbury's Statutes 385.
Definition.—For definition of "local authority", see s. 38, *ante*.

58. Regulations and orders.—(1) Any power to make regulations or orders conferred on a Minister by this Act shall be exercisable by statutory instrument. [1888]

(2) Any statutory instrument made in the exercise of any power to make regulations conferred by this Act shall be subject to annulment in pursuance of resolution of either House of Parliament. [1889]

Statutory instruments.—As to statutory instruments generally, see the Statutory Instruments Act, 1946 (30 Halsbury's Statutes 783), which was brought fully into force on January 1, 1948, by S.I. 1948 No. 3.

59. Interpretation.—(1) In this Act, except where the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively:—

"approved school order" has the same meaning as in the Children and Young Persons Act, 1933, or, as respects Scotland, the Children and Young Persons (Scotland) Act, 1937;

"child" means a person under the age of eighteen years;

"complain" in relation to Scotland means to make an application, and the expressions "complaint" and "complainant" shall be construed accordingly;

"compulsory school age" has in England and Wales the same meaning as in the Education Act, 1944, and in Scotland means school age as defined in the Education (Scotland) Act, 1946;

"contribution order" means in England or Wales a contribution order under section eighty-seven of the Children and Young Persons Act, 1933, and in Scotland a contribution order under section ninety-one of the Children and Young Persons (Scotland) Act, 1937;

"functions" includes powers and duties;

"guardian" means a person appointed by deed or will or by order of a court of competent jurisdiction to be the guardian of a child;

"hospital" has the meaning assigned to it by section seventy-nine of the National Health Service Act, 1946, or, as respects Scotland, section eighty of the National Health Service (Scotland) Act, 1947;

"large burgh" has the same meaning as in the Local Government (Scotland) Act, 1947;

"local education authority" means a local education authority for the purposes of the Education Act, 1944, or in Scotland an education authority for the purposes of the Education (Scotland) Act, 1946;

"parent"—

(*a*) in relation to a child adopted in pursuance of any enactment, means the person or persons by whom he was adopted, to the exclusion of his natural parents;

(*b*) in relation to a child who is illegitimate, means his mother, to the exclusion of his father;

" precept for a rate ", in relation to Scotland, means requisition for a rate ;

" recognisance ", in relation to Scotland, means bond ;

" recoverable summarily as a civil debt ", in relation to Scotland, means recoverable as a civil debt ;

" relative " has, throughout Great Britain, the meaning assigned to it by section two hundred and twenty of the Public Health Act, 1936 ;

" voluntary home " has the same meaning as in Part V of the Children and Young Persons Act, 1933, or, as respects Scotland, Part VI of the Children and Young Persons (Scotland) Act, 1937 ;

" voluntary organisation " means a body the activities of which are carried on otherwise than for profit, but does not include any public or local authority. [1890]

(2) Any reference in this Act to the functions of a local authority under the Children and Young Persons Act, 1933 shall be construed as including a reference to the functions of the council of a county or county borough with respect to remand homes. [1891]

(3) References in this Act to any enactment shall, except where the context otherwise requires, be construed as references to the enactment as amended by or under any other enactment, including this Act. [1892]

(4) As respects Scotland any reference in this Act to a county or to the council thereof shall be construed, in relation to counties combined for the purposes mentioned in subsection (1) of section one hundred and eighteen of the Local Government (Scotland) Act, 1947, as a reference to the combined county or the joint county council. [1893]

(5) A small burgh, as defined in the said Act of 1947, shall for the purposes of this Act be deemed to be included in the county in the area of which it is situated. [1894]

Approved school order.—See the Children and Young Persons Act, 1933, s. 107 (1) (26 Halsbury's Statutes 238), where this expression is defined as an order made by a court sending a child or young person to an approved school.

Compulsory school age.—See the Education Act, 1944, s. 35 (37 Halsbury's Statutes 165).

Contribution order.—For the Children and Young Persons Act, 1933, s. 87, see 26 Halsbury's Statutes 224. The section is amended by s. 60 (3) and Sched. IV, Part I, *post*.

Hospital.—For the National Health Service Act, 1946, s. 79, see 39 Halsbury's Statutes 571.

Local education authority.—For the meaning of this expression, see the Education Act, 1944, s. 6 (37 Halsbury's Statutes 130).

Relative.—By the Public Health Act, 1936, s. 220 (29 Halsbury's Statutes 470), " relative " is defined as meaning a grandparent, brother, sister, uncle or aunt, whether by consanguinity or affinity, or in consequence of adoption, and in the case of an illegitimate child, a person who would be so related if the child were legitimate.

Voluntary home.—This expression is defined in the Children and Young Persons Act, 1933, s. 92 (26 Halsbury's Statutes 230).

60. Transitional provisions, minor amendments and repeals.—(1) The transitional provisions set out in the Second Schedule to this Act shall have effect for the purposes of this Act. [1895]

(2) The enactments specified in the Third Schedule to this Act shall have effect subject to the amendments specified therein, being minor amendments and amendments consequential on the provisions of this Act. [1896]

(3) The enactments specified in the Fourth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule :

Provided that the repeal of the enactments specified in Part II of that Schedule shall take effect only on the first day of January, nineteen hundred and forty-nine. [1897]

General note.—January 1, 1949, was named as the date for the repeal of the enactments mentioned in Sched. IV, Part II, *post*, relating to voluntary homes because on that date the new system of control under s. 29, *ante*, came into force.

61. Application to Isles of Scilly.—This Act shall, in its application to the Isles of Scilly, have effect subject to such exceptions, adaptations and modifications as may be prescribed by order of the Secretary of State, and any such order may be revoked or varied by a subsequent order. [1898]

62. Short title, commencement and extent.—(1) This Act may be cited as the Children Act, 1948. [1899]

(2) This Act shall come into operation on the fifth day of July, nineteen hundred and forty-eight. [1900]

(3) This Act shall not extend to Northern Ireland. [1901]

July 5, 1948.—This is the date on which a great deal of recent social legislation came into operation, including the principal provisions of the National Assistance Act, 1948, title PUBLIC ASSISTANCE, *post*, to which the present Act is complementary. July 5, 1948, was originally chosen because it marked the commencement of the national insurance year.

SCHEDULES

Section 30

FIRST SCHEDULE

APPEAL TRIBUNALS

PART I

CONSTITUTION OF APPEAL TRIBUNALS FOR ENGLAND AND WALES

1. For the purpose of enabling appeal tribunals to be constituted as occasion may require, there shall be appointed two panels, that is to say—

(*a*) a panel (hereinafter referred to as the "legal panel") appointed by the Lord Chancellor, of persons who will be available to act when required as chairman of any such tribunal; and

(*b*) a panel (hereinafter referred to as the "welfare panel") appointed by the Lord President of the Council, of persons who will be available to act when required as members of any such tribunal.

2.—(1) No person shall be qualified to be appointed to the legal panel unless he possesses such legal qualifications as the Lord Chancellor considers suitable, and no person shall be qualified to be appointed to the welfare panel unless he has had such experience in children's welfare work as the Lord President of the Council considers suitable.

(2) An officer of any Government department shall be disqualified from being appointed to either of the said panels.

3. Any person appointed to be a member of either of the said panels shall hold office as such subject to such conditions as to the period of his membership and otherwise as may be determined by the Lord Chancellor or the Lord President of the Council, as the case may be.

4. Where any appeal is required to be determined by a tribunal constituted in accordance with this Part of this Schedule, the tribunal shall consist of a chairman being a member of the legal panel and two other members being members of the welfare panel, and the chairman and other members of the tribunal shall be impartial persons appointed from those panels by the Lord Chancellor and the Lord President of the Council respectively. [1902]

PART II

CONSTITUTION OF APPEAL TRIBUNALS FOR SCOTLAND [1903]

* * * * *

General note.—This Schedule contains provisions, having effect by virtue of s. 30 (2), *ante*, for the constitution of appeal tribunals for the purpose of hearing appeals against the refusal of applications for registration of voluntary homes under s. 20 (3) (*b*), *ante*, or against proposals to remove homes from the register under s. 29 (4), *ante*.

The Schedule is modelled on Sched. VI to the Education Act, 1944 (37 Halsbury's Statutes 231), which provided for the constitution of Independent Schools Tribunals.

Section 60

SECOND SCHEDULE

TRANSITIONAL PROVISIONS

1.—(1) Where, immediately before the commencement of this Act, a child was being relieved by a local authority under the enactments relating to the relief of the poor, and the relief was not outdoor relief, the provisions of this Act shall apply to him as if, at the commencement of this Act, he were in the care of the authority under section one thereof:

Provided that if the child has then attained the age of sixteen, or is being relieved as aforesaid together with a parent or other person in charge of him who has attained that age, this paragraph shall not apply if it appears to the authority more appropriate that the child should be treated as a person for whom accommodation is being provided under the National Assistance Act, 1948.

(2) If, immediately before the commencement of this Act, the cost of the relief referred to in the last foregoing sub-paragraph was recoverable by the local authority therein referred to from another local authority, the provisions of subsection (4) of section one of this Act shall apply to the child as if the first-mentioned authority had received him into their care as a child ordinarily resident in the area of that other authority.

2. Where, immediately before the commencement of this Act, a resolution passed under section fifty-two of the Poor Law Act, 1930, was in force with respect to a child, it shall, as from the commencement of this Act, be deemed to be a resolution duly passed and notified under section two of this Act.

3.—(1) Where immediately before the commencement of this Act an order made under subsection (1) of section sixty-one or subsection (2) of section sixty-six of the Children and Young Persons (Scotland) Act, 1937, or subsection (2) of section thirty-eight of the Education (Scotland) Act, 1946, was in force committing a child to the care of an education authority as a fit person, that order shall as from the commencement of this Act be deemed to be an order committing him to the care of the council of the county, or county of a city comprised in the area of that education authority.

(2) Subsection (4) of section one of this Act shall apply to any such child as aforesaid in like manner as it applies to a child received by a local authority into their care.

4.—(1) Any rules of the Secretary of State in force immediately before the commencement of this Act under subsection (2) of section eighty-four of the Children and Young Persons Act, 1933, or subsection (2) of section eighty-eight of the Children and Young Persons (Scotland) Act, 1937, with respect to the boarding-out of children and young persons committed to the care of local authorities or, as the case may be, education authorities, under those Acts respectively shall, as from the commencement of this Act, have effect as if—

(*a*) they were regulations made under Part II of this Act; and

(*b*) they had been made so as to apply to children in the care of a local authority under section one of this Act in like manner as to children committed to the care of a local authority or education authority as a fit person,

and shall continue in force, and may be revoked and varied, accordingly.

(2) Where immediately before the commencement of this Act a child was boarded out under subsection (3) of the said section eighty-four or subsection (3) of the said section eighty-eight, then as from the commencement of this Act the boarding-out shall be deemed to be effected under Part II of this Act.

(3) Anything done before the commencement of this Act under any order made under the Poor Law Act, 1930, or under any regulations made under the Poor Law (Scotland) Act, 1934, being an order or regulations relating to the boarding-out of children and in force immediately before the commencement of this Act, shall be deemed to have been done under the corresponding provision of the said rules.

5. A contribution order made before the commencement of this Act shall not as respects any period after the commencement of this Act operate so as to require the making of any payment which could not have been required if this Act had been in force when the contribution order was made.

6.—(1) Any maintenance order in respect of a child in force immediately before the commencement of this Act under section nineteen of the Poor Law Act, 1930, shall, if at the commencement of this Act the child was under the care of the managers of an approved school, be deemed for the purposes of the Children and Young Persons Act, 1933, and of this Act to be a contribution order made on the sending of the child to the approved school.

(2) Paragraph (*a*) of subsection (5) of section ninety of the Children and Young Persons Act, 1933 (which contains special provisions as to contributions by poor law authorities to the expenses of approved schools) shall cease to have effect, and for the purposes of subsection (1) of the said section ninety (by which certain local authorities named in approved school orders are required to make contributions to the said expenses) where an approved school order has been made on the application of a local authority, being a poor law authority, in their capacity as poor law authority, the authority shall be deemed to have been named in the approved school order as being the authority within whose district the person to whom the order relates was resident.

(3) Paragraph (*a*) of subsection (4) of section ninety-four of the Children and Young Persons (Scotland) Act, 1937 (which contains special provisions as to contributions by poor law authorities to the expenses of approved schools in Scotland) shall cease to have effect, and for the purposes of subsection (1) of the said section ninety-four (by which the education authority named in an approved school order is required to make contributions to the said expenses) where an approved school order has been made on the application of a poor law authority and no education authority has been named therein the education authority of the area which comprises the area of the poor law authority by whom the application was made shall be deemed to have been so named.

7. Where by virtue of the provisions of Part IV of this Act a home established before the commencement of this Act becomes a voluntary home within the meaning of Part V of the Children and Young Persons Act, 1933, or Part VI of the Children and Young Persons (Scotland) Act, 1937, the home shall, for the purposes of the said Part V or the said Part VI, be deemed to have been established at the commencement of this Act.

8.—(1) Any land which immediately before the commencement of this Act was held by a local authority solely for the purposes of a children's home shall be deemed to have been appropriated under the Local Government Act, 1933, the London Government Act, 1939, or the Local Government (Scotland) Act, 1947, as the case may be, for the purposes of a home to be provided under Part II of this Act.

(2) Where a local authority have taken any steps for the compulsory acquisition of land for the purposes of a children's home but the acquisition has not been completed at the commencement of this Act, anything duly done before the commencement thereof in relation to the acquisition shall have effect as if it had been duly done in relation to the compulsory acquisition of the land for the purposes of a home to be provided by the authority under Part II of this Act.

(3) In this paragraph the expression "children's home," does not include any premises provided or to be provided under the Public Health Act, 1936, the Public Health (London) Act, 1936, or the Notification of Births (Extension) Act, 1915.

9. Where in consequence of the passing of the National Health Service Act, 1946, a person became employed by the council of a county or county borough in their capacity as a local health authority and there is conferred on him by any regulations made under that Act an option, exerciseable by virtue of that employment, to retain rights to superannuation benefits corresponding to those previously enjoyed by him, then if in consequence of the passing of this Act that person becomes employed by the said council for the purposes of a home provided under Part II thereof, he shall have the like rights in connection with the option as if his employment for the said purposes were employment by a local health authority.

10.—(1) Where by virtue of section thirty-five or thirty-seven of this Act the provisions of Part VII of the Public Health Act, 1936, Part XIII of the Public Health (London) Act, 1936, or Part I of the Children and Young Persons (Scotland) Act, 1937, become applicable to a child at the commencement of this Act, those provisions and the following provisions of this Schedule shall have effect as if the child had been received for reward at the commencement of this Act.

(2) Where by virtue of the said section thirty-five or thirty-seven the first mentioned provisions become applicable to a child at, or within one month after, the commencement of this Act, any notice required to be given before the reception of the child may be given within one month after the commencement of this Act :

Provided that nothing in this sub-paragraph shall exclude or postpone, as regards any child, the operation of any provision of the said Part VII or the said Part XIII relating to foster children or of the said Part I relating to children in respect of whom a notice is required to be given.

(3) Where by virtue of the said section thirty-five or thirty-seven the said provisions become applicable to a child at the commencement of this Act, any notice required to be given before a change of residence may, if the change takes place not later than one month after the commencement of this Act, be given at any time before the expiration of the said month, and if such a notice is duly given no notice under the said provisions need be given in connection with the reception of the child.

(4) In the case of a child who at the commencement of this Act and by virtue of the said section thirty-five or thirty-seven becomes a foster child as defined in the said Part VII or the said Part XIII, or a child in respect of whom a notice is required to be given under the said Part I, a person shall not be guilty of an offence against the provisions of the said Part VII, Part XIII or Part I requiring in certain cases the consent of the welfare authority or local authority for the keeping of children if, not later than one month after the commencement of this Act, application for that consent was made and the child in question is not kept after notification has been received of the refusal of the application or after the expiration of such longer period as the welfare authority or local authority may allow.

(5) Where immediately before the commencement of this Act the keeping of any children in any premises was lawful under the provisions of the said Part VII, Part XIII or Part I limiting the number of children who may be so kept, a person shall not be guilty of an offence under the said provisions by reason only that by virtue of this Act the said provisions are extended to children in the premises above the age of nine, or that by virtue of section thirty-seven of this Act a child in the premises becomes a foster-child or a child in respect of whom a notice is required to be given under the said Part I, so long as—

(*a*) any conditions imposed under the said provisions are complied with, and

(*b*) no child is kept in the premises who was not kept there immediately before the commencement of this Act.

(6) Where by virtue of section thirty-seven of this Act the provisions of the said Part VII, Part XIII or Part I become applicable to a child after the commencement of this Act by reason of the death of a parent of the child, the provisions of the three last foregoing sub-paragraphs shall apply as if for references therein to the commencement of this Act there were substituted references to the date at which the said provisions become applicable to the child.

(7) Nothing in section thirty-five or thirty-seven of this Act shall affect any contract of life assurance entered into before the commencement thereof.

11.—(1) Where by virtue of section thirty-five of this Act the provisions of section seven of the Adoption of Children (Regulation) Act, 1939, become applicable to a child at the commencement of this Act, those provisions and the following provisions of this paragraph shall have effect as if possession of the child had been taken at the commencement of this Act.

(2) Where by virtue of the said section thirty-five the provisions of the said section seven become applicable to a child at the commencement of this Act, no notice under the said section seven need be given in connection with the taking possession of the child.

(3) Where by virtue of the said section thirty-five the provisions of the said section seven become applicable to a child within one month after the commencement of this Act, any notice required to be given before possession of the child is taken may be given within one month after the commencement of this Act.

(4) Where by virtue of the said section thirty-five the provisions of the said section seven become applicable to a child at the commencement of this Act, any notice required to be given before a change of residence may, if the change takes place not later than one month after the commencement of this Act, be given at any time before the expiration of the said month.

12. The transitional provisions of the National Assistance Act, 1948, shall take effect subject to the provisions of this Schedule. [1904]

National Assistance Act, 1948.—See title PUBLIC ASSISTANCE, *post*.
Poor Law Act, 1930, *ss.* 19, 52.—12 Halsbury's Statutes 979, 994.
Children and Young Persons Act, 1933, *ss.* 84 (2), 90, *Part V.*—26 Halsbury's Statutes 222, 227, 230 *et seq.*
Local Government Act, 1933.—26 Halsbury's Statutes 295.
London Government Act, 1939.—32 Halsbury's Statutes 260.
Public Health Act, 1936.—29 Halsbury's Statutes 310. For Part VII thereof, see 29 Halsbury's Statutes 460 *et seq.*
Public Health (London) Act, 1936.—30 Halsbury's Statutes 438. For Part XIII thereof, see 30 Halsbury's Statutes 581 *et seq.*
Notification of Births (Extension) Act, 1915.—15 Halsbury's Statutes 766.
National Health Service Act, 1946.—39 Halsbury's Statutes 515.
Adoption of Children (Regulation) Act, 1939, *s.* 7.—32 Halsbury's Statutes 210.

Section 60

THIRD SCHEDULE

MINOR AND CONSEQUENTIAL AMENDMENTS

The Children and Young Persons Act, 1933

23 Geo. 5, c. 12

In section seventy, in proviso (*a*) to subsection (2) for the words from " by " to " committed " there shall be substituted the words " the Poor Law Act, 1930, the Poor Law (Scotland) Act, 1934, the Children and Young Persons (Scotland) Act, 1937, or Part II of the Children Act, 1948, by a local authority or education authority ".

In section eighty-two, in paragraph (*a*) of subsection (4), after the word " induces," there shall be inserted the words " or persistently attempts to induce ".

In section eighty-four, subsections (2) and (5) shall not apply to children and young persons committed to the care of a local authority, and in the proviso to subsection (5) after the words " the child or young person consents " there shall be inserted the words " or, being too young to form or express a proper opinion on the matter, is to emigrate in company with a parent, guardian or relative of his, or is to emigrate for the purpose of joining a parent, guardian, relative or friend ".

In section eighty-five, in subsection (2), for the words " by a local authority under this Act " there shall be substituted the words " under Part II of the Children Act, 1948, by a local authority to whose care he has been committed as a fit person ", and in subsection (3), in paragraph (*a*), after the word " induces," there shall be inserted the words " or persistently attempts to induce," and for the words from " or with whom " to " Act " there shall be substituted the words " as a fit person or with whom he has been boarded out under Part II of the Children Act, 1948, by a local authority to whose care he has been so committed ".

In section eighty-six, in subsection (1), for the words " the following persons " there shall be substituted the words " the persons specified in section twenty-four of the Children Act, 1948 ", and the words from " that is to say " to the end of the subsection shall be omitted.

In section ninety, in subsection (6), for the words from " by " to " committed " there shall be substituted the words " the Poor Law Act, 1930, the Poor Law (Scotland) Act, 1934, the Children and Young Persons (Scotland) Act, 1937, or Part II of the Children Act, 1948, by a local authority or education authority ".

In section ninety-five, in paragraph (*a*) of subsection (1), the words " or otherwise " shall be omitted.

In section ninety-six, in subsection (1), for the words " this Act " there shall be substituted the words " Part II of this Act ", and in subsection (7) at the beginning there shall be inserted the words " Subject to the provisions of section thirty-nine of the Children Act, 1948 (which requires certain matters to be referred to the children's committee and restricts the reference of other matters to that committee) ".

In section ninety-seven, the words " as respects young persons and ", to and in proviso (*b*) the words from " but the London County Council " to the end, shall be omitted.

For section ninety-eight there shall be substituted the following section :—

" 98. Without prejudice to the provisions of the last foregoing section, a local education authority may institute proceedings for any offence under Part I or Part II of this Act."

In section one hundred and two, in paragraph (*c*) of subsection (1), for the words " a child or young person " there shall be substituted the words " himself or any other person ".

In section one hundred and seven, in the definition of " place of safety ", after the word " means " there shall be inserted the words " any home provided by a local authority under Part II of the Children Act, 1948 ".

The Public Health Act, 1936

26 Geo. 5 & 1 Edw. 8, c. 49

In section two hundred and seven, in subsection (3), after the words " or is removed " there shall be inserted the words " or removes himself " and after the words " the name and address of the person " there shall be inserted the words " (if any) ".

In section two hundred and eleven, in subsection (1), for the word " nine " there shall be substituted the word " eighteen ".

In section two hundred and nineteen, in subsection (1), for the words from " under the provisions of any Act " to the words " within the meaning of the Children and Young Persons Act, 1933 " there shall be substituted the words " on whom a requirement as to residence is imposed by a supervision order or probation order, or who undertakes the nursing or maintenance of a child boarded out by the Minister of Pensions, by a local authority under Part II of the Children Act, 1948, or by a voluntary organisation within the meaning of that Act, or to any voluntary home within the meaning of the Children and Young Persons Act, 1933, or to any school, hospital, convalescent home ".

In section two hundred and twenty, in the definition of " place of safety ", after the word " means " there shall be inserted the words " a home provided by a local authority under Part II of the Children Act, 1948 ".

The Public Health (London) Act, 1936

26 Geo. 5 & 1 Edw. 8, c. 50

Throughout Part XIII references to " a local authority " or " every local authority " shall be construed as references to " the local authority ", and not in accordance with the provisions of Part I of the Tenth Schedule to the National Health Service Act, 1946.

In section two hundred and fifty-seven, in subsection (3), the words " for the district in which he proposes to reside " shall be omitted, in subsection (4), after the words " or is removed " there shall be inserted the words " or removes himself " and after the words " the name and address of the persons " there shall be inserted the words " (if any) ".

In section two hundred and sixty, for the word " nine " there shall be substituted the word " eighteen ".

In section two hundred and seventy-two, in subsection (3), for paragraph (*b*) there shall be substituted the following paragraphs—

" (*b*) in pursuance of any arrangement for the boarding out of a child by the Minister of Pensions, by a local authority under Part II of the Children Act, 1948, or by a voluntary organisation within the meaning of that Act ;

(*c*) with respect to a child on whom a requirement as to residence is imposed by a supervision order or probation order."

In section three hundred and four, in the definition of " place of safety ", after the word " means " there shall be inserted the words " any home provided by a local authority under Part II of the Children Act, 1948 ".

The Children and Young Persons (Scotland) Act, 1937

1 Edw. 8 & 1 Geo. 6, c. 37

* * * * *

The Adoption of Children (Regulation) Act, 1939

2 & 3 Geo. 6, c. 27

In section seven, in paragraph (*b*) of subsection (8), for the words "under subsection (3) of section eighty-four of the Children and Young Persons Act, 1933," there shall be substituted the words "by a local authority under Part II of the Children Act, 1948".

In section sixteen, in subsection (2), in the definition of "welfare authority", after the word "purposes" there shall be inserted the words "of the provisions relating to child life protection"; and subsection (3) shall have effect as originally enacted and not as amended by the National Health Service Act, 1946.

The National Health Service Act, 1946

9 & 10 Geo. 6, c. 81

In section twenty-two, in subsection (3), for the words "Part VII" there shall be substituted the words "section two hundred and three", and the words from "and the local authority" to the end of the subsection shall be omitted.

The National Assistance Act, 1948

11 & 12 Geo. 6, c. 29

In the Sixth Schedule, in paragraph 8, in head (*a*) of sub-paragraph (2), after the word "Act," there shall be inserted the words "or of Part II of the Children Act, 1948." [1905]

Children and Young Persons Act, 1933.—26 Halsbury's Statutes 168.
Public Health Act, 1936.—29 Halsbury's Statutes 310.
Public Health (London) Act, 1936.—30 Halsbury's Statutes 438.
Adoption of Children (Regulation) Act, 1939, *ss.* 7 (8) (*b*), 16 (2), (3).—32 Halsbury's Statutes 212, 217, 218.
National Health Service Act, 1946, *s.* 22 (3).—39 Halsbury's Statutes 539.
National Assistance Act, 1948, *Sched. VI, para.* 8 (2) (*a*).—See title PUBLIC ASSISTANCE, *post*.

Section 60

FOURTH SCHEDULE

REPEALS

PART I

ENACTMENTS REPEALED AS FROM COMMENCEMENT OF ACT

Session and Chapter	Enactment repealed	Extent of Repeal
15 & 16 Geo. 5, c. 45.	The Guardianship of Infants Act, 1925.	In section seven, subsection (4).
23 & 24 Geo. 5, c. 12.	The Children and Young Persons Act, 1933.	In section seventy, in subsection (2), the words "made on the application of a poor law authority in their capacity as such or," in subsection (3) the words "or poor law" and in subsection (7) the words from the beginning of the subsection to "and", in

Session and Chapter	Enactment repealed	Extent of Repeal
23 & 24 Geo. 5, c. 12—*cont.*	The Children and Young Persons Act, 1933—*cont.*	section eighty-four, subsection (3); in section eighty-seven, the proviso to subsection (1); in section eighty-eight, subsection (3); in section ninety, in subsection (5), paragraph (*a*), and the words from "but in the first" to the end of the subsection; in section one hundred and four, in subsection (1), sub-paragraph (ii) of paragraph (*a*).
26 Geo. 5 & 1 Edw. 8, c. 49.	The Public Health Act, 1936	Section two hundred and eighteen.
*	* *	* *
2 & 3 Geo. 6, c. 27.	The Adoption of Children Regulation Act, 1939.	In section fifteen, in paragraph (*c*), in sub-paragraph (iii) the words "and to section eighty-four thereof" and the words "and to section eighty-eight thereof".
8 & 9 Geo. 6, c. 41.	The Family Allowances Act, 1945.	In section eleven, in subsection (1), in paragraph (*a*) the words "or deemed to be made"; in section twenty-six, subsection (9).
9 & 10 Geo. 6, c. 81.	The National Health Service Act, 1946.	In section twenty-two, in sub-section (3), the words from "and the local" to the end of the subsection; in Part I of the Tenth Schedule, under the heading *The Public Health Act*, 1936, the entry relating to section two hundred and eighteen; under the heading *The Public Health (London) Act*, 1936, the entry relating to Part XIII; in the entry headed *The Adoption of Children (Regulation) Act*, 1939, the words from "and in section sixteen" to the end of the entry. [1906]

Guardianship of Infants Act, 1925, *s.* 7 (4).—9 Halsbury's Statutes 823.
Children and Young Persons Act, 1933.—26 Halsbury's Statutes 168.
Public Health Act, 1936, *s.* 218.—29 Halsbury's Statutes 565.
Adoption of Children (Regulation) Act, 1939, *s.* 15 (*c*) (iii).—This provision relates to Scotland.
Family Allowances Act, 1945, *s.* 11 (1) (*a*).—38 Halsbury's Statutes 347.
National Health Service Act, 1946, *s.* 22 (3), *Sched. X, Part I.*—39 Halsbury's Statutes 539, 587.

PART II

ENACTMENTS REPEALED AS FROM 1ST JANUARY, 1949

Session and Chapter	Enactment repealed	Extent of Repeal
23 & 24 Geo. 5, c. 12.	The Children and Young Persons Act, 1933.	Section ninety-five; in section one hundred and two, in subsection (1), the words from "(*f*) in the case" to the end of the subsection. [1907]
*	* *	* *

Children and Young Persons Act, 1933, *ss.* 95, 102 (1).—26 Halsbury's Statutes 231, 236.

NURSERIES AND CHILD-MINDERS REGULATION ACT, 1948

(11 & 12 Geo. 6, c. 53)

PRELIMINARY NOTE

This Act, which received the Royal Assent on July 30, 1948, is, as its long title indicates, designed to provide for the regulation of certain nurseries and of persons who for reward receive children into their homes to look after them. The Act thus fills a gap in the framework of the enactments relating to the protection of children.

Nurseries are within the Act if (*a*) they are premises where children (*i.e.* persons below the upper limit of compulsory school age) are looked after for the day or a substantial part of the day, or for longer periods up to six days, whether for reward or not, and (*b*) they are premises which are not wholly or mainly used as private dwellings and are not within the exemptions for hospitals and other institutions referred to below.

Persons who for reward receive children into their homes to look after them, or " child-minders " as they are termed in the short title to the Act, are within its provisions if the children are under five and are to be looked after for the day or a substantial part of the day, or for longer periods up to six days, but they are not placed by the Act under any obligation unless they receive children to whom they are unrelated and such children number more than two and come from more than one household.

The authorities responsible for the administration of the Act are the local health authorities. Every local health authority is to keep registers (*a*) of premises in their area, other than premises wholly or mainly used as private dwellings, where children are received to be looked after for the day or a substantial part of the day or for longer periods up to six days, and (*b*) of persons in their area who for reward receive into their homes children under five to be so looked after. An application for registration may be made by any person receiving or proposing to receive children as just mentioned, and may be refused only as follows: (i) as regards nurseries on the ground that any person employed or proposed to be employed in looking after children at the premises is not a fit person to look after children or, where the premises were not at the commencement of the Act in use for the reception of children as mentioned above, that the premises are not fit to be used for that purpose; (ii) as regards child-minders on the ground that the applicant, or any person employed or proposed to be employed by him in looking after children, is not a fit person to look after children or that the premises in which the children are received or proposed to be received are not fit (whether because of their condition or for any reason connected with other persons therein) to be used for the purpose (s. 1). Registration is, in effect, compulsory as regards nurseries falling under head (*a*), *supra*, and, with certain exceptions, child-minders coming under head (*b*), *supra*, by virtue of the penal provisions of the Act mentioned later in this Note.

Local health authorities are given a wide power to impose requirements in connection with registration, and such requirements may be imposed either on registration or, in general, at any subsequent time (s. 2).

Where there has been a contravention of, or non-compliance with, a requirement so imposed, or where it appears that circumstances exist which would justify a refusal to register the premises or person in question, the local health authority may cancel the registration. However, there is a saving designed to allow existing nurseries a reasonable time for complying with conditions as to premises (s. 5). Provision is also made for the issue and amendment of certificates of registration and the specification therein of any requirements imposed under the Act (s. 3).

No order refusing an application for registration, cancelling a registration, or imposing a requirement under the Act, may be made unless at least fourteen days' notice has been given to the applicant, to the occupier of the premises to which the registration relates, or to the person registered, as the case may be, and the person notified has been afforded an opportunity to show cause why the order should not be made. Moreover, any person aggrieved by the order may within

twenty-one days appeal to a court of summary jurisdiction, and an order cancelling a registration is not to take effect until the expiration of the time within which the appeal may be brought or, where an appeal is brought, before the determination of the appeal (s. 6).

A person authorised in that behalf by a local health authority may enter a nursery at any reasonable time and carry out an inspection of the premises, the children received, as mentioned above, the arrangements for their welfare, and any records relating to them kept in pursuance of the Act (s. 7 (1)). There is no corresponding power to enter the home of a registered child-minder. However, if the authorised person is refused admission to such a home, or if he has reasonable cause to believe that children are being received in a person's home or in any other premises in contravention of the Act, he may apply to a justice of the peace for a warrant authorising him to enter and carry out an inspection (s. 7 (2)). Every person proposing to exercise a power of entry and inspection must, if required, produce some duly authenticated document showing his authority (s. 7 (3)). To obstruct the exercise of a power of entry and inspection is an offence punishable on summary conviction by a fine up to £5 or, in the case of a second or subsequent offence, £20 (s. 7 (4)).

Special provisions are designed to prevent dual inspection of places under the present Act and what the Act calls the " child life protection enactments " or any enactment relating to the boarding-out of children (ss. 9 and 10).

If a child is received in any nursery which is within the Act and the nursery is not registered or any requirement imposed under the Act is contravened or not complied with, the occupier is guilty of an offence punishable on summary conviction by a fine up to £25 or, in the case of a second or subsequent offence, by imprisonment up to one month or a fine up to £25 or both. So also is a person who for reward receives into his home children to whom he is unrelated to be looked after for the day or a substantial part of the day or for longer periods up to six days if the children number more than two and come from more than one household and he is not registered or contravenes or fails to comply with any requirement imposed under the Act; but here the maximum fine which may be imposed in the case of a first offence is only £5, and where a registered child-minder acquires a new home, he is not until he has notified the local health authority, to be treated as being registered for the reception of children in the new home (s. 4). These provisions do not, however, apply to nurseries used mainly for the reception of children for more than six days in such circumstances that the " child life protection enactments " apply, or to child-minders who are subject to inspection under those enactments or under any enactment relating to the boarding-out of children (s. 9).

Prosecutions under the Act may be brought by local health authorities (s. 11).

Hospitals and certain other institutions are exempt from all the provisions of the Act (s. 8). [1908]

ARRANGEMENT OF SECTIONS

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An Act to provide for the regulation of certain nurseries and of persons who for reward receive children into their homes to look after them; and for purposes connected with the matters aforesaid. [1909] [30th July, 1948.]

1. Registration of nurseries and child-minders.—(1) Every local health authority shall keep registers—

(*a*) of premises in their area, other than premises wholly or mainly used as private dwellings, where children are received to be looked after for the day or a substantial part thereof or for any longer period not exceeding six days;

(*b*) of persons in their area who for reward receive into their homes children under the age of five to be looked after as aforesaid.

The registers kept under this subsection shall be open to inspection at all reasonable times. [1910]

(2) Any person receiving or proposing to receive children as mentioned in paragraph (*a*) or (*b*) of the foregoing subsection may make application to the local authority for registration thereunder, and on receipt of such an application the local health authority shall, subject to the provisions of this section, register the premises to which or person to whom the application relates. [1911]

(3) The local health authority may by order refuse to register any premises if they are satisfied that any person employed or proposed to be employed in looking after children at the premises is not a fit person to look after children, or, where the premises were not at the commencement of this Act in use for the reception of children as mentioned in paragraph (*a*) of subsection (1) of this section, if the local authority are satisfied that the premises are not fit to be used for that purpose. [1912]

(4) The local health authority may by order refuse to register any person if they are satisfied that that person, or any person employed or proposed to be employed by him in looking after children, is not a fit person to look after children or that the premises in which the children are received or proposed to be received are not fit (whether because of the condition thereof or for any reason connected with other persons therein) to be used for the purpose. [1913]

General note.—This section makes provision for the registration of what may be widely described as "day nurseries", on the one hand, and child-minders, on the other hand. It must, however, be read in conjunction with s. 8, *post*, as to the exemption of certain institutions from the provisions of the Act.

It will be noticed that the section itself does not make registration compulsory. But s. 4, *post*, in effect does so in relation to all premises falling under s. 1 (1) (*a*), *supra*, and, with certain exceptions, all persons coming within the purview of sub-s. (1) (*b*), *supra*.

Local health authority.—The local health authorities are county councils and county borough councils, but joint boards may be constituted for performing all or any of the functions of local health authorities (National Health Service Act, 1946, s. 19; 39 Halsbury's Statutes 537).

All matters relating to the discharge of the functions of a local health authority under this Act automatically stand referred to the health committee, and the authority may authorise the committee to exercise on their behalf any of these functions (National Health Service Act, 1946, Sched. IV, Part II, paras. 1 and 3; 39 Halsbury's Statutes 577).

Children.—For meaning, see s. 13 (2), *post*.

Shall . . . register, etc.—For power to impose requirements in connection with registration, see s. 2, *post*; as to certificates of registration, see s. 3, *post*; and as to cancellation of registration, see s. 5, *post*.

May by order refuse.—As to notice of intention to refuse the application and as to appeals, see s. 6, *post*.

Where the premises were not at the commencement of this Act, etc.—The Act came into force on receiving the Royal Assent, *i.e.* on July 30, 1948. The "local authority" is, of course, the local health authority.

Note that registration may not be refused on the ground of the unfitness of the premises where the premises were, at the commencement of the Act, used for the reception of children as mentioned in sub-s. (1) (*a*), *supra*; but as to the imposition of requirements as to repairs, etc., in this case, see s. 2 (4) (*c*), (5), (7), *post*.

2. Power to impose requirements in connection with registration.—(1) The local health authority may by order require that no greater number of

children shall be received in premises registered under the foregoing section than may be specified in the order. [1914]

(2) The local health authority may by order require in the case of a person registered under the foregoing section that the number of children received in his home as mentioned in paragraph (*b*) of subsection (1) of that section, together with any other children in his home, shall not at any time exceed such number as may be specified in the order. [1915]

(3) The local health authority may by order made as respects any premises or person registered under the foregoing section require the taking of precautions against the exposure of the children received in the premises to infectious diseases. [1916]

(4) The local health authority may by order made as respects any premises registered under the foregoing section impose requirements for securing—

(*a*) that a person with such qualifications as may be specified by the authority shall be in charge of the premises and of the persons employed thereat;

(*b*) that the premises shall be adequately staffed, both as respects the number and as respects the qualifications or experience of the persons employed thereat, and adequately equipped;

(*c*) in the case of premises which at the commencement of this Act were in use for the reception of children as mentioned in paragraph (*a*) of subsection (1) of section one of this Act, that such repairs shall be carried out on the premises, or such alterations thereof or additions thereto shall be made, as may be specified in the order;

(*d*) that the premises and the equipment thereof shall be adequately maintained;

(*e*) that there shall be adequate arrangements for feeding the children received in the premises and that an adequate and suitable diet shall be provided for them;

(*f*) that the children received in the premises shall be under medical supervision;

(*g*) that records shall be kept in relation to the children received at the premises containing such particulars as may be specified by the authority. [1917]

(5) An order under paragraph (*c*) of the last foregoing subsection may be made either on registration or at any time within one month thereafter, and any other order under this section may be made either on registration or at any subsequent time. [1918]

(6) An order under this section may be varied or revoked by a subsequent order of the local health authority. [1919]

(7) In the case of premises which at the commencement of this Act were in use for the reception of children as mentioned in paragraph (*a*) of subsection (1) of section one of this Act, no requirement shall be imposed under paragraphs (*a*) to (*c*) of subsection (4) of this section so as to require anything to be done before the expiration of a reasonable time from the commencement of this Act. [1920]

General note.—This section relates to the imposition of requirements in connection with registration under s. 1, *ante* (see the notes thereto).

Local health authority.—See the notes to s. 1, *ante*.

May by order, etc.—Note that no order under this section may be made before registration, but that, by sub-s. (5), *supra*, the order may be made on registration and, in the case of an order under sub-s. (4) (*c*), *supra*, may not be made later than one month after registration.

As to the specification of requirements under this section in certificates of registration, see s. 3, *post*; as to penalties for breach of such requirements, see s. 4, *post*; as to the cancellation of registration for contravention of, or non-compliance with, the requirements, see s. 5, *post*; and as to notice of intention to make an order under this section and as to appeals, see s. 6, *post*.

Children.—For meaning, see s. 13 (2), *post*.

Premises which at the commencement of this Act, etc.—As to the commencement of the Act, see the notes to s. 1, *ante*.

The explanation of the limitation of sub-s. (4) (*c*), *supra*, to premises which at the commencement of the Act were in use for the reception of children as mentioned in s. 1 (1) (*a*), *ante*, is to be found in the fact that, in the case of premises which then were not so in use, there is a general power to refuse registration on the ground of the unfitness of the premises (see s. 1 (3), *ante*; and the notes to s. 1, *ante*).

3. Certificates of registration.—(1) The local health authority shall issue certificates of registration under section one of this Act, and any such certificate shall specify the situation of the premises to which, or the name and address of the person to whom, the registration relates and any requirements imposed under the last foregoing section. [1921]

(2) On any change occurring in the circumstances particulars of which are stated in a certificate issued under this section, the local health authority shall issue an amended certificate. [1922]

(3) Where the local health authority are satisfied that any certificate under this section has been lost or destroyed, the authority shall, on payment of such fee (if any) not exceeding two shillings and sixpence as the authority may determine, issue a copy of the certificate. [1923]

Local health authority.—See the notes to s. 1, *ante*.

4. Penalties for failure to register and for breach of requirements under section two.—(1) If at any time after the expiration of three months from the commencement of this Act a child is received in any premises as mentioned in paragraph (*a*) of subsection (1) of section one of this Act and the premises are not registered under that section or any requirement imposed under section two of this Act is contravened or not complied with, the occupier of the premises shall be guilty of an offence. [1924]

(2) Where at any such time as aforesaid a person receives as mentioned in paragraph (*b*) of subsection (1) of section one of this Act children of whom he is not a relative, and

(*a*) the number of the children exceeds two, and

(*b*) the children come from more than one household,

then if he is not registered under section one of this Act, or if he contravenes or fails to comply with any requirement imposed under section two thereof, he shall be guilty of an offence. [1925]

(3) Where a person has been registered under section one of this Act and while he is so registered he acquires a new home, then until he has given notice thereof to the local health authority he shall not for the purposes of the last foregoing subsection be treated as being so registered in relation to the reception of children in the new home. [1926]

(4) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding twenty-five pounds or, in the case of a second or subsequent offence, to imprisonment for a term not exceeding one month or to a fine not exceeding twenty-five pounds or to both such imprisonment and such fine:

Provided that in the case of a first offence under subsection (2) of this section the fine which may be imposed shall not exceed five pounds. [1927]

General note.—This section relates to penalties for failure to register under s. 1, *ante*, and for breach of requirements imposed under s. 2, *ante*. It must be read in conjunction, not only with s. 8, *post* (see the notes to s. 1, *ante*), but also with s. 9, *post*, which provides for the exclusion of this section in certain cases where provision for entry and inspection is made by or under what the Act calls the "child life protection enactments" or any enactment relating to the boarding-out of children.

Commencement of the Act.—See the notes to s. 1, *ante*.

Child.—For definition, see s. 13 (2), *post*. But note that s. 1 (1) (*b*), *ante*, applies only to children under five.

Occupier.—This means, it is thought, the person in legal occupation and control of the premises (*Bruce* v. *McManus*, [1915] 3 K. B. 1). At any rate, it is clear from s. 6 (1), *post*, that the occupier is not necessarily the person who may apply for registration under s. 1 (2), *ante*.

The number of the children exceeds two, etc.—It seems clear that for the purposes of subs. (2) (*a*) and (*b*), *supra*, children of whom the person in question is a relative must be disregarded.

For definition of " relative ", see s. 13 (2), *post*.

Local health authority.—See note to s. 1, *ante*.

Sub-s. (4).—As to prosecutions, see s. 11, *post*.

5. Cancellation of registration.—Where—

(*a*) there has been a contravention of, or non-compliance with, any requirement imposed under section two of this Act in relation to any premises or person registered under section one thereof, or

(*b*) it appears to the local health authority as respects any premises or person registered under the said section one, that circumstances exist which would justify a refusal under subsection (3) or subsection (4) of that section to register the premises or person,

the local health authority may by order cancel the registration :

Provided that where a requirement to carry out repairs or make alterations or additions has been imposed under paragraph (*c*) of subsection (4) of section two of this Act, the registration of the premises shall not be cancelled by virtue of paragraph (*b*) of this section on the grounds that the premises are not fit to be used for the reception of children if—

(i) the time limited by subsection (7) of the said section two for complying with the requirement has not expired, and

(ii) it is shown that the condition of the premises is due to the repairs not having been carried out or the alterations or additions not having been made. [1928]

General note.—This section relates to the cancellation of registrations under s. 1, *ante* (see the notes thereto).

Local health authority.—See the notes to s. 1, *ante*.

Circumstances exist which would justify a refusal, etc.—Although under s. 1 (3), *ante*, the registration of premises may only be refused on the ground of unfitness for use for the reception of children where the premises were not so used at the commencement of the Act, it is clear from the proviso, *supra*, that, subject thereto, the registration of any premises may be cancelled on that ground.

May by order cancel the registration.—As to notice of intention to do so, as to appeals and as to when the cancellation takes effect, see s. 6, *post*.

Children.—For meaning, see s. 13 (2), *post*.

6. Appeals.—(1) Not less than fourteen days before making an order under this Act refusing an application for registration, cancelling any registration, or imposing any requirement under section two of this Act, the local health authority shall send to the applicant, to the occupier of the premises to which the registration relates, or to the person registered, as the case may be, notice of their intention to make such an order. [1929]

(2) Every such notice shall state the grounds on which the authority intend to make the order and shall contain an intimation that if within fourteen days after the receipt of the notice the said applicant, occupier or person informs the authority in writing of his desire to show cause, in person or by a representative, why the order should not be made, the authority shall before making the order afford him an opportunity so to do. [1930]

(3) If the local authority, after giving the said applicant, occupier or person such an opportunity as aforesaid, decide to refuse the application, cancel the registration, or impose the requirement, as the case may be, they shall make an order to that effect and shall send him a copy of the order. [1931]

(4) A person aggrieved by an order under this Act refusing an application for registration or cancelling any registration, or imposing any requirement under section two of this Act, may appeal to a court of summary jurisdiction, or in Scotland the sheriff, having jurisdiction in the place

where the premises in question are situated if the order relates to the registration of premises, or in the place where the person in question resides if the order relates to the registration of a person; and an order cancelling any registration shall not take effect until the expiration of the time within which an appeal may be brought under this section or, where such an appeal is brought, before the determination of the appeal. [1932]

(5) Sections three hundred to three hundred and two of the Public Health Act, 1936 (which relate to appeals) shall apply for the purposes of this section as if the provisions of this Act were contained in that Act and that Act extended to London. [1933]

(6) Any notice required to be sent under subsection (1) of this section, and any copy of an order required to be sent under subsection (3) thereof, may be sent by post in a registered letter. [1934]

(7) In the application of this section to Scotland, subsection (5) shall be omitted, and any appeal under subsection (4) shall be brought within twenty-one days from the date of the order to which the appeal relates. [1935]

Local health authority.—See the notes to s. 1, *ante*.

Occupier.—See the notes to s. 4, *ante*.

A representative.—No professional qualifications are required for a representative who may, therefore, be any person nominated for the purpose.

May make an order.—Note that under sub-s. (4), *supra*, an order cancelling a registration is suspended until the expiration of the time allowed for an appeal, or, where an appeal is brought, until the determination of the appeal.

Person aggrieved.—According to the well-known definition of JAMES, L.J., in *Re Sidebotham, Ex parte Sidebotham* (1880), 14 Ch. D. 458, at p. 465, "a person aggrieved must be a man who has suffered a legal grievance, a man against whom a decision has been pronounced which has wrongfully deprived him of something, or wrongfully refused him something, or wrongfully affected his title to something"; but it must be borne in mind that the expression does not necessarily always have the same meaning, and it is also clear that the test cannot be whether the person in question has in fact been wronged, but can only be whether he has been wronged if the decision itself is wrong: cf. *Sevenoaks Urban Council* v. *Twynam*, [1929] 2 K. B. 440, *per* Lord HEWART, C.J., at pp. 443 and 447–448.

Public Health Act, 1936, *ss.* 300–302.—29 Halsbury's Statutes 515, 516.

S. 300 provides that an appeal to a court of summary jurisdiction shall be by complaint and shall be brought within twenty-one days after notice of the order appealed against is served on the appellant, and that whenever such an appeal lies against an order the document notifying the person concerned shall state the right of appeal and the time within which the appeal must be brought. S. 301 provides that a further right of appeal against a decision of a court of summary jurisdiction shall lie to quarter sessions; and s. 302 provides that effect shall be given to the decision of any court upon an appeal and in particular that any necessary entry shall be made on any register.

May be sent by post in a registered letter.—These words are permissive only and would appear not to exclude personal service or service by ordinary letter; see *Sharpley* v. *Manby*, [1942] 1 K. B. 217; [1942] 1 All E. R. 66, C. A.; and cf. the Interpretation Act, 1889, s. 26 (18 Halsbury's Statutes 1002). It will, however, in all cases be safer to serve all notices under sub-s. (1), *supra*, and all orders under sub-s. (3), *supra*, by registered post.

7. Inspection.—(1) Any person authorised in that behalf by a local health authority may at all reasonable times enter any premises in the area of the authority which are used for the reception of children as mentioned in paragraph (*a*) of subsection (1) of section one of this Act, and may inspect the premises and the children so received therein, the arrangements for their welfare, and any records relating to them kept in pursuance of this Act. [1936]

(2) If any person authorised as aforesaid is refused admission to the home of a person registered under section one of this Act, or has reasonable cause to believe that children are being received in a person's home or in any other premises in contravention of section four of this Act, he may apply to a justice of the peace or in Scotland to the sheriff, and if the justice or sheriff is satisfied on sworn information in writing that admission has been refused or, as the case may be, that there is reasonable cause to believe that children are being received as aforesaid, the justice or sheriff may grant a warrant authorising the applicant to enter the home or other premises and carry out any such inspection as is mentioned in subsection (1) of this section. [1937]

(3) A person who proposes to exercise any power of entry or inspection conferred by or under this section shall if so required produce some duly authenticated document showing his authority to exercise the power. [1938]

(4) Any person who obstructs the exercise of any such power as aforesaid shall be guilty of an offence and liable on summary conviction to a fine not exceeding five pounds in the case of a first offence or twenty pounds in the case of a second or any subsequent offence. [1939]

General note.—This section provides for control for the purposes of the Act by means of entry and inspection. It must be read in conjunction, not only with s. 8, *post* (see the notes to s. 1, *ante*), but also with s. 9, *post*, which provides for the exclusion of this section in certain cases where provision for entry and inspection is made by or under the "child life protection enactments" or any enactment relating to the boarding-out of children, and with s. 10, *post*, which extends the operation of this section in certain other cases where the "child life enactments" apply.

Local health authority.—See the notes to s. 1, *ante*.

Children.—For meaning, see s. 13 (2), *post*.

Records . . . kept in pursuance of this Act.—Cf. s. 2 (4) (*g*), *ante*.

May grant a warrant, etc.—The person named in the warrant may not delegate its execution to another person; but a warrant is clearly unnecessary where entry and inspection are voluntarily allowed.

Sub-s. (4).—As to prosecutions, see s. 11, *post*.

8. Exemption of certain institutions from provisions of Act.—(1) Nothing in this Act shall apply to the reception of children in any hospital, or in any such home or other institution as is mentioned in section two hundred and nineteen of the Public Health Act, 1936, or section eleven of the Children and Young Persons (Scotland) Act, 1937. [1940]

(2) Nothing in this Act shall apply to the reception of children in any school, notwithstanding that they are received to be looked after and not for the purpose of education. [1941]

(3) Nothing in this Act shall apply to the reception of children in a nursery school in respect of which payments are made by the Minister of Education under section one hundred of the Education Act, 1944, or by the Secretary of State under section seventy of the Education (Scotland) Act, 1946, or which is recognised as efficient by the Minister of Education or included in a scheme submitted under section seven and approved by the Secretary of State under section sixty-five of the said Act of 1946, or to the reception of children in any play centre maintained or assisted by a local education authority under section fifty-three of the said Act of 1944, or by an education authority under section three of the said Act of 1946. [1942]

General note.—This section grants total exemption from the provisions of the Act in the case of hospitals, schools and certain other institutions.

Children; Hospital; School.—For meanings, see s. 13 (2), *post*.

Public Health Act, 1936, *s.* 219.—29 Halsbury's Statutes 469. That section, as amended by s. 76 of, and Part I of Sched. X to, the National Health Service Act, 1946 (39 Halsbury's Statutes 570, 587), and s. 60 of, and Sched. III to, the Children Act, 1948, *ante*, so far as material here, is as follows:—

> "(1) The foregoing provisions of this Part of this Act relating to child life protection shall not extend to . . . any person . . . who undertakes the nursing or maintenance of a child boarded out . . . to any voluntary home within the meaning of the Children and Young Persons Act, 1933, or to any . . . convalescent home or other institution, being a . . . home or institution—
>
> (*a*) which is maintained by a Government department, county council (including the London County Council), local authority or metropolitan borough council, or any other authority or body constituted by special Act of Parliament or incorporated by Royal Charter; or
>
> (*b*) in respect of which a certificate of exemption from the said provisions granted by the welfare authority is in force; or
>
> (*c*) which is an institution, house or home certified or approved by the Minister under the Mental Deficiency Acts, 1913 to 1927, and in which no children or young persons who are not mental defectives within the meaning of these Acts are received. . . ."

Sub-s. (2).—This subsection covers the case of school buildings which are open in the holidays for organised games or other activities and where children are admitted to spend the day, as well as nursery classes in schools, as to which, see the Education Act, 1944, s. 8 (2) (*b*) (37 Halsbury's Statutes 134).

Education Act, 1944.—37 Halsbury's Statutes 123. For s. 100 thereof, see 37 Halsbury's Statutes 207. For s. 53 thereof, as amended by s. 11 of, and Part I of Sched. I, to the Education (Miscellaneous Provisions) Act, 1948, see 37 Halsbury's Statutes 179.

9. Exclusion of sections four and seven of Act where child life protection enactments apply.—(1) Where premises falling within paragraph (*a*) of subsection (1) of section one of this Act are used mainly for the reception of children for periods exceeding six days and in such circumstances that the child life protection enactments apply, sections four and seven of this Act shall not apply to the premises and the provisions of the child life protection enactments as to entry and inspection shall extend to all children received in the premises. [1943]

(2) Where a person receives children into his home in such circumstances that apart from this subsection he would be required by subsection (2) of section four of this Act to be registered under section one thereof, then so long as provision for entry and inspection as respects any of those children or any other child received into his home is made by or under the child life protection enactments or any enactment relating to the boarding-out of children,—

(*a*) sections four and seven of this Act shall not apply,

(*b*) the said provision for entry and inspection shall apply in relation to all the children aforesaid. [1944]

General note.—This section and s. 10, *post*, are designed to prevent nurseries and child-minders from being subject to control both under the present Act and under the child life protection provisions of other statutes, which give powers of supervision over persons taking foster children for reward, the principle being that the code applicable to the main user of the premises shall be the one to be applied. Thus, in the case of a nursery which is mainly used for the reception of children for more than six days at a time, the child life protection enactments apply and sub-s. (1), *supra*, exempts the premises from registration under s. 4, *ante*, and inspection under s. 7, *ante*, and extends inspection under the child life protection enactments to all children received in the premises. On the other hand, where the main use of the nursery is for the reception of children for periods of less than six days at a time, s. 10, *post*, provides that all the children shall be inspected under s. 7, *ante*, although it will be necessary to comply with the child life enactments as to notification in the case of children received for longer periods.

So far as child-minders are concerned, sub-s. (2), *supra*, provides that where any children received are subject to inspection under the child life protection enactments, or any boarding-out enactments, all the children will be subject to inspection under those enactments, and the minder will be exempt from the penal scope of s. 4, *ante*, and his home will be exempt from inspection under s. 7, *ante*.

Children; Child life protection enactments.—For meanings, see s. 13 (2), *post*.

For provisions as to entry and inspection, see the Public Health Act, 1936, s. 209 (29 Halsbury's Statutes 465); the Public Health (London) Act, 1936, s. 258 (30 Halsbury's Statutes 582); and the Adoption of Children (Regulation) Act, 1939, s. 7 (32 Halsbury's Statutes 210).

Boarding-out.—See the Children Act, 1948, s. 54 (2), *ante*, as to the inspection of children boarded-out either by a local authority or a voluntary organisation.

10. Exclusion of child life protection enactments where premises registered under Act.—Where premises registered under section one of this Act are used wholly or mainly for the reception of children as mentioned in paragraph (*a*) of subsection (1) of that section, the provisions of the child life protection enactments as to entry and inspection shall not apply in relation to any children received at the premises, and the provisions of section seven of this Act shall apply in relation to all children received thereat. [1945]

General note.—See the notes to s. 9, *ante*.

11. Prosecution of offences.—In England and Wales, the local health authority may prosecute for any offence under this Act. [1946]

Local health authority.—See the notes to s. 1, *ante*.

12. Payments out of moneys provided by Parliament.—There shall be defrayed out of moneys provided by Parliament any increase attributable

to the provisions of this Act in grants payable under any other Act out of moneys so provided. [1947]

General note.—Expenditure incurred by a local health authority in discharging its functions under the Act will automatically increase Equalisation Grants under Part I of the Local Government Act, 1948, title FINANCE, *ante*, and will attract an Exchequer grant of 50 per cent. under s. 53 of the National Health Service Act, 1946 (39 Halsbury's Statutes 559), as amended by s. 7 of the Local Government Act, 1948, title FINANCE, *ante*. The present section, therefore, provides for any increase in such grants attributable to the Act to be paid out of moneys provided by Parliament.

13. Short title, interpretation and extent.—(1) This Act may be cited as the Nurseries and Child-Minders Regulation Act, 1948. [1948]

(2) In this Act the following expressions have the meanings hereby assigned to them respectively, that is to say :—

" child " means a person who has not attained the upper limit of compulsory school age ;

" child life protection enactments " means the provisions relating to child life protection of Part VII of the Public Health Act, 1936, the provisions of Part XIII of the Public Health (London) Act, 1936, the provisions of Part I of the Children and Young Persons (Scotland) Act, 1937, or the provisions of section seven of the Adoption of Children (Regulation) Act, 1939 ;

" compulsory school age ", in England and Wales, has the same meaning as in the Education Act, 1944, and in Scotland means school age as defined in the Education (Scotland) Act, 1946 ;

" hospital " has the same meaning as in section seventy nine of the National Health Service Act, 1946, or, as respects Scotland, section eighty of the National Health Service (Scotland) Act, 1947 ;

" relative " means a grandparent, brother, sister, uncle or aunt, whether by consanguinity or affinity, or in consequence of adoption, and as respects an illegitimate child includes a person who would be so related if the child were legitimate ;

" school ", except in the expression " nursery school ", means an institution of which the sole or main purpose is the provision of education for children of compulsory school age. [1949]

(3) References in this Act to any enactment shall be construed as references to that enactment as amended by any subsequent enactment. [1950]

(4) This Act shall not extend to Northern Ireland. [1951]

Public Health Act, 1936, *Part VII.*—29 Halsbury's Statutes 460. For the provisions thereo relating to child life protection, see ss. 206 *et seq.* (29 Halsbury's Statutes 463 *et seq.*), as amended by the National Health Service Act, 1946, s. 76, Sched. X, Part I (39 Halsbury's Statutes 570, 587), the National Assistance Act, 1948, s. 62, Sched. VII, Part III, title PUBLIC ASSISTANCE, *post*), and the Children Act, 1948, s. 60, Sched. III, Sched. IV, Part I, *ante*.

Public Health (London) Act, 1936, *Part XIII.*—30 Halsbury's Statutes 581. For repeals and other amendments, see the London Government Act, 1939, s. 207, Sched. VIII (32 Halsbury's Statutes 352, 379), the National Health Service Act, 1946, s. 76, Sched. X, Parts I and II (39 Halsbury's Statutes 570, 587, 590), and the Children Act, 1948, s. 60, Sched. III, *ante*.

Adoption of Children (Regulation) Act, 1939, s. 7.—32 Halsbury's Statutes 210. For amendments, see the National Health Service Act, 1946, s. 76, Sched. X, Part I (39 Halsbury's Statutes 570, 587), and the Children Act, 1948, s. 60, Sched. III, *ante*.

Education Act, 1944.—37 Halsbury's Statutes 123. By s. 35 thereof (37 Halsbury's Statutes 165), " compulsory school age " is defined as any age between five and fifteen years, but provision is made for raising the upper limit to sixteen by Order in Council at some later date. See also, for provisions for avoiding broken terms, the Education Act, 1946, s. 8 (1), (2) (39 Halsbury's Statutes 127).

National Health Service Act, 1946, s. 79.—39 Halsbury's Statutes 571. In sub-s. (1) thereof " hospital " is defined as meaning any institution for the reception and treatment of persons suffering from illness or mental defectiveness, any maternity home, and any institution for the reception and treatment of persons during convalescence or persons requiring medical rehabilitation, and including clinics, dispensaries and out-patient departments maintained in connection with any such institution or home as aforesaid ; " illness ", in turn, is defined as including mental illness and any injury or disability requiring medical or dental treatment or nursing ; and " medical " as including surgical.

CRIMINAL JUSTICE ACT, 1948

(11 & 12 Geo. 6, c. 58)

PRELIMINARY NOTE

The Criminal Justice Act, 1948, which received the Royal Assent on July 30, 1948, is being brought into operation piecemeal by means of Orders in Council, under s. 83 of the Act, fixing different dates for the commencement of various provisions. The Act marks a notable step towards the more scientific treatment of offenders, but though the Act as a whole may be of general interest, considerations of space have made it necessary to select for inclusion in this volume only those provisions which most nearly concern local government officers. Accordingly, selected extracts appear in the present title and in the title SUMMARY PROCEEDINGS, *post*.

The principal provisions appearing in the present title are of a miscellaneous character: s. 71 amends, in a number of respects, s. 71 of the Children and Young Persons Act, 1933 (26 Halsbury's Statutes 213), which relates to the duration of approved school orders and originally reproduced s. 30 (1) and (2) of the Children and Young Persons Act, 1932 (25 Halsbury's Statutes 230). An attempt is made to draw the leaving of approved schools more closely to that of ordinary schools.

Next, the following section amends the procedure where absconders from approved schools and persons at such schools who are guilty of serious misconduct are brought before the magistrates in respect of their act or default (s. 72). In such cases the court may either make a new approved school order or, in ordering the offender back to school under the old order, may extend the operation of that order by up to six months, the court being allowed a discretion within that limit. It is recognised that this involves an increase in the over-all age limit for approved school detention. There is also power to sentence an offender to Borstal training, though this alternative may be discontinued in the future by Order in Council made with prior parliamentary sanction. This section should be read in the light of the additional amendments to s. 82 of the Act of 1933 (26 Halsbury's Statutes 219) effected by s. 79 of, and Sched. IX to, the present Act, and the partial repeals effected by s. 83 of, and Sched. X to, the present Act.

The chief object of s. 74 of the Act is to apply to orders placing children or young persons under the supervision of probation officers or other persons appointed by the court ("supervision orders") certain of the provisions of the present Act as to probation orders, the general effect of these being described in the notes to s. 74. In particular, provision is made for the possible inclusion in supervision orders of such requirements relating to residence or mental treatment as can be included in the case of probation orders; copies of supervision orders are to be given to offenders, the persons under whose supervision they are placed and the person in charge of any institution at which they are required to reside. The "supervisor" must report to the court after six months, and in the light of his report the supervision order may be reviewed and, if desired, amended. This section should be read in conjunction with the new s. 4 of the Children and Young Persons Act, 1938 (31 Halsbury's Statutes 365), substituted by s. 79 of, and Sched. IX to, the Act.

Finally, s. 75 gives the court power to order an offender to be detained in a remand centre where inquiry into his physical or mental condition is desirable, but only if (*a*) the court has been officially notified of the existence of a remand centre, and (*b*) the inquiry cannot conveniently be made in a "place of safety". Special provision is made as to unruly and depraved persons.

The other sections and Schedules included in the present title are ancillary. [1952]

ARRANGEMENT OF SECTIONS

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PART II

ADMINISTRATIVE PROVISIONS AND PROVISIONS AS TO TREATMENT OF PRISONERS, ETC.

* * * * *

Miscellaneous

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* * * * *

An Act to abolish penal servitude, hard labour, prison divisions and sentence of whipping; to amend the law relating to the probation of offenders, and otherwise to reform existing methods and provide new methods of dealing with offenders and persons liable to imprisonment; to amend the law relating to the proceedings of criminal courts, including the law relating to evidence before such courts; to abolish privilege of peerage in criminal proceedings; to regulate the management of prisons and other institutions and the treatment of offenders and other persons committed to custody; to re-enact certain enactments relating to the matters aforesaid; and for purposes connected therewith. [1953]

[30th July, 1948.]

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PART II

ADMINISTRATIVE PROVISIONS AND PROVISIONS AS TO TREATMENT OF PRISONERS, ETC.

* * * * *

Miscellaneous

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71. Amendment of s. 71 of the Children and Young Persons Act, 1933.—(1) For subsection (1) of section seventy-one of the Children and Young Persons Act, 1933, there shall be substituted the following subsection :—

"(1) Where a court orders a child to be sent to an approved school, the order shall be an authority for his detention in an approved school until the expiration of a period of three years from the date of the order or the expiration of four months after he ceases to be of compulsory school age whichever is the later." [1954]

(2) In the said section seventy-one as amended by this section the expression " compulsory school age " has the meaning assigned to it by section thirty-five of the Education Act, 1944; and section eight of the Education Act, 1946 (which provides that a person who attains a particular age during a school term shall be deemed not to have attained that age until the end of the term) shall not apply. [1955]

(3) The provisions of the said section seventy-one shall apply as amended by this section to any approved school order made before the commencement of this Act if the period during which the person to whom it relates could be detained thereunder apart from the provisions of this section has not expired at the commencement of this Act. [1956]

(4) This section shall, in its application to Scotland, have effect subject to the following modifications :—

(*a*) for references to section seventy-one of the Children and Young Persons Act, 1933, and to subsection (1) of that section there shall be substituted references to section seventy-five of the Children and Young Persons (Scotland) Act, 1937, and to subsection (1) of that section; and

(*b*) for subsection (2) there shall be substituted the following subsection :—

" (2) In the said section seventy-five as amended by this section the expression ' compulsory school age ' means school age as defined in section thirty-two of the Education (Scotland) Act, 1946 :

Provided that—

(*a*) subsection (4) of that section (which extends the school age in the case of certain children requiring special educational treatment); and

(*b*) subsection (2) of section thirty-three of that Act (which provides that a child shall be deemed to attain any given age on the fixed date for commencing or for terminating attendance next following the day that he actually attains that age)

shall not apply." [1957]

General note.—The object of the new subsection substituted for s. 71 (1) of the Children and Young Persons Act, 1933 (26 Halsbury's Statutes 213), appears to be to avoid a young person being released at the age of fifteen from an approved school when, by reason of s. 8 of the Education Act, 1946 (39 Halsbury's Statutes 127), he would still be liable to attend an ordinary school. It is so worded as to apply equally if the school-leaving age is raised (see *infra*).

Compulsory school age.—Under s. 35 of the Education Act, 1944 (37 Halsbury's Statutes 165), this means, at present, any age between five and fifteen years, though it is expected that the higher age limit will be raised to sixteen when adequate staff and accommodation are available.

Date of commencement.—By S.I. 1948 No. 1840, *post*, this section came into force on September 13, 1948.

Definition.—For definition of " approved school ", see s. 80, *post*, and the notes thereto.

72. Powers of court in relation to absconders from approved schools, etc. —(1) Where a person in whose case an approved school order has been made is brought before a court of summary jurisdiction under section eighty-two of the Children and Young Persons Act, 1933, or paragraph 8 of the Fourth Schedule to that Act (which relate respectively to absconders and persons guilty of serious misconduct), the court may, subject to the following provisions of this section—

(*a*) in any case, either make a new approved school order in his case, or order him to be taken back to the school and extend the period of his detention under the original order by such period not exceeding six months as the court may determine;

(*b*) if he has attained the age of sixteen years, sentence him to Borstal training. [1958]

(2) An order under paragraph (*a*) of the last foregoing subsection extending the period of detention under an approved school order shall have effect notwithstanding any limitation imposed by the Children and Young Persons Act, 1933, upon the period for which a person may be detained in an approved school; and in relation to a new approved school order made under that paragraph, sections seventy-one, seventy-three and seventy-four of that Act (which relate to the period of detention under approved school orders and to supervision and recall) shall have effect as if for any reference therein to the age of nineteen years there were substituted a reference to the age of nineteen years and a half. [1959]

(3) Subject as hereinafter provided, His Majesty may by Order in Council prohibit courts of summary jurisdiction from making orders under paragraph (*b*) of subsection (1) of this section; and any such Order in Council may be limited to persons of one of the sexes, and, whether so limited or not, may be made so as to apply either to any persons ordered to be detained in approved schools or only to persons ordered to be so detained otherwise than for an offence:

Provided that no Order in Council shall be made under this subsection until the Secretary of State is satisfied that adequate methods, other than Borstal training, are available for dealing with the persons to whom the Order relates. [1960]

(4) A draft of any Order in Council under the last foregoing subsection shall be laid before Parliament, and the draft shall not be submitted to His Majesty in Council unless each House of Parliament presents an Address to His Majesty praying that the Order be made. [1961]

General note.—The provisions as to new approved school orders are themselves new, and apparently enable a court of summary jurisdiction in these circumstances to make a new approved school order in the case of a person who at the time is over seventeen years of age. The new age limit of nineteen and a half in the case of such orders should be noted (sub-s. (2), *supra*).

The Children and Young Persons Act, 1933, s. 82 (26 Halsbury's Statutes 219), is further amended by the provisions of Sched. IX, *post*. The absconder can always be taken back to the school, but must not be brought before a court without the authority of the Secretary of State. This restriction already applies in the case of serious misconduct under para. 8 of Sched. IV to the Children and Young Persons Act, 1933 (26 Halsbury's Statutes 247). The new wording of s. 82 (1) also makes it clear that the time limit prescribed by s. 11 of the Summary Jurisdiction Act, 1848 (11 Halsbury's Statutes 278), does not apply in such cases. See also s. 83 and Sched. X, *post*.

Children and Young Persons Act, 1933, ss. 71, 73 and 74.—26 Halsbury's Statutes 213, 214, 215.

Sub-s. (3).—Up to the date of going to press, no such Order in Council as is referred to in this subsection had been made.

A draft of any Order in Council.—This means that a measure of control is retained by Parliament, though amendments to a draft cannot be made by this procedure: the draft must be accepted or rejected. To this, the so-called "affirmative procedure", ss. 4 to 7 of the Statutory Instruments Act, 1946 (39 Halsbury's Statutes 785 *et seq.*) are inapplicable.

Date of commencement.—By S.I. 1948 No. 2349, this section came into force on December 27, 1948.

Definitions.—For definitions of "court of summary jurisdiction", "court", "sentence" and "approved school", see s. 80, *post*, and the notes thereto.

PART III

Supplemental

* * * * *

74. Application to supervision orders of certain provisions relating to probation.—(1) Subject to the provisions of this section, a supervision order (that is to say an order made under section sixty-two, section sixty-three, section sixty-four or section eighty-four of the Children and Young Persons Act, 1933, placing a child or young person under the supervision of a probation officer or of some other person appointed for the purpose by the court) may include any such requirement as to the residence of the person to whom the order relates, or as to treatment for his mental condition, as

may, by virtue of subsection (4) of section three or by virtue of section four of this Act, be included in a probation order :

Provided that a supervision order containing any such provision shall not be made in the case of a young person unless he consents thereto, and any requirement as to the residence of any person included in such an order shall cease to have effect when that person attains the age of eighteen years. [1962]

(2) The court by which a supervision order is made shall forthwith give a copy of the order to the child or young person to whom the order relates, to the person under whose supervision the child or young person is placed by the order and to the person in charge of any institution in which the child or young person is required by the order to reside ; and subject to the provisions of this section, subsection (7) of section three of this Act shall apply to a supervision order which requires a person to reside in any institution as it applies to a probation order containing such a requirement. [1963]

(3) Subsections (1) to (3) of section five of this Act, and the First Schedule to this Act, shall apply in relation to the discharge, amendment and review of supervision orders as they apply in relation to the discharge, amendment and review of probation orders :

Provided that a supervision order may be amended under the said First Schedule on application made by any person. [1964]

(4) For the purposes of their application to supervision orders under this section, the provisions of this Act specified in subsections (1) to (3) of this section shall have effect subject to the following modifications, that is to say :—

(*a*) for references to a probation order there shall be substituted references to a supervision order ;

(*b*) for references to the probation period there shall be substituted references to the period of supervision specified in the supervision order ;

(*c*) for references to the probationer or the offender there shall be substituted references to the person in whose case the supervision order is or is to be made ;

(*d*) references to the probation officer shall include references to a person not being a probation officer under whose supervision the child or young person to whom the supervision order relates is placed by virtue of the order ;

(*e*) for references to the supervising court there shall be substituted references to the court by which the supervision order was made, or any other court authorised under subsection (3) of section four of the Children and Young Persons Act, 1938, to exercise the powers of that court ;

(*f*) paragraph 2 of the said First Schedule shall not apply, and paragraph 5 of that Schedule shall not apply except where the amending order requires the person to whom the supervision order relates to reside in an institution or to submit to treatment for his mental condition. [1965]

Children and Young Persons Act, 1933.—26 Halsbury's Statutes 168. For ss. 62, 63, 64 and 84 thereof, see 26 Halsbury's Statutes 208, 209, 221.

As to the residence of the person.—The Children and Young Persons Act, 1938, s. 4 (31 Halsbury's Statutes 367), is replaced by a new s. 4 which is set out in Sched. IX, *post*, and it is provided that any requirement as to residence shall be in accordance with the present section.

As to treatment for his mental condition.—This provision is new.

S. 3 (4) *or s.* 4 *of this Act.*—S. 3 (4) of the present Act allows the inclusion in a probation order of requirements as to residence, subject to prior consideration of an offender's home surroundings. Special provision is made for cases where the offender is required to reside in an approved probation hostel, an approved probation home or some other institution. S. 4 of the Act lays down rules relating to probation orders requiring treatment for mental condition.

S. 3 (7) *of this Act.*—Under this subsection the court is required to give notice to the Secretary of State of the terms of any orders requiring residence in certain institutions.

S. 5 (1)–(3) *of this Act, and Sched. I, etc.*—S. 5 (1) of the present Act applies the provisions of Sched. I to the Act relating to the discharge and amendment of probation orders, detailed rules being set out in the said Schedule. S. 5 (2) and (3) require probation officers, in cases where institutional residence is required for longer than six months, to report to the supervising court after a period of six months has elapsed, whereupon the court is to review the relevant orders accordingly.

Discharge, amendment and review.—The effect of sub-ss. (3) and (4) (*e*), *supra*, together with s. 4 (3) of the Children and Young Persons Act, 1938, as substituted by the present Act (see Sched. IX, *post*), is to confine to the court which made the order or, if the order so directs, the court in whose area the person under supervision is residing, the power to discharge, amend or review the order.

Under s. 66 (1) of the Children and Young Persons Act, 1933 (26 Halsbury's Statutes 210), however, the supervisor may take the person under supervision before a "juvenile court" with a view to his being committed to the care of a fit person or to an approved school.

S. 4 (3) *of the Children and Young Persons Act*, 1938.—See *supra.*

Para. 2 *of Sched. I to the Act.*—This relates to the "transfer" of probation orders to other petty sessional divisions on changes of residence.

Para. 5 *of Sched. I to this Act.*—This paragraph requires that when a probation order is to be amended (otherwise than on the application of the probationer) he shall be summoned to appear before the court except in the cases there specified. In the case of a supervision order it will not be necessary to summon the person under supervision except in the cases specified in sub-s. (4) (*f*), *supra.*

Expenses.—Provision for making payments in supervision cases is to be found in para. 3 (1) (*d*) and (2) of Sched. V to the Act.

Date of commencement.—Up to the date of going to press, no date had been fixed for the coming into force of this section.

Definitions.—For definitions of "supervision order", "probation order", "probation period", "supervising court" and "court", see s. 80, *post*, and the notes thereto.

75. Power to order detention in a remand centre under s. 67 of the Children and Young Persons Act, 1933.—(1) Where the court before which a young person is brought is of opinion that an inquiry ought to be made into his physical or mental condition before it decides whether any and is so what order ought to be made under sections sixty-two to sixty-six of the Children and Young Persons Act, 1933, then if the court has been notified by the Secretary of State that a remand centre is available for the reception from that court of persons of his class or description, and is satisfied that facilities for such an inquiry cannot conveniently be provided in a place of safety in which he could otherwise be ordered to be detained under subsection (2) of section sixty-seven of that Act, the court may order him to be detained in a remand centre; and the reference in the said subsection (2) to a place of safety shall be construed accordingly. [1966]

(2) If a court which proposes to make an interim order under subsection (2) of the said section sixty-seven in the case of a young person is of opinion that he is of so unruly a character that he cannot safely be detained in a remand home or of so depraved a character that he is not fit to be so detained, and the court has been notified by the Secretary of State that a remand centre is available for the reception from that court of persons of his class or description, a remand centre shall be included among the places of safety in which his detention or continued detention may be ordered under that subsection. [1967]

(3) Where a young person detained in a remand home in pursuance of an interim order made under subsection (2) of the said section sixty-seven proves to be of so unruly a character that he cannot safely be detained in a remand home, or of so depraved a character that he is not fit to be so detained, the court which made the order, or if application cannot conveniently be made to that court, a court of summary jurisdiction having jurisdiction in the place where the court which made the order sat, may, if it has been notified by the Secretary of State that a remand centre is available for the reception from that court of persons of his class or description, revoke the order and order him to be detained in a remand centre. [1968]

Children and Young Persons Act, 1933.—26 Halsbury's Statutes 168. For s. 67 thereof, which relates to the removal or remand of children or young persons to places of safety, see

26 Halsbury's Statutes 210. For ss. 62–66 of the same Act, see 26 Halsbury's Statutes 208 *et seq.*

Place of safety.—This is defined in s. 107 of the Children and Young Persons Act, 1933 (26 Halsbury's Statutes 239), as amended by the National Assistance Act, 1948, title PUBLIC ASSISTANCE, *post*, as meaning "any remand home, or police station, or any hospital, surgery or any other suitable place, the occupier of which is willing temporarily to receive a child or young person."

Prison is evidently not within this definition, and remand centres (when they become available) will help to solve the problem of the unruly or depraved case who is in need of care or protection or who is beyond control.

Is of opinion that he is unruly, etc.—Sub-ss. (2) and (3), *supra*, do not require any certificate of unruliness or depravity.

Court.—In this section there is no provision corresponding to that of s. 27 (6) of the Act that "court" is to include a justice of the peace.

Commencement of section.—Up to the date of going to press, no date had been fixed for the coming into force of this section.

Definitions.—For definitions of "remand centre", "court", "remand home" and "court of summary jurisdiction", see s. 80, *post*, and the notes thereto.

* * * * *

79. Consequential and minor amendments.—The enactments mentioned in the first column of the Ninth Schedule to this Act shall have effect subject to the amendments specified in the second column of that Schedule (being amendments consequential upon the foregoing provisions of this Act or relating to matters of minor detail). [1969]

Date of commencement.—This section is brought into force at different dates in relation to different enactments in Sched. IX, *post*; see notes to that Schedule, *post*.

Definition.—The term "enactment" is widely defined in s. 80, *infra*, but the definition does not affect its meaning here as the word is merely descriptive of the legislation mentioned in the relevant column of Sched. IX, *post*.

80. Interpretation.—(1) In this Act, unless the context otherwise requires, the following expressions have the meaning hereby respectively assigned to them, that is to say:—

"Approved probation hostel" and "Approved probation home" have the meaning assigned to them by section forty-six of this Act;

"Approved school" means a school approved under section seventy-nine of the Children and Young Persons Act, 1933;

"Court" does not include a court-martial;

"Court of summary jurisdiction" includes examining justices within the meaning of the Criminal Justice Act, 1925;

"Detention centre" has the meaning assigned to it by section forty-eight of this Act;

"Enactment" includes an enactment contained in a local Act and any order, regulation or other instrument having effect by virtue of an Act;

"England" includes Wales;

* * * * *

"Local authority" means, in relation to any probation area, any authority out of whose funds the salary of the clerk to the justices for a petty sessional division or place contained in the probation area is paid;

"Mental hospital" includes a Broadmoor institution;

* * * * *

"Probationer" means a person for the time being under supervision by virtue of a probation order;

"Probation order" has the meaning assigned to it by section three of this Act;

"Probation period" means the period for which a probationer is placed under supervision by a probation order;

"Remand centre" has the meaning assigned to it by section forty-eight of this Act;

"Remand home" means premises established or used by the council of a county or county borough under the provisions of section seventy-seven of the Children and Young Persons Act, 1933;

"Sentence" includes an order for detention in a detention centre, an order for custody in a remand home under section fifty-four of the Children and Young Persons Act, 1933, and an order sending an offender to an approved school, but does not include a committal in default of payment of any sum of money or failing to do or abstain from doing anything required to be done or left undone;

* * * * *

"Supervising court" means, in relation to a probation order, a court of summary jurisdiction acting for the petty sessional division or place for the time being named in the order; and where the probationer was a child or young person within the meaning of the Children and Young Persons Act, 1933, when the probation order was made, means a juvenile court for that division or place;

"Supervision order" has the meaning ascribed to it by section seventy-four of this Act. [1970]

(2) Any reference in this Act to a previous sentence of imprisonment shall be construed as including a reference to a previous sentence of penal servitude; any such reference to a previous sentence of Borstal training shall be construed as including a reference to a previous sentence of detention in a Borstal institution; and any such reference to a previous conviction or sentence shall be construed as a reference to a previous conviction by a court in any part of Great Britain and to a previous sentence passed by any such court. [1971]

(3) Where the age of any person at any time is material for the purposes of any provision of this Act, or of any Order in Council made thereunder, regulating the powers of a court, his age at the material time shall be deemed to be or to have been that which appears to the court after considering any available evidence to be or to have been his age at that time. [1972]

(4) References in this Act to an offence punishable with imprisonment shall be construed, in relation to any offender, without regard to any prohibition or restriction imposed by or under this Act upon the imprisonment of offenders of his age, but shall not be construed as including an offence for which the court is required to impose a sentence of imprisonment for life. [1973]

(5) For the purposes of this Act, except subsection (6) of section three thereof, where a probation order or an order for conditional discharge has been made on appeal, the order shall be deemed to have been made by the court from which the appeal was brought. [1974]

(6) Where any provision of this Act empowers a court on conviction of an offender to pass a sentence or make an order in lieu of dealing with him in any other manner, the said provision shall not be construed as taking away any power of the court to order the offender to pay costs, damages or compensation. [1975]

(7) References in this Act to any enactment shall, unless the context otherwise requires, be construed as references to that enactment as amended by any subsequent enactment including this Act. [1976]

"*Approved probation hostel*"; "*Approved probation home.*"—These are premises approved by the Secretary of State for the reception of persons required to reside therein by a probation order or a supervision order. The term "hostel" is appropriate where residents follow outside employment (s. 46 (1) of the Act, title SUMMARY PROCEEDINGS, *post*).

S. 79 of the Children and Young Persons Act, 1933.—26 Halsbury's Statutes 218.

Criminal Justice Act, 1925.—11 Halsbury's Statutes 395. As to "examining justices", see s. 49 (2) of that Act (11 Halsbury's Statutes 422).

"*Detention centre.*"—This is a place in which persons between fourteen and twenty-one who are ordered to be detained in such centres under the present Act may be kept for short periods under discipline suitable to persons of their age and description (s. 48 (1) (*b*) of the Act, title SUMMARY PROCEEDINGS, *post*).

"*Probation order.*"—That is to say, an order requiring an offender to be under the supervision of a probation officer for a period to be specified in the order of, not less than one year nor more than three years (s. 3 (1) of the Act). Transitional provisions as to existing orders are contained in Sched. VIII to the Act.

"*Remand centre.*"—This means a place for the detention of persons between fourteen and twenty-one who are remanded or committed in custody for trial or sentence (s. 48 (1) (*a*) of the Act, title SUMMARY PROCEEDINGS, *post*).

Children and Young Persons Act, 1933.—26 Halsbury's Statutes 168. For ss. 54 and 77, see 26 Halsbury's Statutes 204, 216. S. 77 is amended by s. 79, *ante*, and Sched. IX, *post*.

"*Supervision order.*"—See s. 74, *ante*.

S. 3 (6) *of this Act.*—This subsection relates to the furnishing, by the courts making probation orders, of copies of the orders to probation officers, offenders, etc.

Date of commencement.—By S.I. 1948 No. 1840, *post*, this section came into force on September 13, 1948.

* * * * *

83. Short title, commencement and repeals.—(1) This Act may be cited as the Criminal Justice Act, 1948. [1977]

(2) This Act shall come into operation on such day as His Majesty may by Order in Council appoint:

Provided that different days may be appointed for the purposes of different provisions of this Act, and any reference in any provision of this Act to the commencement of this Act shall, unless otherwise provided by any such Order, be construed as a reference to the commencement of that provision. [1978]

(3) The enactments specified in Parts I to III of the Tenth Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule but without prejudice to the provisions of subsection (5) of section sixty-one, and of section seventy-eight of this Act; and Regulations 13, 15A and 17A of the Defence (Administration of Justice) Regulations, 1940, shall cease to have effect. [1979]

On such day . . . different days may be appointed.—Up to the date of going to press five days had been appointed for different provisions of the Act, namely, September 13, 1948 (S.I. 1948 No. 1840, *post*, and S.I. 1948 No. 2056); December 27, 1948, and April 18, 1949 (S.I. 1948 No. 2349 and S.I. 1949 No. 139); March 14, 1949, and April 1, 1949 (S.I. 1949 No. 139, as varied by S.I. 1949 No. 372).

Date of commencement.—Sub-s. (3), *supra*, has been brought into force at different dates in relation to different provisions in Sched. X, *post*. In relation to the relevant enactments, see the notes to that Schedule, *post*.

Definition.—As to the term "enactment" as here appearing, see the notes to s. 79, *ante*.

SCHEDULES

* * * * *

Section 79

NINTH SCHEDULE

CONSEQUENTIAL AND MINOR AMENDMENTS

Act to be amended	Amendment
* *	* * *
The Children and Young Persons Act, 1933, 23 & 24 Geo. 5, c. 12.	In section forty-eight, for subsection (2), there shall be substituted the following subsection— "(2) The attainment of the age of seventeen years by a probationer, or a person in whose case an order for conditional discharge has been made, shall not deprive a juvenile court of jurisdiction to enforce his attendance and deal with him in respect of any failure to comply with the requirements of the probation order or the commission of a further

Act to be amended	Amendment
The Children and Young Persons Act, 1933. 23 & 24 Geo. 5, c. 12—*cont.*	offence or to amend or discharge the probation order." or and in subsection (3) the words from " and " where " to the end shall cease to have effect. In section fifty-four, for the words " fine, " damages or costs " there shall be substituted the words " sum of money or for failing to do or " abstain from doing any act or thing required " to be done or left undone " ; and for the words " this Act " there shall be substituted the words " section seventeen of the Criminal Justice " Act, 1948." In section fifty-eight, in paragraph (*a*) of the proviso the words " undergoing detention in " a Borstal institution or was " shall cease to have effect and at the end of the proviso there shall be added the following paragraph :— " (*c*) in the case of a person who was undergoing detention in a Borstal institution, than the end of the period for which he would have been liable to be detained therein." In section fifty-nine after the word " enactment," there shall be inserted the words " whether " passed before or after the commencement of " this Act." In section seventy, in proviso (*a*) to subsection (2) for the words " conditions of a recognisance " there shall be substituted the words " require- " ments of a supervision order or probation " order or the conditions of a recognisance." In section seventy-seven, after subsection (2), there shall be inserted the following subsection :— " (2A) The council of a county or county borough may contribute, towards the expenditure incurred by any society or person in establishing, enlarging or improving an institution for the purpose of its being used, in accordance with an arrangement with the council, as a remand home for that county or county borough, such sums, and subject to such conditions, as the council think fit ; and subsection (5) of section seventy-seven of the Criminal Justice Act, 1948, shall apply to any sums so paid as it applies to the payments referred to in that subsection." In section seventy-eight, for subsection (3), there shall be substituted the following subsection : " (3) The Secretary of State shall cause remand homes to be inspected and may make rules for their inspection, regulations and management, and for the classification, treatment, employment, discipline and control of persons detained in custody therein, and for the visitation of such persons from time to time by persons appointed in accordance with the rules."

Act to be amended	Amendment
The Children and Young Persons Act, 1933. 23 & 24 Geo. 5, c. 12—*cont.*	In section eighty-two, in subsection (1), for the words "and may (any other Act to the contrary notwithstanding) be brought" there shall be substituted the words and brought back to his school and; (notwithstanding any enactment regulating the time within which and the court before which proceedings may be brought) any such person may, whether or not he is brought back, be brought, with the authority of the Secretary of State, at any time." In section ninety, in subsection (6), for the words "conditions of a recognisance" there shall be substituted the words "requirements of a supervision order or probation order or the conditions of a recognisance."
* * * * *	
The Children and Young Persons Act, 1938. 1 & 2 Geo. 6, c. 40).	For section four there shall be substituted the following section :— "4.—(1) A supervision order (that is to say an order made under section sixty-two, section sixty-three, section sixty-four or section eighty-four of the principal Act as amended by this Act, placing a child or young person under the supervision of a probation officer or of some other person appointed for the purpose by the court) may contain such provisions as the court, having regard to the particular circumstances of the case, considers necessary for effecting the purpose of the order : Provided that no such order shall include a requirement as to the residence of the person to whom it relates, or as to treatment for his mental condition, except in accordance with section seventy-four of the Criminal Justice Act, 1948. (2) Where an application for the discharge or amendment of a supervision order is duly made in relation to any person by the person under whose supervision he has been placed by such an order, the applicant may, for the purpose of the application, bring before the court the person who is the subject of the application, whether or not that person has attained the age of seventeen years. (3) The court by which a supervision order is made may by order direct that the powers which, by section seventy-four of the Criminal Justice Act, 1948, are conferred on that court with respect to the discharge, amendment and review of the order may be exercised by any juvenile court acting for the petty sessional division or place in which the person to whom the order relates may for the time being reside."

Act to be amended	Amendment
The Children and Young Persons Act, 1938. 1 & 2 Geo. 6, c. 40)—*cont.*	In section six, at the end of subsection (3) there shall be added the words :— "Provided that this subsection shall not apply in relation to the removal of a child or young person under this section who returns to the remand home or place of safety on the day on which he is so removed." [1980]

* * * * *

Children and Young Persons Act, 1933.—26 Halsbury's Statutes, 168. For ss. 48, 54, 58, 59, 70, 77, 78, 82 and 90, see 26 Halsbury's Statutes 201, 204, 206, 207, 212, 216, 217, 219, 227. Note that of these provisions s. 77 is referred to in s. 80 of the present Act, *ante*, and s. 82 is referred to in s. 72, *ante*.

Children and Young Persons Act, 1938.—31 Halsbury's Statutes 365. For ss. 4 and 6 thereof, see 31 Halsbury's Statutes 367, 368. S. 4 is referred to in s. 74 (4) (*e*) of the present Act, *ante* (see also the notes to s. 74, *ante*).

Date of commencement.—Some of the above amendments to the Children and Young Persons Act, 1933, *supra*, are brought into operation as from December 27, 1948, by S.I. 1948 No. 2349, and the amendment to s. 78 of the Act is brought into operation as from April 18, 1949, by S.I. 1949 No. 139, but up to the date of going to press no date has been fixed for the coming into force of the rest of the amendments actually printed in this Schedule.

Sections 81, 82, 83

TENTH SCHEDULE

ENACTMENTS REPEALED

PART I

REPEALS EXTENDING TO ENGLAND ONLY

Session and Chapter	Short Title	Extent of Repeal
*	* *	* *
23 & 24 Geo. 5, c. 12.	The Children and Young Persons Act, 1933.	Section thirty-three. In section forty-eight, in subsection (3), the words from "and where" to the end. Section fifty-two. In section fifty-three, in subsection (2), the words "notwithstanding anything in the other provisions of this Act." In section fifty-eight, in proviso (*a*), the words "undergoing detention in a Borstal institution, or was." In section fifty-nine, the proviso to subsection (1). In section sixty-six, subsection (3). In section eighty-two, in subsection (1), the words from "and that court," to the end. So much of the Third Schedule as amends the Probation of Offenders Act, 1907. In the Fourth Schedule, in paragraph 8, the words from "and that court" to the end. [1981]
*	* *	* *

Children and Young Persons Act, 1933.—26 Halsbury's Statutes 168. For ss. 33, 48, 52, 53, 58, 59, 66 and 82, and Scheds. III and IV thereof, see 26 Halsbury's Statutes 193, 201, 203, 204, 206, 207, 210, 219, 243, 246. Note that the repealed portions of s. 82 (1) of, and of para. 8 of Sched. IV to, the Act are replaced by s. 72 of the present Act, *ante*.

Date of commencement.—The greater part of the partial repeals of the Children and Young Persons Act, 1933, *supra*, are brought into operation as from December 27, 1948, and the repeal of s. 59 (1), proviso, of the said Act is brought into operation as from April 18, 1949, each by S.I. 1948 No. 2349. By S.I. 1949 No. 139, the repeal of s. 52 (1), (2) of the said Act, is brought into operation on April 18, 1949, but up to the date of going to press no date has been fixed for the coming into force of the rest of the repeals actually printed in this Schedule, namely, s. 66 (3) and so much of the Third Schedule as amends the Probation of Offenders Act, 1907.

ORDERS, CIRCULARS AND MEMORANDA

CHILDREN AND YOUNG PERSONS (CONTRIBUTIONS BY LOCAL AUTHORITIES) REGULATIONS, 1948

S.I. 1948 *No.* 36

January 14, 1948

General note.—This order is revoked and replaced, as from April 1, 1949, by the Children and Young Persons (Contributions by Local Authorities) Regulations,1949 (S.I. 1949 No. 53), which provides for a contribution of 50*s.* a week.

In pursuance of the power conferred upon me by subsection (1) of section ninety of the Children and Young Persons Act, 1933, I, the Right Honourable James Chuter Ede, one of His Majesty's Principal Secretaries of State, hereby make the following Regulations :—

1. The contributions to be made by the local authority named in an approved school order to the expenses of the managers of an approved school throughout the time during which the person to whom the order relates is under the care of the said managers and not out on licence or under supervision shall be at the rate of fifty-two shillings and sixpence a week :

Provided that this Regulation shall not apply to a local authority named in an approved school order where the managers having under their care the person to whom the order relates are that local authority or a joint committee upon which that local authority is represented. [1982]

2. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [1983]

3.—(1) These Regulations may be cited as the Children and Young Persons (Contributions by Local Authorities) Regulations, 1948.

(2) These Regulations shall come into force on the first day of April, 1948.

(3) The Children and Young Persons (Contributions by Local Authorities) Regulations, 1947, are hereby revoked. [1984]

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CHILDREN ACT (COMPENSATION OF OFFICERS) REGULATIONS, 1948

S.I. 1948 *No.* 1501

July 1, 1948

In pursuance of the powers conferred on me by section fifty-seven of the Children Act, 1948, I hereby make the following Regulations :—

Citation, Commencement and Interpretation

1. These Regulations may be cited as the Children Act (Compensation of Officers) Regulations, 1948, and shall come into operation on the fifth day of July, 1948. [1985]

2.—(1) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

(2) In these Regulations the following expressions have the meanings hereby respectively assigned to them, that is to say :—

" accrued pension ", in relation to a pensionable officer who has suffered loss of employment, means—

(*a*) if the pension scheme to which the officer was last subject before losing his employment consisted of arrangements for the provision of superannuation benefits in which he had no right to participate but had reasonable expectations of participating, such proportion of the pension of which he had reasonable expectations as the compensating authority consider equitable, having regard to his age, the length of his employment at the date of loss and all the other circumstances of the case ; and

(*b*) in any other case the pension to which he would have become entitled in respect of his pensionable service according to the method of calculation, as modified by paragraph 18 of the Schedule to these Regulations, prescribed by the pension scheme to which he was last subject before losing his employment, if at the date on which he ceased to be subject thereto he had attained normal retiring age and complied with any requirement of the said scheme as to a minimum period of qualifying service or contribution.

and includes the annual value as ascertained by an actuary of any contingent right under the scheme in respect of widow's pension or any other benefit which might have become payable to his widow or to his legal personal representatives on his death had he not lost his employment, but does not include any part of such pension as aforesaid which is attributable to any remuneration enjoyed, whether before or after the material date, in consequence of an increase between the nineteenth day of March, 1946, and the material date in the remuneration of any employment, if it can be shown that the increased remuneration was not granted in the ordinary course of that employment or in consideration of the person's assumption of increased responsibilities or new duties in connection with the discharge of the existing functions of the authority employing him ;

" accrued incapacity pension " has the same meaning as " accrued pension " except that the reference to a person's having attained normal retiring age shall be construed as a reference to his having become incapable of discharging efficiently the duties of his employment by reason of permanent ill-health or infirmity of mind or body ;

" accrued retiring allowance ", in relation to a pensionable officer who has suffered loss of employment, means any lump sum payment to which he would have become entitled in respect of his pensionable service according to the method of calculation, as modified by paragraph 18 of the Schedule to these Regulations, prescribed by the pension scheme to which he was last subject before losing his employment, if at the date on which he ceased to be subject thereto he had attained normal retiring age and complied with any requirement of the said scheme as to a minimum period of qualifying service ;

" the Act " means the Children Act, 1948 ;

" actuary " means a Fellow of the Institute of Actuaries or of the Faculty of Actuaries in Scotland ;

" compensating authority ", in relation to a person who immediately before the material date was employed by the Common Council of the City of London or the council of a metropolitan borough, means the London County Council, and in relation to a person who immediately before the said date was employed by the council of a county district

means the council of the county including the area of that county district;

"emoluments" means all salary, wages, fees and other payments paid or made to an officer as such for his own use, and includes the money value of any apartments, rations or other allowances in kind appertaining to his employment, but does not include payments for overtime or any allowances payable to him to cover the cost of providing office accommodation or clerical or other assistance, or any travelling or subsistence allowance or other moneys to be spent, or to cover expenses incurred by him, for the purposes of his employment, and also does not include any remuneration enjoyed, whether before or after the material date, in consequence of an increase between the nineteenth day of March, 1946, and the material date in the remuneration of any employment, if it can be shown that the increased remuneration was not granted in the ordinary course of that employment or in consideration of the person's assumption of increased responsibilities or new duties in connection with the discharge of the existing functions of the authority employing him;

"existing officer" means a person who immediately before the material date was employed by the Common Council of the City of London or the council of a metropolitan borough or county district on full-time duties which consisted of, or included, work for the purposes of functions transferred by the Act from that council to a county council and who had devoted the whole of his time for a period of not less than eight years before the material date after attaining the age of eighteen years without a break of more than twelve months at any one time to any one of the following employments, or to any combination of any such employments, that is to say, employment in Great Britain by the governing body of a voluntary hospital, the council of a county, the council of a county borough, the Common Council of the City of London, the council of a metropolitan borough, the council of a county district, an insurance committee, the Ophthalmic Benefit Approved Committee, the Dental Benefit Council, or by any other body for the purposes of the local government service, or by the Crown, or employment under an officer of any such authority or body for the purposes of the functions of such authority or body, or employment by any voluntary organisation which provided services similar to those which local authorities may be required to provide in the discharge of their functions under Part III of the National Health Service Act, 1946, or under the Mental Deficiency Acts, 1913 to 1938, or to any combination of the said employments or to national service undertaken on ceasing to follow any of the said employments or any combination thereof;

"material date" means the fifth day of July, 1948;

"national service", in relation to any person, means war service within the meaning of the Local Government Staffs (War Service) Act, 1939, or employment for war purposes within the meaning of the Superannuation Schemes (War Service) Act, 1940;

"net emoluments", in relation to an officer who suffers loss of employment or diminution of emoluments, means the annual rate of his emoluments immediately before such loss or diminution, after deducting therefrom the like percentage thereof as the percentage of his emoluments which he was then liable to contribute under any pension scheme associated with his employment:

Provided that—

(*a*) if, for the purposes of the foregoing definition, account is required to be taken of any fees payable to a person as part of

his emoluments, the amount thereof shall be taken to be the annual average of the fees paid to him during the three years immediately preceding the loss of employment or diminution of emoluments, or, if the fees were payable in respect of a shorter period, such shorter period; and

(*b*) any amount by which the annual rate of his emoluments exceeds £4,000 shall be disregarded; and

(*c*) if the officer was not a pensionable officer, no deduction shall be made on account of pension contributions;

" normal retiring age " means, in relation to an officer in whose case an age of compulsory retirement applied by virtue of any pension scheme associated with the employment he has lost or the emoluments of which have been diminished or by virtue of the conditions of that employment, that age, and, in any other case, the age of sixty-five years if the officer is a male, or sixty years if the officer is a female;

" office " means any place, situation or employment, and the expression " officer " shall be construed accordingly;

" pensionable officer ", in relation to an officer who has suffered loss of employment, means an officer who immediately before the appointed day was subject to a pension scheme;

" pension scheme " means a scheme or arrangements for the payment of superannuation benefits to a person as part of the terms and conditions of any employment held by him, and includes arrangements for the provision of superannuation benefits in which by virtue of any employment held by him a person had reasonable expectations of participating on the nineteenth day of March, 1946, and immediately before the material date;

" service " in relation to a person means any period of whole-time or part-time employment in Great Britain, after attaining the age of eighteen years, under a regional hospital board, a board of governors of a teaching hospital, an executive council, a joint committee of executive councils, or under any such authority or body as is mentioned in sub-paragraph (*c*) (i) of subsection (1) of section sixty-seven of the National Health Service (Scotland) Act, 1947, or under any authority or body functions of which cease or are transferred in consequence of the National Health Service Act, 1946, or the National Health Service (Scotland) Act, 1947, or under the Crown or any other body for the purposes of the local government service, or under an officer of any such authority or body for the purposes of the functions of that authority or body, or at or for the purposes of any hospital transferred to the Minister of Health by virtue of the National Health Service Act, 1946, or any hospital transferred to the Secretary of State by virtue of the National Health Service (Scotland) Act, 1947, or under the Ophthalmic Benefit Approved Committee or the Dental Benefit Council, and includes any period of national service undertaken on the person's ceasing to hold any such employment as aforesaid, but does not include employment of which account has been taken, or is required to be taken, in calculating the amount of any superannuation benefits to which the person has become entitled. [1986]

Compensation to officers employed immediately before the fifth day of July, 1948

3. Subject to the provisions of the next succeeding Regulation, every person who was an existing officer and who suffers loss of employment or diminution of emoluments which is attributable to the passing of the Act shall be entitled to have his case considered for the receipt of compensation

under these Regulations, such compensation to be determined in accordance with the provisions of the Schedule hereto. [1987]

4. Nothing in the last preceding Regulation shall entitle a person to have his case considered for compensation unless—

(*a*) the cause of the claim to compensation arises not later than ten years after the material date, and the claim is made not later than two years after the date on which the cause of claim arises; and

(*b*) (i) his office is abolished and he is not offered a reasonably comparable office in the government service or the local government service or under any body constituted under the National Health Service Act, 1946; or

(ii) his appointment is determined because his services are not required or because his duties are diminished (no misconduct being established); or

(iii) his emoluments are diminished:

Provided that for the purposes of this Regulation a person shall not be deemed to have been offered an office which is not reasonably comparable with an office which is abolished by reason only of the fact that the duties of the office offered are duties in relation to the administration of a different service from that in connection with which his office was held or are duties which involve a transfer of his employment from one place to another within England or Wales. [1988]

5. If a person who has claimed compensation under these Regulations is aggrieved by the refusal of the compensating authority to accept his claim or by their failure to come to a decision on his claim within three months after the date on which it was received by them, or by a decision that no compensation should be paid to him or by the amount of compensation awarded, he may, within three months after the refusal or failure or after the date on which he received notice of the decision, as the case may be, refer the matter to the Secretary of State, and the Secretary of State shall consider any matter so referred in accordance with the provisions of these Regulations and determine accordingly whether any, and if so what, compensation ought to be awarded to the claimant, and the compensating authority shall give effect to the decision of the Secretary of State. [1989]

6.—(1) Any compensation to which an officer becomes entitled under these Regulations shall be paid by the compensating authority and shall be payable to, or in trust for, the person who is entitled to receive it, and shall not be assignable.

(2) Any sum payable as compensation to a person by a compensating authority shall be recoverable as a debt due from the authority. [1990]

Officers on national service immediately before the material date

7. Any person (hereinafter referred to as an "officer on national service") who is engaged on national service immediately before the material date and who, if he had continued to be employed until the material date in the capacity in which he was employed before becoming engaged on national service, would have been an existing officer, shall be deemed to be an existing officer within the meaning of these Regulations, and if at the date on which he ceased to be so employed he was subject to a pension scheme, and his national service or any part thereof would be reckonable for the purposes of that scheme if he again became subject thereto on the termination of his national service, he shall also be deemed to be a pensionable officer within the meaning of these Regulations. [1991]

8.—(1) Subject to the provisions of the next succeeding Regulation, if an officer on national service ceases to be engaged on national service and in consequence of the Act—

(*a*) is not given or offered re-employment in his former office or in any reasonably comparable office, or is not employed or offered employment in any office to which, but for his national service, he would have been transferred by these Regulations, or in any reasonably comparable office; or

(*b*) is so re-employed or employed with, in either case, reduced emoluments,

he shall be deemed for the purposes of these Regulations, in the former case, to have suffered loss of employment which is attributable to the Act owing to the abolition of his office at the date of the refusal to re-employ him or employ him as aforesaid, and, in the latter case, to have suffered diminution of emoluments which is attributable to the Act.

(2) In relation to an officer on national service to whom the preceding paragraph applies, the compensating authority shall be the authority which would under these Regulations have been the compensating authority if he had continued to be employed until the material date in the same capacity in which he was employed before becoming engaged on national service and under the same authority. [1992]

9. No person shall, by virtue of the last preceding Regulation, be entitled to have his case considered for compensation for any loss suffered by him by reason of his not being re-employed or employed as therein mentioned unless within a period of two months after the date on which he ceased to be engaged on national service he gives notice in writing to the authority by whom he was formerly employed or to the authority to whom he would have been transferred by these Regulations, as the case may be, that he is available for employment:

Provided that if the person is prevented from giving notice within the said period by his sickness or other reasonable cause, the notice may be given as soon as reasonably may be after the expiration of that period. [1993]

10. For the purpose of ascertaining the net emoluments of a person to whom Regulation 8 of these Regulations applies such person shall be deemed to have continued to follow his former employment until the cause of claim arose and to have been entitled to the emoluments thereof. [1994]

11. In relation to a pensionable officer to whom sub-paragraph (*a*) of paragraph (1) of Regulation 8 of these Regulations applies, the expression "accrued pension" means the pension to which he would have become entitled according to the method of calculation, as modified by paragraph 18 of the Schedule to these Regulations, prescribed by the pension scheme to which he was subject before becoming engaged on national service, if at the date on which he ceased to be engaged on national service he had been serving in his civil capacity and had attained normal retiring age, having complied with any requirement of the said pension scheme as to a minimum period of qualifying service. [1995]

* * * * *

SCHEDULE

DETERMINATION OF COMPENSATION

I. *General*

1. A person desiring to make a claim for compensation under these Regulations shall make his claim in a form approved by the Secretary of State for the purpose,

and shall deliver his claim to the compensating authority. The claim shall be accompanied by a statutory declaration as to the truth of the statements contained therein.

2.—(1) A claimant, if so required by the compensating authority, by notice sent through the clerk of the authority, shall attend at a meeting of the authority, or of any committee appointed by the authority for the purpose, and answer all questions asked by any member of the authority or committee touching the matters set forth in his claim, and shall further produce all books, papers and documents in his possession or under his control relating to the claim.

(2) A claimant required to attend at a meeting pursuant to sub-paragraph (1) of this paragraph may further be required to make a statutory declaration as to the truth of any of the answers given by him to questions asked on the occasion of such attendance touching the matters set forth in his claim.

(3) Such a claimant as aforesaid may be accompanied by a representative who shall be entitled to address the authority or committee before whom the claimant is required to attend touching the matters set forth in his claim. [1996]

II. *Compensation for loss of employment*

3. On receipt of a claim for compensation in respect of loss of employment, the compensating authority shall consider forthwith whether the claimant satisfies the conditions of eligibility for the payment of compensation set out in Regulations 3 and 4 of these Regulations and, if they are satisfied that these conditions are not fulfilled, shall reject the claim and advise the claimant in writing accordingly within one month after the receipt of the claim.

Interim payments of compensation

4. If the compensating authority accept the claim, then, unless they are satisfied that the claimant has substantially made good his loss by virtue of having obtained other employment, they shall forthwith commence to make interim payments of compensation to the claimant subject to and in accordance with the provisions of the next succeeding paragraph, and shall continue to make such payments until, in accordance with paragraph 6 of this Schedule, they decide whether any further compensation is payable to him under these Regulations.

5.—(1) Interim compensation shall be payable as from the date of claim, and shall be at a rate not exceeding two-thirds of the net emoluments of the employment which the claimant has lost, less two-thirds of any unemployment benefit to which the claimant may be entitled, and less any sum to which the claimant may be entitled by way of compensation under the Reinstatement in Civil Employment Act, 1944.

(2) In determining the amount of interim compensation, the compensating authority shall have regard to any payments to which the claimant becomes entitled in consequence of the loss of his employment under any contract or arrangement with the authority by whom he was employed (other than payments by way of a return of contributions under a pension scheme).

(3) The payments shall be made at intervals equivalent to those at which the said emoluments were previously payable, and the payments shall be reduced or terminated if the claimant obtains other employment or the compensating authority are satisfied that he is not actively seeking employment or has unreasonably refused suitable employment which has been offered to him.

(4) If the claimant obtains other employment, he shall immediately notify the compensating authority in writing accordingly.

(5) The compensating authority may require, as a condition of making or continuing to make interim payments, that the claimant should be registered for employment at an employment exchange or the Appointments Department of the Ministry of Labour and National Service, at the option of the claimant.

Assessment of compensation

6. Having determined the amount of the interim payments (if any) to be made under the preceding provisions of this Schedule to a claimant whose claim has been accepted, the compensating authority shall, within a period of three months

after the date of receipt of the claim, assess the just amount (if any) of the compensation payable under the succeeding provisions of this Schedule, and shall forthwith notify the claimant in writing of their decision.

7.—(1) The compensating authority shall, within a period of two years after the date on which any decision is notified to a claimant under paragraph 6 of this Schedule, or if the claimant has referred any such decision to the Secretary of State under Regulation 5 of these Regulations, within a period of two years after the date of the decision of the Secretary of State, review their decision or the decision of the Secretary of State, as the case may be, at intervals of not more than six months, and on any review the compensating authority may, in the light of any material change in the circumstances of the case, award compensation or increase or reduce the amount of any compensation awarded.

(2) If the claimant obtains other employment within the said period of two years, he shall immediately notify the compensating authority in writing accordingly.

(3) A claimant to whom a decision under paragraph 6 of this Schedule has been notified may, within the like period as is mentioned in sub-paragraph (1) of this paragraph, require the compensating authority to review their decision or the decision of the Secretary of State, as the case may be, if he considers that there has been a material change in the circumstances of his case.

(4) The compensating authority shall forthwith notify the claimant in writing of their decision on any review under the preceding provisions of this paragraph, and if the claimant is aggrieved by such decision he may refer the matter to the Secretary of State within three months after the date on which he receives notice of the decision, and the Secretary of State shall determine any matter so referred, and the compensating authority shall give effect to the determination of the Secretary of State.

Compensation payable, subject to earlier cesser in certain cases, until normal retiring age

8. For the purpose of determining whether any compensation, apart from any interim compensation paid under paragraphs 4 and 5 of this Schedule, is payable to any person for loss of employment, and if so the amount of the compensation to be paid, subject to the provisions of paragraph 11 of this Schedule, until normal retiring age, the compensating authority shall have regard to—

(*a*) the conditions upon which his appointment was made ;
(*b*) the nature of his office ;
(*c*) the extent to which he has sought suitable alternative employment, and
(*d*) all the other circumstances of the case.

9.—(1) Compensation for loss of employment shall be an annual sum, calculated in accordance with the provisions of sub-paragraph (2) of this paragraph, and shall be payable, subject to the provisions of paragraph 11 of this Schedule, until normal retiring age, as from the date of loss, if the claim was made within three months thereafter, and in any other case, as from the date on which the claim was made or from such earlier date, not being more than three months before the date on which the claim was made, as the compensating authority may in their discretion allow.

(2) The said annual sum shall, subject as hereinafter provided, be the aggregate of the following sums, namely :—

(*a*) for every completed year of the claimant's service, one-sixtieth of the net emoluments of the employment he has lost ; and
(*b*) in the case of a claimant over the age of forty-five years at the date of loss, a further one-sixtieth of the said net emoluments for every completed year of service since he attained the age of forty-five :

Provided that—

(i) where the claimant has undertaken or obtained other work or employment in place of the employment he has lost or has been offered other suitable employment, the said annual sum shall be calculated by reference only to the amount (if any) by which the annual rate of the emoluments of the employment he has lost exceeds the annual rate of the emoluments of the work or employment undertaken, obtained or offered to him as aforesaid ;

(ii) if the said annual sum is required to be calculated in accordance with proviso (i) to this sub-paragraph, it shall be reduced or increased by such amount (if any) as the compensating authority think fit, having regard to the relative security of tenure of the employment lost and the work or employment undertaken, obtained or offered as aforesaid, so however that the said annual sum shall not by virtue of any such increase as aforesaid be greater than if it were calculated without reference to the said proviso (i) and this proviso ;

(iii) the said annual sum shall also be reduced by such an amount (if any) as the compensating authority think fit having regard to the matters to which they are required to have regard by the last preceding paragraph and to any compensation payable to the claimant under the Reinstatement in Civil Employment Act, 1944, or under or in pursuance of any other enactment ; and

(iv) the said annual sum shall in no case exceed two-thirds of the net emoluments of the employment which the claimant has lost.

10. There shall be deducted from any payments made under paragraph 9 of this Schedule in respect of any period in respect of which interim payments have been made under paragraphs 4 and 5 thereof the amount of such payments, so far as they do not exceed the payments due under the said paragraph 9 in respect of that period.

Compensation payable to pensionable officer on his becoming incapacitated or reaching pensionable age

11.—(1) If the claimant was a pensionable officer, and before attaining normal retiring age—

(*a*) he becomes incapacitated in circumstances in which if he had continued in the employment he has lost he would have become entitled to a pension under the pension scheme to which he was last subject before losing his employment, or

(*b*) he attains an age at which had he continued to serve in the employment he has lost he would have become entitled to retire with a pension on the ground of having attained that age and completed a prescribed period of service,

and compensation is not then payable to him under these Regulations, or compensation by way of an annual sum equal to the amount of his accrued incapacity pension or his accrued pension, as the case may be, together with the annual value of his accrued retiring allowance (if any), would be greater than the annual amount of any compensation to which he may then be entitled under these Regulations, he shall be entitled, if he so requests at any time thereafter by notice in writing to the compensating authority, as from the date on which the compensating authority receive such notice, in lieu of any compensation to which he would otherwise be entitled under these Regulations—

(i) in the case mentioned in head (*a*) of this sub-paragraph, to an annual sum equal to the amount of his accrued incapacity pension, and a lump sum equal to the amount of his accrued retiring allowance (if any) ; and

(ii) in the case mentioned in head (*b*) of this sub-paragraph, to an annual sum equal to the amount of his accrued pension and a lump sum equal to the amount of his accrued retiring allowance (if any) :

Provided that if in calculating the amount of compensation payable to a person who has given such notice as aforesaid, the compensating authority, by virtue of paragraph 20 of this Schedule, have credited him with additional years of service or contributions, no account shall be taken for the purpose of the foregoing provision of any number of such additional years beyond the number of years which he could have served, had he not lost his employment, before the date on which such notice as aforesaid was received by the compensating authority.

(2) On receipt of a notice under the last preceding sub-paragraph, the compensating authority shall consider forthwith whether the person giving the notice

is a person to whom that sub-paragraph applies, and within three months after the date of the receipt of the notice—

(*a*) if they are satisfied that he is not such a person, they shall notify him in writing accordingly ; and

(*b*) if they accept the notice, they shall assess the amount of compensation payable to the person and notify him in writing accordingly,

and any such notification shall, for the purposes of these Regulations, be deemed to be a notification by the authority of a decision on a claim to compensation.

(3) A compensating authority may require any such person as is mentioned in head (*a*) of sub-paragraph (1) of this paragraph, who gives a notice under that sub-paragraph, to submit himself to a medical examination by a registered medical practitioner selected by that authority, and, if they do so, they shall also offer the person an opportunity of submitting a report from his own medical adviser as a result of an examination by him, and the authority shall take that report into consideration, together with the report of the medical practitioner selected by them.

Compensation payable to a pensionable officer on attainment of normal retiring age

12. Subject as hereinafter provided, the compensation payable to a claimant who was a pensionable officer (not being a person to whom paragraph 11 of this Schedule has been applied) on his attaining normal retiring age shall be—

(*a*) an annual sum equal to the amount of his accrued pension, and

(*b*) a lump sum equal to the amount of his accrued retiring allowance (if any).

Supplementary provisions as to compensation payable to pensionable officer

13.—(1) Where a claimant, after suffering loss of employment, enters employment in which he participates in the benefits of the pension scheme associated with the employment he has lost, or becomes entitled to participate in any other pension scheme, in circumstances in which he is entitled to reckon for the purposes thereof service which falls to be taken into account for the purpose of assessing compensation under paragraph 11 or 12 of this Schedule, no compensation under either of those paragraphs shall be payable unless the amount of the annual rate of the emoluments of the employment he has lost exceeds the amount of the annual rate of the emoluments to which he becomes entitled on entering such employment as aforesaid by more than five per cent. of the first-mentioned amount, and any compensation payable thereunder shall be calculated by reference only to the amount of the difference.

(2) If a claimant has unreasonably refused a suitable offer of such employment as is mentioned in the preceding sub-paragraph, he shall be deemed for the purposes of that sub-paragraph to have entered the employment so offered to him.

14. The provisions of paragraphs 11 and 12 of this Schedule shall not apply to a person who had been participating in a scheme for providing superannuation benefits by means of contracts or policies of insurance, and who, on losing his employment, continued to participate in that scheme, or became entitled to a benefit or prospective benefit thereunder other than a return of contributions.

15.—(1) If the claimant was a person in respect of whose service a widow's pension might have become payable under the pension scheme to which he was last subject before losing his employment, then, if he so desires and informs the compensating authority by notice in writing accordingly when making his claim, he may surrender so much of any annual sum which may become payable to him as compensation under paragraph 11 or 12 of this Schedule as represents the annual value of the contingent right in respect of widow's pension, in consideration of the payment by the compensating authority to the person who as his widow might have become entitled to such widow's pension as aforesaid in the event of her surviving him—

(*a*) if he dies before attaining normal retiring age, and without having given a notice pursuant to the provisions of paragraph 11 of this Schedule, of an annual sum equal to the amount of the pension to which she would have become entitled had he, immediately before he died, became entitled to a pension under the pension scheme on grounds of ill-health of an

amount equal to the amount of his accrued incapacity pension, less the part thereof surrendered under the provisions of this paragraph and any part thereof surrendered under the provisions of paragraph 17 of this Schedule; and

(*b*) if he dies on or after attaining normal retiring age, or after giving a notice pursuant to the provisions of paragraph 11 of this Schedule, of an annual sum equal to the amount of the pension to which she would have become entitled in accordance with the method of calculation prescribed by the pension scheme had he, at the date on which he attained normal retiring age, or gave the said notice, become entitled to a pension under the pension scheme of an amount equal to the amount of his accrued pension or accrued incapacity pension, as the case may be, less the part thereof surrendered under the provisions of this paragraph and any part thereof surrendered under the provisions of the said paragraph 17.

(2) In the calculation of the amount of the annual sum payable to a widow under the preceding sub-paragraph, account shall be taken of any additional years of service or additional contributions credited to the claimant under paragraph 20 of this Schedule:

Provided that no account shall be taken of any number of such additional years of service or contributions beyond the number of years which the claimant could have served before his death had he not lost his employment.

(3) Any sum payable to a widow under this paragraph shall cease to be payable or shall be suspended in any circumstances in which a widow's pension under the aforesaid pension scheme would have ceased to be payable or would have been suspended.

16. If under the pension scheme to which he was last subject before losing his employment, the claimant would have been entitled to surrender a proportion of any pension which might have become payable to him in favour of his spouse or any dependant, then, if he so desires and informs the compensating authority in writing accordingly within one month after becoming entitled to compensation under paragraph 11 or 12 of this Schedule, he may surrender a proportion of so much of the said compensation as is payable by way of an annual sum on the like terms and conditions and in consideration of the like payments by the compensating authority as if the said annual sum were a pension to which he had become entitled under the said pension scheme.

17.—(1) If the claimant was a person in respect of whose service a death benefit might have become payable to his legal personal representatives under the pension scheme to which he was last subject before losing his employment, then, if he so desires, and informs the compensating authority in writing accordingly when making his claim, he may surrender so much of any annual sum which may become payable to him as compensation under paragraph 11 or 12 of this Schedule as represents the annual value of the contingent right in respect of the said benefit, in consideration of the payment by the compensating authority to his legal personal representatives—

(*a*) if he dies before attaining normal retiring age, and without having given a notice pursuant to the provisions of paragraph 11 of this Schedule, of a sum equal to the amount of any death benefit which would have become payable in accordance with the method of calculation, as modified by the next succeeding paragraph, prescribed by the pension scheme to which he was last subject before losing his employment, had he died immediately before the date on which he lost his employment and complied with any requirement of the said scheme as to a minimum period of qualifying service; or

(*b*) if he dies on or after attaining normal retiring age or after giving a notice pursuant to the provisions of paragraph 11 of this Schedule, of a sum equal to the amount of any such death benefit as aforesaid, less a sum equal to the aggregate amount of any payments made to him by way of compensation under paragraph 11 or 12 of this Schedule.

(2) In the calculation of the amount of the sum payable under the preceding sub-paragraph, account shall be taken of any additional years of service or additional contributions credited to the claimant under paragraph 20 of this Schedule:

Provided that no account shall be taken of any number of such additional years of service or contributions beyond the number of years which the claimant could have served before his death had he not lost his employment.

18. For the purposes of these Regulations—

(*a*) the amount of any accrued pension or accrued incapacity pension, if the number of years of service by reference to which the pension is to be calculated is less than any minimum number of years of qualifying service prescribed by the pension scheme, shall, notwithstanding any minimum benefit prescribed by the pension scheme, not exceed such proportion of such minimum benefit as the number of years of pensionable service bears to the minimum number of years of qualifying service ; and

(*b*) if the amount of any death benefit falls to be ascertained, by virtue of any pension scheme, wholly or partly by reference to the emoluments or average emoluments of a pensionable officer, and the number of years of his pensionable service is less than any minimum number of years of qualifying service prescribed by the pension scheme for the receipt of a death benefit, the said amount shall not exceed such proportion of the emoluments or average emoluments of the officer as the number of years of pensionable service bears to the minimum number of years of qualifying service.

19. If under the pension scheme to which the claimant was last subject before suffering loss of employment the amount of any pension to which he might have become entitled might have been increased at the discretion of the authority administering the pension scheme or of any other body or if under the said pension scheme any additional or supplementary payments might have been made to the claimant on his becoming entitled to a pension, the compensating authority may increase the compensation payable under paragraph 11 or 12 of this Schedule by an annual sum not exceeding the amount by which his accrued incapacity pension or accrued pension might have been increased or the annual value of the payments which might have been made to him by way of addition to or supplementation of his accrued pension.

20. If the claimant had attained the age of forty years at the date on which he lost his employment, the compensating authority in calculating the amount of the compensation payable to him under paragraph 11 or 12 of this Schedule may credit him with additional years of service or additional contributions not exceeding one year of service or one year's contributions for each completed year between the date on which he attained the age of forty years and the date on which he lost his employment, but not in any case exceeding ten years or such number of years as the claimant could have served had he continued in his employment until attaining normal retiring age, whichever is the less.

21. In deciding whether to add any number of years under the last preceding paragraph, the compensating authority shall have regard to the considerations set out in paragraph 8 of this Schedule, and also to the claimant's rights under any pension scheme associated with any employment which he may have obtained in place of the employment he has lost.

22.—(1) If the claimant was such an officer as is mentioned in paragraph 14 of this Schedule, the compensating authority may make such payments to or in respect of him, whether by way of the payment of premiums or otherwise, as are actuarially equivalent to the compensation which could have become payable to him by virtue of paragraph 19 or 20 of this Schedule if he had been a person to whom paragraph 11 or 12 thereof applied.

(2) If the claimant is such an officer as aforesaid, and he becomes entitled to a benefit under such a scheme as is mentioned in paragraph 14 of this Schedule before reaching normal retiring age, the compensating authority may reduce any compensation payable to him under paragraph 9 of this Schedule accordingly.

23.—(1) Compensation shall not be payable or shall cease to be payable under paragraph 11 or 12 of this Schedule to a person who has received any sum by way of a return of contributions under the pension scheme to which he was last subject on his ceasing to be subject thereto, unless forthwith on receiving such sum he

pays to the compensating authority an amount equivalent thereto, such amount to be held by the compensating authority subject to the condition that if the pension scheme made no provision for death benefit and he dies before he has received in the aggregate by way of compensation under paragraph 11 or 12 of this Schedule a sum equal to the amount so paid as aforesaid to the compensating authority, together with compound interest thereon, calculated at the rate of two and a half per cent. per annum, with half-yearly rests, up to the date of his death, as from the first day of April or the first day of October following the half year in which the amount was paid, there shall be paid to his legal personal representatives the difference between the aggregate amount received by way of compensation and the said sum :

Provided that—

(*a*) if a sum becomes payable to his widow on his death under paragraph 15 of this Schedule and on her death or remarriage the sum ceases to be payable, and the aggregate amount of the payments which were made to her or her husband under these Regulations is less than a sum equal to the amount so paid to the compensating authority by her husband as aforesaid on account of contributions, after the addition thereto of interest thereon as aforesaid, there shall be paid to her or her legal personal representatives the difference between the aggregate amount of the payments made to her or her husband as aforesaid and the said sum ;

(*b*) this paragraph shall not apply to a person to whom paragraph 13 of this Schedule applies, and in the event of a claimant becoming such a person after having made a payment under this paragraph, the amount of the sum so paid shall be returned to him by the compensating authority ; and

(*c*) this paragraph shall not apply to a person who has been an officer on national service to whom Regulation 8 of these Regulations applies, and who received a return of contributions before ceasing to be engaged on national service.

(2) A person to whom paragraph 11 or 12 of this Schedule may become applicable shall on or before the date on which the compensation may become payable to him thereunder be entitled, if he so desires and informs the compensating authority in writing accordingly, to receive from the compensating authority in lieu of any such compensation—

(*a*) if the person has paid any sum to the compensating authority under sub-paragraph (1) of this paragraph, an amount equivalent thereto, together with interest thereon, calculated in the manner provided by the pension scheme as from the date of payment of the said sum ; and

(*b*) if the person has not received a return of contributions under the pension scheme, and if, being entitled to such a return he has relinquished that right, an amount equivalent to the amount of such contributions together with interest thereon, calculated in manner provided by the pension scheme ;

and any liability of the compensating authority under paragraph 15 or 17 of this Schedule shall cease in the event of his giving such notice as aforesaid.

Compensation payable to non-pensionable officer after attainment of normal retiring age

24.—(1) If the claimant was not a pensionable officer, the compensating authority may, on his attaining normal retiring age, if they are satisfied that he would in the normal course have continued in the employment he has lost for a substantial period beyond that age, continue to pay compensation to him for the remainder of his life at half its former rate.

(2) If the claimant was not a pensionable officer and suffers loss of employment on or after attaining normal retiring age, the compensating authority may, if they are satisfied that he would in the normal course have continued in the employment he has lost for a further substantial period, pay compensation to him for the remainder of his life at half the rate to which he would have been entitled under paragraph 9 of this Schedule had he not attained normal retiring age at the date on which he lost his employment. [1997]

III. Compensation for diminution of emoluments

25. On receipt of a claim for compensation for diminution of the emoluments of any employment the compensating authority shall within a period of three months after the date of receipt of the claim decide whether any compensation is payable and, if so, the amount of that compensation, and shall forthwith notify the claimant in writing of their decision.

26. A decision under the last preceding paragraph shall be subject to review in like manner as a decision under paragraph 6 of this Schedule :

Provided that—

(*a*) no review shall take place after the date on which the claimant loses that employment, except a review as at that date ; and

(*b*) while the claimant continues to hold that employment, there shall be no limit to the period within which a review may take place.

27. In determining whether compensation is payable and, if so, the amount of that compensation, the compensating authority shall have regard to the conditions upon which the claimant's appointment was made, the nature of his office, and all the other circumstances of the case. No compensation shall be payable where the diminution is less than five per cent. of the net emoluments of the claimant.

28. Compensation for diminution of emoluments shall be an annual sum payable as from the date of loss, if the claim was made within three months thereafter, and in any other case as from the date on which the claim was made, or from such earlier date, not being more than three months before the date on which the claim was made, as the compensating authority may in their discretion allow.

29. Compensation to a person for diminution of the emoluments of any employment shall be payable for the same period or periods as compensation for loss of employment and shall not during any period exceed a sum bearing the same proportion to the maximum amount of compensation which could have been awarded in respect of that period had he lost his employment as the amount by which his net emoluments are diminished bears to their amount before diminution :

Provided that the compensation shall cease if the person voluntarily relinquishes his employment without the consent of his employer otherwise than on reaching pensionable age.

30. A person entitled to compensation for diminution of emoluments shall have the like rights in relation to such compensation as are conferred by paragraphs 15, 16 and 17 of this Schedule upon a person entitled to compensation for loss of employment. [1948]

IV. Miscellaneous

31. Any dispute as to who are the compensating authority for the purposes of these Regulations shall, in default of agreement, be determined by the Secretary of State.

32. A notification of a decision by a compensating authority to a claimant for compensation under these Regulations shall contain a statement directing the attention of the claimant to his right, if he is aggrieved by the decision, to refer the matter to the Secretary of State.

33. For the purpose of determining the amount of any compensation payable in respect of the loss of a whole-time office or of any two or more offices which in the aggregate involved the whole-time employment of an officer, any previous period of part-time employment shall be treated as though it were whole-time employment for a proportionately reduced period.

34. For the purpose of making any calculation under these Regulations in respect of the service of an officer all periods of his service shall be aggregated, and if the aggregated service includes a fraction of a year, that fraction shall, if it equals or exceeds six months, be treated as a year, and in any other case be disregarded.

35. If in determining the amount of any compensation payable to a person under these Regulations account is taken of any employment prior to the first world war and that person was temporarily absent from that employment during

that war whilst serving in His Majesty's forces or the forces of the allied or associated Powers, either compulsorily or with the sanction or permission of the authority in whose employment he was immediately before such temporary absence, such period of temporary absence shall be reckoned as period of service :

Provided that, in the case of a person who after the eleventh day of November, 1918, voluntarily extended his term of service in such forces, no period of absence during any such extension shall be reckoned.

36.—(1) Where a person to whom compensation is payable under these Regulations for loss of employment has become or becomes entitled to a pension in respect of the employment he has lost otherwise than on losing such employment or where a person to whom compensation is payable under these Regulations for loss of employment or diminution of emoluments has become or becomes entitled to a pension in respect of any employment the remuneration of which was payable out of public funds and which he had obtained in place of the employment he had lost or in place of or in addition to the employment the emoluments of which were diminished, and in calculating the amount of such pension account is taken of any service which was taken into account in calculating the compensation payable, then, if the compensation does not exceed such part of the pension as is attributable solely to that service, the compensation shall cease to be payable, and if it exceeds such part of the pension as aforesaid, it shall be reduced by an amount equal to that part.

(2) Where a claimant's widow to whom an annual sum is payable under paragraph 15 or 30 of this Schedule has become or becomes entitled to a widow's pension in respect of any employment of her husband the remuneration of which was payable out of public funds and which he had obtained in place of the employment he had lost or in place of or in addition to the employment the emoluments of which were diminished, and any part of such widow's pension is attributable to service of her husband of which account was taken in calculating his accrued pension or accrued incapacity pension by reference to which the said annual sum was calculated, then if the said annual sum does not exceed such part of the pension as is attributable solely to that service, the said annual sum shall cease to be payable, and if it exceeds such part of the pension as aforesaid, it shall be reduced by an amount equal to that part.

(3) Where a claimant's legal personal representatives to whom a sum is payable on the claimant's death under paragraph 17 or 30 of this Schedule have become entitled to receive a death benefit under a pension scheme associated with any employment of the claimant the remuneration of which was payable out of public funds and which he had obtained in place of the employment he had lost or in place of or in addition to the employment the emoluments of which were diminished, and as one of the factors in the calculation of the amount of such benefit account fell to be taken of any service which fell to be taken into account as one of the factors in the calculation of the said sum, the said sum shall be reduced by an amount equal to such proportion of the amount of the death benefit as the number of years of the said service bears to the total number of years of service of which account fell to be taken as aforesaid in the calculation of the death benefit.

(4) Where any compensation, annual sum or lump sum is reduced in accordance with the foregoing provisions of this paragraph, such compensation, annual sum or lump sum shall be further reduced by an amount equal to such part thereof (if any) as is attributable to any additional years of service or contributions credited in accordance with paragraph 20 of this Schedule and by an amount equal to such part thereof (if any) as is attributable to any minimum benefit prescribed by a pension scheme.

(5) This paragraph shall not apply to or in respect of a person in whose case paragraph 18 of this Schedule has been applied, except to the extent to which the amount of the pension, widow's pension or death benefit to which the person, his widow or his legal personal representatives have become or becomes entitled as aforesaid is attributable to annual emoluments of a greater amount than the amount of the annual emoluments to which the person became entitled on entering the employment referred to in that paragraph.

(6) This paragraph shall not apply to or in respect of a person to whom compensation is or was payable for diminution of emoluments and who has become entitled to a pension in respect of employment which he had obtained in place of

the employment the emoluments of which were diminished or whose widow has become entitled to a widow's pension or whose legal personal representatives have become entitled to a death benefit in respect of such employment, except to the extent to which the amount of the pension, widow's pension or death benefit is attributable to annual emoluments of a greater amount than the amount of the annual emoluments of the person's former employment after their diminution.

37.—(1) If a person receiving compensation for loss of employment obtains other employment in place of the employment he has lost and the remuneration thereof is payable out of public funds, he shall not, so long as he holds that employment, be entitled to receive any greater sum by way of compensation in respect of such loss than would make up the amount (if any) by which the net emoluments of that employment fall short of the net emoluments of the employment he has lost.

(2) If a person receiving compensation for diminution of the emoluments of any employment loses that employment in circumstances in which he does not become entitled to compensation in respect of that loss and thereupon or thereafter he obtains in place of that employment other employment the remuneration of which is payable out of public funds, he shall not, so long as he holds that employment, be entitled to receive any greater sum by way of compensation than would make up the amount (if any) by which the net emoluments of that employment fall short of the net emoluments of the former employment before diminution.

38.—(1) If a person becomes subject to the provisions of either of the two last preceding paragraphs, he shall immediately notify the compensating authority in writing accordingly.

(2) A person who has become subject to the provisions of the last preceding paragraph shall also notify the compensating authority in writing of any increase in the remuneration of the employment he has obtained in place of the employment he has lost.

39.—(1) Notwithstanding the preceding provisions of this Schedule, if the annual sum which has been or might be awarded under those provisions does not exceed twenty-six pounds, the compensating authority may at their discretion discharge their liability in respect thereof by the payment of a lump sum representing the capital value of the annual sum, and if any lump sum has been or might be awarded in addition to such annual sum under the provisions of paragraph 12 of this Schedule, the compensating authority may likewise discharge their liability in respect thereof by an immediate lump sum payment.

(2) If the annual sum which has been or might be so awarded exceeds twenty-six pounds and the claimant is not entitled to any lump sum in respect of accrued retiring allowance under these Regulations, the compensating authority, if so requested by the claimant, may discharge their liability in respect of one quarter thereof by the payment of a lump sum representing the capital value of one quarter of the annual sum :

Provided that if the remaining three-quarters thereof does not exceed twenty-six pounds, the compensating authority may discharge their liability as aforesaid in respect of the whole of the said sum.

(3) Any lump sum payable under the preceding provisions of this paragraph shall be of such amount as shall be certified by an actuary to be appropriate. [1999]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

The Regulations provide for the payment under certain conditions of compensation to persons who having been employed immediately before the 5th July, 1948, *by the Common Council of the City of London, the council of a metropolitan borough, or the council of a county district, or who would have been so employed but for national service as defined in Regulation* 2, *suffer loss of employment or loss or diminution of emoluments by reason of the passing of the Children Act,* 1948. *A claimant must have served for eight years in local government service*

or certain other employments (see definition of "existing officer" in Regulation 2). A person losing employment who has not refused a reasonably comparable office (see Regulation 4) will be eligible for a period of three months for "interim" payments equal to two-thirds of his net emoluments, deductions being made if he obtains other employment or unemployment benefit (paragraphs 4 and 5 of the Schedule). All claims will be assessed within a period of three months after receipt thereof, and compensation will be payable till the normal retiring age and will be an annual sum based on a percentage of net emoluments and on length of service. The amount can be adjusted having regard to the circumstances of the case and to other emoluments which have, or could have, been obtained. The award will be subject to review for a period of two years. In a case where the claimant was pensionable in his former employment provision is made for payments based on his accrued pension rights as from the age at which he would have retired, and account will be taken of certain rights, including widow's pension and other matters, that may have existed under the pension scheme (see paragraphs 11, 12, 15, 16 and 17 of the Schedule). Provision is made in paragraph 20 of the Schedule for an addition in the case of persons over forty having regard to their loss of future pensionable service. If the claimant was not pensionable, compensation will ordinarily cease at normal retiring age. Provision is made in paragraphs 36 and 37 of the Schedule to avoid overlap with pension or remuneration from public funds. Provision is made for appeal from the decision of a compensating authority to the Secretary of State (Regulation 5).

CHILDREN ACT (TRANSFER AND SUPERANNUATION OF OFFICERS) REGULATIONS, 1948

S.I. 1948 *No.* 1502

July 1, 1948

In pursuance of the powers conferred on me by section fifty-seven of the Children Act, 1948, I hereby make the following Regulations :—

PART I

General

1. These Regulations may be cited as the Children Act (Transfer and Superannuation of Officers) Regulations, 1948, and shall come into operation on the fifth day of July, 1948. **[2000]**

2.—(1) In these Regulations, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say :—

"the appointed day" means the fifth day of July, 1948;
"the Act" means the Children Act, 1948;
"the Act of 1937" means the Local Government Superannuation Act, 1937;
"contributory employee", "contributing service", "non-contributing service", "local Act contributor" and "local Act scheme" have the same meanings respectively as in the Act of 1937.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. **[2001]**

PART II

Transfer of Officers

3. All officers who immediately before the appointed day were employed by the Common Council of the City of London or the council of a metropolitan borough or county district solely or mainly for the purposes of functions transferred by the Act from that council to a county council shall on that day be transferred to and become officers of the county council to whom those functions are transferred. [2002]

4. Any question arising under the last preceding Regulation shall be determined by the Secretary of State. [2003]

PART III

Superannuation

5.—(1) Where an officer transferred from the employment of a council by these Regulations was a contributory employee immediately before being so transferred, that council may, within a period of three months after his transfer, resolve that the whole or any part of his non-contributing service (if any) shall be reckonable as contributing service, and if the officer was a female nurse, midwife or health visitor to whom subsection (1) of section sixteen of the Act of 1937 applied and who had not completed, and could not before attaining the age of sixty years complete, forty years' service, that council may, within the said period, resolve that a number of years not exceeding five shall be added to the number of years which the officer has actually served in the aggregate.

(2) Where an officer transferred from the employment of a council as aforesaid was a contributory employee or local Act contributor immediately before being so transferred, and any local Act modifying the Act of 1937 or the local Act scheme confers a discretion on that council, in calculating the amount of any superannuation allowance to which the officer might have become entitled, to add a number of years to the number of years which the officer has actually served in the aggregate, that council may, within a period of three months after the transfer of the officer, exercise that discretion in relation to him, notwithstanding that he had not become entitled to a superannuation allowance on ceasing to be employed by the council. [2004]

6. Every officer transferred by these Regulations who was a contributory employee or local Act contributor immediately before his transfer shall, if the council to the employment of which he is so transferred are administering the Act of 1937, be a contributory employee while in their employment if, apart from this provision, he would not be entitled to be such an employee, and, if the said council are administering a local Act scheme, be a local Act contributor while in their employment if, apart from this provision, he would not be entitled to be such a contributor:

Provided that if the rights he would enjoy by virtue of the foregoing provisions of this Regulation are not the same as those previously enjoyed by him, then, if he notifies the said council in writing within three months after his transfer that he desired to retain rights corresponding with those previously enjoyed by him, the Act of 1937 or the local Act scheme shall apply to and in respect of him with such modifications as are necessary to ensure that he shall make the like contributions as he would have been liable to make and that he shall enjoy rights corresponding with those which he would have enjoyed if he had remained subject to the Act of 1937 or the local Act scheme previously applicable in his case. [2005]

7.—(1) Any number of years added to a person's service under any of the provisions of these Regulations shall be deemed to be a number of years

which was reckonable immediately before the date of transfer as contributing service for the purposes of the Act of 1937 or as service for the purposes of the local Act scheme.

(2) Where the amount of any transfer value is increased in consequence of the exercise by a council of any power conferred upon them by these Regulations, the council shall repay the amount of the said increase to the superannuation fund out of which the transfer value is payable. [2006]

8. Any question which may arise between a county council and any other council as to the rights and liabilities of either council under this Part of these Regulations in relation to an officer transferred to the employment of the former council by Part II thereof and any question which may arise between a county council and an officer so transferred to their employment—

(*a*) whether the officer is a contributory employee or, as the case may be, local Act contributor,

(*b*) whether as such an employee or contributor he is entitled to enjoy rights which are not the same as those previously enjoyed by him, and

(*c*) as to the nature of the modifications with which the Act of 1937 or, as the case may be, the local Act scheme apply to and in respect of that officer as a consequence of any notice given by him under the proviso to Regulation 6 of these Regulations,

shall be determined by the Secretary of State. [2007]

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EXPLANATORY NOTE

(*This Note is not part of the Regulations, but is intended to indicate their general purport.*)

These Regulations are consequential on the transfer of functions under the Children Act, 1948, *from one class of local authority to another and provide for the transfer and superannuation of officers employed by those local authorities from whom functions are so transferred.*

CRIMINAL JUSTICE ACT, 1948 (DATE OF COMMENCEMENT) ORDER, 1948

S.I. 1948 *No.* 1840

August 5, 1948

Whereas by subsection (2) of section eighty-three of the Criminal Justice Act, 1948 (hereafter in this Order called " the Act "), it is provided that the Act shall come into operation on such day as His Majesty may by Order in Council appoint and that different days may be appointed for the purposes of different provisions of the Act :

Now, therefore, His Majesty in pursuance of the power vested in Him by the said section eighty-three is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. The provisions of the Act specified in the first column of the Schedule hereto (which relate to the matters specified in the second column of the said Schedule) shall come into operation on the thirteenth day of September, 1948. [2008]

2. This Order may be cited as the Criminal Justice Act, 1948 (Date of Commencement) Order, 1948. [2009]

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SCHEDULE

Provisions of the Act	Subject matter of provisions
Section two	Abolition of power to pass a sentence of whipping.
Section sixteen	Restriction on sentence of death.
Section thirty	Abolition of privilege of peerage in criminal proceedings.
Section thirty-one	Jurisdiction and procedure in respect of certain indictable offences committed in foreign countries.
Section thirty-two	Issue of single summons on more than one information.
Section thirty-three	Supply of copies of informations to persons committed for trial.
Section thirty-eight	Amendment of Criminal Appeal Act, 1907.
Section forty-two	Order of speeches.
Section forty-four	Payment of costs of defence on acquittal, etc.
Section fifty	Acquisition of land for prisons and other institutions.
Section fifty-five	Amendment of Prison Act, 1865, as to introduction of prohibited articles.
Section sixty-seven	Arrest on failure to surrender to bail before courts of summary jurisdiction.
Section sixty-eight	Restriction of power to arrest without warrant under the Vagrancy Act, 1824.
Section seventy-one	Amendment of section seventy-one of the Children and Young Persons Act, 1933, and section seventy-five of the Children and Young Persons (Scotland) Act, 1937.
Subsection (1) of section seventy-seven	Expenses payable out of moneys provided by Parliament.
Section seventy-nine and so much of the Ninth Schedule as is set out in Appendix A hereto.	Consequential and minor amendments.
Section eighty	Interpretation.
So much of section eighty-one as relates to section two, section thirty, section seventy-one, Parts II and III of the Tenth Schedule and subsection (3) of section eighty-three.	Application to Scotland.
So much of section eighty-two as relates to section thirty, Part III of the Tenth Schedule and subsection (3) of section eighty-three.	Application to Northern Ireland.
So much of subsection (3) of section eighty-three as relates to the Tenth Schedule; Parts II and III of the Tenth Schedule and so much of Part I of the said Schedule as is set out in Appendix B hereto.	Repeals.

APPENDIX A

Act to be amended	*Amendment*
The Diplomatic Privileges Act, 1708. 7 Ann. c. 12.	In section four, for the words "penalties, and corporal punishment" there shall be substituted the words "and penalties".
The Beerhouse Act, 1840. 3 & 4 Vict. c. 61.	In section seven the words "of felony or" shall cease to have effect.
The Stipendiary Magistrates Act, 1858. 21 & 22 Vict. c. 73.	In section nine, for the words "appoint two or more justices one of whom shall be of the quorum, to form a second court" there shall be substituted the words "form one or more additional courts, and appoint to each court two or more justices"; and for the word "second", in the second place where it occurs, there shall be substituted the word "additional".
	In section ten, for the words "a second" there shall be substituted the words "an additional".
	In section eleven, for the words "a second" there shall be substituted the words "an additional"; for the word "second", in the second place where it occurs, there shall be substituted the word "additional", and for the words "an additional crier" there shall be substituted the words "a crier for each such additional court".
The Refreshment Houses Act, 1860. 23 & 24 Vict. c. 27.	In section twenty-two the words "of felony or" shall cease to have effect.
The Prison Act, 1877. 40 & 41 Vict. c. 21.	In section eleven the words "and as to the commercial value of the labour on" shall cease to have effect.
The Local Government Act, 1888. 51 & 52 Vict. c. 41.	In section eighty-three, in subsection (4), for the words "a second court" there shall be substituted the words "any additional court".
The Criminal Appeal Act, 1907. 7 Edw. 7, c. 23.	In section thirteen, at the end of subsection (1) there shall be added the words "except as otherwise provided by section thirty-eight or section forty-four of the Criminal Justice Act, 1948".
	In section fourteen, in subsection (4), after the word "section" there shall be inserted the words "and subsections (1) to (3) of section thirty-eight of the Criminal Justice Act, 1948".
	In section seventeen, after the word "bail" there shall be inserted the words "and the power of the court to give directions under the proviso to subsection (2) of section thirty-eight of the Criminal Justice Act, 1948, or to make orders for the payment of costs under subsection (5) of that section"; and after the words "such power" there shall be inserted the words "under this Act".
	In section nineteen, after the word "mercy", in the second place where it occurs, there shall be inserted the words "or of any representation made by any other person".

Act to be amended	*Amendment*
The Licensing (Consolidation) Act, 1910. 10 Edw. 7 & 1 Geo. 5, c. 24.	In section thirty-five, paragraph (2) shall cease to have effect.
The Criminal Justice Act, 1925. 15 & 16 Geo. 5, c. 86.	In section twelve, in subsection (5), for the second and third paragraphs there shall be substituted the following paragraphs— "If the accused in answer to the question states that he wishes to give evidence or to call witnesses, or both to give evidence and to call witnesses, the justices shall proceed to take the evidence of the accused if he wishes to give evidence himself, and of any witnesses called by him who know anything relating to the facts and circumstances of the case or anything tending to prove the innocence of the accused. Where the accused is represented by counsel or a solicitor, his counsel or solicitor shall be heard on his behalf, either before or after the said evidence is taken, at his discretion, and may, if the accused gives evidence himself and calls witnesses, be heard on his behalf with the leave of the justices both before and after the evidence is taken: Provided that where counsel or a solicitor is so heard both before and after the evidence is taken, counsel or the solicitor for the prosecution shall be entitled to be heard in reply."
The Local Government (Clerks) Act, 1931. 21 & 22 Geo. 5, c. 45.	In section three, in subsection (3) for the words "a second court" there shall be substituted the words "additional courts".
The Money Payments (Justices Procedure) Act, 1935. 25 & 26 Geo. 5, c. 46.	In the proviso to section four, for the word "two" there shall be substituted the word "four".

APPENDIX B

Session and Chapter	Short Title	Extent of Repeal
11 Will. 3, c. 12.	An Act to Punish Governors of Plantations in this Kingdom for Crimes by them committed in the Plantations.	The words "in his Majesties Court of Kings Bench" and the words from "or before such commissioners" to "same county".
42 Geo. 3, c. 85.	The Criminal Jurisdiction Act, 1802.	In section one, the words "in his Majesty's Court of King's Bench"; the words from "found, in which information" to "Middlesex"; and the words "at the discretion of his Majesty's Court of King's Bench".
5 Geo. 4, c. 83.	The Vagrancy Act, 1824.	In section ten, the words from "and to order further" to the end.
3 & 4 Vict. c. 61.	The Beerhouse Act, 1840.	In section seven, the words "of felony or".

Session and Chapter	Short Title	Extent of Repeal
19 & 20 Vict. c. 54.	The Grand Juries Act, 1856.	The whole Act.
23 & 24 Vict. c. 27.	The Refreshment Houses Act, 1860.	In section twenty-two, the words " of felony or ".
24 & 25 Vict. c. 96.	The Larceny Act, 1861. . .	Section one hundred and nineteen.
24 & 25 Vict. c. 97.	The Malicious Damage Act, 1861.	In sections one to ten, fourteen to twenty-one, twenty-three, twenty-six to thirty-three, thirty-five, forty-two to forty-eight and fifty, the words " and, if a male under the age of sixteen years, with or without whipping " wherever those words occur. Section seventy-five.
24 & 25 Vict. c. 100.	The Offences Against the Person Act, 1861.	In sections sixteen, twenty-eight to thirty, thirty-two and fifty-six, the words " and, if a male under the age of sixteen years, with or without whipping " wherever those words occur. Section seventy.
26 & 27 Vict. c. 44.	The Garrotters Act, 1863.	The whole Act.
28 & 29 Vict. c. 126.	The Prison Act, 1865 . .	Section forty-four.
35 & 36 Vict. c. 52.	The Middlesex Grand Juries Act, 1872.	The whole Act.
40 & 41 Vict. c. 21.	The Prison Act, 1877 . .	In section eleven, the words " and as to the commercial value of the labour on ".
42 & 43 Vict. c. 49.	The Summary Jurisdiction Act, 1879.	In section ten, in subsection (2) the words from " and when the child is a male " to the end.
7 Edw. 7, c. 23.	The Criminal Appeal Act, 1907.	In section seven, the words " or corporal punishment ". In section fourteen, subsection (3). In section twenty, in subsection (2) the words from " but shall not apply " to the end of the subsection.
10 Edw. 7 & 1 Geo. 5, c. 24.	The Licensing (Consolidation) Act, 1910.	In section thirty-five, paragraph (2).
1 & 2 Geo. 5, c. 28.	The Official Secrets Act, 1911.	In section ten, in subsection (2) the words " in the High Court " and the words " or the Central Criminal Court ".
4 & 5 Geo. 5, c. 58.	The Criminal Justice Administration Act, 1914.	Section thirty-six.
6 & 7 Geo. 5, c. 50.	The Larceny Act, 1916 . .	In section two, the words from " and the offender " to the end. Paragraph (c) of section sixteen. In section seventeen, the words from " and in the case of a clerk " to the end. In section twenty-three, in subsection (1) the words from " and, in addition," to the end.

Session and Chapter	Short Title	Extent of Repeal
6 & 7 Geo. 5, c. 50—*cont.*	The Larceny Act, 1916—*cont.*	In section twenty-nine, in subsection (1) the words from " and, if a male under the age of sixteen years " to the end. In section thirty-three, paragraph (*c*) of subsection (1). In section thirty-four, the words from " and, if a male under the age of sixteen years " to the end. In section thirty-seven, subsections (3) and (6).
23 & 24 Geo. 5, c. 36.	The Administration of Justice (Miscellaneous Provisions) Act, 1933.	In section one, in subsection (1) the words " Subject to the provisions of this section " ; and subsection (4). In the Second Schedule, in paragraph 4, the words " in the case of any bill of indictment preferred under this Act ".
1 & 2 Geo. 6, c. 63.	The Administration of Justice (Miscellaneous Provisions) Act, 1938.	In section eleven, in subsection (1) the words from " and (*b*) any indictment " to the end of the subsection ; and in subsection (2) the words from " and with respect " to the end of the subsection. [2010]

INTOXICATING LIQUORS

CASES :—
R. *v.* Newington Licensing JJ., [1948] 1 All E. R. 346 – – PAGE 671
R. *v.* Pontypridd Licensing JJ., *Ex parte* Ely Brewery Co., Ltd., [1948] 2 All E. R. 581 – – PAGE 672

CASES

Intoxicating liquors—Transfer of licence—Production of documents—" Agreement or assurance " under which licence to be transferred and held—Mortgage of licensed premises by proposed transferee to owners—Jurisdiction of justices to make production order—Licensing (Consolidation) Act, 1910 (*c.* 24), *s.* 25 (2).

By s. 25 (2) of the Licensing (Consolidation) Act, 1910 : " In the case of an application for the transfer of a justices' licence . . . the agreement or other assurance, if any, under which the licence is to be transferred and held shall be produced to the licensing justices. . . ."

At the hearing of an application for the transfer of an off-licence, the proposed transferee, in pursuance of s. 25 (2), produced a lease of the licensed premises to herself and an assignment of the interest and goodwill of the transferor, and, in answer to a questionnaire, she disclosed that she had mortgaged the premises to the owners, a brewery company. The licensing justices made a verbal order for the production of the mortgage deed, but

the order was not drawn up. On a motion for an order of *certiorari* to quash the justices' order:

Held: while the justices had power to refuse the application for the transfer of the licence if the "agreement or other assurance" were not produced in accordance with s. 25 (2), they had no power to order that such a document should be produced.

Per cur.: while the terms of a mortgage of the licensed premises might properly be regarded by the justices in a case where, under s. 23 (2) (*b*) of the Act, there was a question whether the proposed transferee was a fit and proper person to hold the licence, such a mortgage was not an "agreement or other assurance under which the licence is to be transferred" within s. 25 (2).

Per HUMPHREYS, J.: I think that s. 25 (2) intends that there should be produced to the justices any agreement or other assurance under which the licence either is to be transferred or is to be held if there are two separate documents. I would, therefore, substitute "or" for "and" in the phrase "transferred and held." The agreement or other assurance under which the licence is to be *transferred* is, in my opinion, the assignment of the goodwill. The agreement under which the licence is to be *held* must include anything in the nature of a tenancy which gives the transferee the right to occupy the premises as licensee and to sell from them, and, perhaps, though not necessarily, to live there.

Held, further: R. S. C., Ord. 59, r. 8, which provides that "in the case of an application for an order of *certiorari* to remove any proceedings for the purpose of their being quashed, the applicant shall not question the validity of any order . . . unless . . . he has lodged a copy thereof . . . in the Crown Office and Associates' Department . . .," refers to a written, and not to a verbal, order made by the inferior court.—R. *v.* NEWINGTON LICENSING JJ., [1948] 1 K. B. 681; [1948] 1 All E. R. 346; [1948] L. J. R. 1459; 112 J. P. 175; 64 T. L. R. 140; 92 Sol. Jo. 168; 46 L. G. R. 200, D. C. [2011]

Intoxicating liquor—Justices' consent to structural alterations—Destruction of identity of premises—Relevant consideration—Change from hotel to public house—Licensing (Consolidation) Act, 1910 (*c.* 24), *s.* 71.

Some fifty years ago the P. hotel was constructed, with thirty-two bedrooms. It had on the ground floor two bars, an hotel bar, primarily intended for the use of people staying in the hotel, and a vaults bar, which was something in the nature of a public bar with a separate entrance into the street. The hotel was not a financial success, and the E. brewery company, to which it belonged, wished to discontinue using it as a hotel and to let the premises, with the exception of the vaults bar, to a government department as offices. For this purpose they wished to stop up the entrance into the vaults bar so that there would be no communication between the ground floor where the bar was situate and the upper floors of the building. There was one other hotel in the same town:—

Held: in considering an application for leave to make the proposed structural alterations the justices were entitled to take into account that they would prevent the upper part of the premises being used as a residential hotel.

R. v. *Watford Licensing JJ., Ex parte Trust Houses, Ltd.*, [1929] 1 K. B. 313, *applied*.—R. *v.* PONTYPRIDD LICENSING JJ., *Ex parte* ELY BREWERY CO., LTD., [1948] 2 All E. R. 581; 112 J. P. 396; 64 T. L. R. 480; 92 Sol. Jo. 588; 46 L. G. R. 493. [2012]

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STATUTES

VETERINARY SURGEONS ACT, 1948

(11 & 12 Geo. 6, c. 52)

ARRANGEMENT OF SECTIONS

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* * * * *

Miscellaneous and General

* * * * *

24. Exemption from jury service 673

* * * * *

31. Short title, construction and citation 673

* * * * *

An Act to make further provision for the teaching of veterinary surgery and for restricting the practice thereof by unqualified persons; to alter the constitution of the Royal College of Veterinary Surgeons and of the Council of that College and otherwise to amend the law relating to veterinary surgeons; to exempt persons practising veterinary surgery from service on juries; and for purposes connected with the matters aforesaid. [2013] [30th July, 1948.]

* * * * *

Miscellaneous and General

* * * * *

24. Exemption from jury service.—(1) No Member of the Royal College of Veterinary Surgeons, and no person for the time being registered in the Supplementary Veterinary Register, shall if actually practising veterinary surgery be liable to serve on any jury. [2014]

(2) This section shall not extend to Northern Ireland. [2015]

Member of the Royal College of Veterinary Surgeons.—See the Veterinary Surgeons Act, 1881, ss. 2 and 3 (11 Halsbury's Statutes 709).

Supplementary Veterinary Register.—S. 6 of the present Act makes provision for the keeping of such a Register in which may be entered the names of persons who have attained the age of twenty-eight and who have satisfied the Council of the Royal College of Veterinary Surgeons that they are of good personal character and have for seven years out of the previous ten been engaged in the United Kingdom as their principal means of livelihood in diagnosing diseases of animals and giving medical or surgical treatment to animals. War service may be included in certain circumstances.

Veterinary surgery.—See the Veterinary Surgeons Act, 1881, s. 2 (11 Halsbury's Statutes 709). The present Act applies to birds as to other animals (s. 28 (2) thereof).

* * * * *

31. Short title, construction and citation.—(1) This Act may be cited as the Veterinary Surgeons Act, 1948. [2016]

(2) This Act shall be construed as one with the Veterinary Surgeons Act, 1881. [2017]

(3) This Act, the Veterinary Surgeons Act, 1881, the Veterinary Surgeons Amendment Act, 1900, the Veterinary Surgeons Act (1881) Amendment Act,

1920 and the Veterinary Surgeons (Irish Free State Agreement) Act, 1932 may be cited together as the Veterinary Surgeons Acts, 1881 to 1948. [2018]

Construed as one.—That is to say, the present Act and the Veterinary Surgeons Act, 1881, *infra*, are to be construed as if they were one Act, unless there is some manifest discrepancy (see *Phillips* v. *Parnaby*, [1934] 2 K. B. 299, at p. 302). Accordingly definitions in the Act of 1881 may be relevant to the construction of the present Act.

Veterinary Surgeons Act, 1881.—11 Halsbury's Statutes 709.
Veterinary Surgeons Amendment Act, 1900.—11 Halsbury's Statutes 728.
Veterinary Surgeons Act (1881) *Amendment Act*, 1920.—11 Halsbury's Statutes 753.
Veterinary Surgeons (*Irish Free State Agreement*) *Act*, 1932.—25 Halsbury's Statutes 289.

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LAND, ACQUISITION, SALE, ETC., OF

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STATUTES

REQUISITIONED LAND AND WAR WORKS ACT, 1948

(11 & 12 Geo. 6, c. 17)

PRELIMINARY NOTE

The present Act, which received the Royal Assent on February 19, 1948, amends and supplements the Requisitioned Land and War Works Act, 1945 (3 Halsbury's Statutes (2nd Edn.) 1007) (hereafter called " the Act of 1945 ") and the Compensation (Defence) Act, 1939 (3 Halsbury's Statutes (2nd Edn.) 988) (hereafter called " the Act of 1939 "). It is to be construed as one with the Act of 1945, so, however, that in the provisions amending the Act of 1939 expressions have the meanings assigned to them by that Act (s. 20 (2)). The Act and the Act of 1945 may be cited together as the Requisitioned Land and War Works Acts, 1945 and 1948 (s. 20 (1)).

The principal objects of the Act are :—

(i) To continue or make permanent certain provisions of the Act of 1945 ;
(ii) To increase compensation for the takings of possession of land ; and
(iii) To make special provision in respect of government oil pipe-lines.

The Act of 1945 contains certain provisions dealing with acquisition and retention of possession of land and the maintenance, use and removal of war works therein. Thus, Part II of the Act (which comprises ss. 4–14) empowers various Ministers to acquire under the Defence Acts land (*a*) on which there are government war works, or (*b*) which has been diminished in value by government war work done thereon or by damage caused by government war use and is in need of total or partial rehabilitation, and (*c*) land contiguous or adjacent to any land coming within categories

(*a*) or (*b*); Part V (which comprises ss. 26 and 27) empowers local authorities under a new temporary procedure to acquire compulsorily any land which under Defence Regulations they have been enabled or directed by Ministers to occupy or use; and Part VI (which comprises ss. 28–31) empowers any Minister directly or indirectly to maintain or use government war works for the purposes of the public service or for any purpose for which they were maintained or used in the exercise of emergency powers, to retain possession of land held during the war period whether under emergency powers or not, and to remove government war works and restore the land on which they were constructed.

The powers conferred by Parts II, V and VI of the Act of 1945 were temporary in nature, being originally limited to expire two years after the end of the "war period", which was defined as the period during which the Emergency Powers (Defence) Act, 1939, was in force. The latter Act finally expired on February 24, 1946, which meant that the above temporary powers continued in force by virtue of the original provisions until February 24, 1948. However, by s. 5 (5) of the Supplies and Services (Transitional Powers) Act, 1945 (38 Halsbury's Statutes 634) (hereafter called "the Transitional Powers Act"), the war purposes for which the powers conferred by the Act of 1945 were exercisable were extended to include the economic purposes mentioned in s. 1 (1) of the Transitional Powers Act, and the expression "war period" was extended to include any period during which the Transitional Powers Act was in force. This extension was, however, subject to a proviso the effect of which was that it was only for the economic purposes of the Transitional Powers Act, as distinct from the war purposes of the 1945 Act, that the powers could be used during the extended period. The Transitional Powers Act is limited to expire on December 10, 1950, with provision for extensions of one year at a time by Order in Council, and the position after the passing of that Act as to the exercise of the powers of the 1945 Act was, therefore, that they were exercisable for both war and economic purposes until February 24, 1948, and that they were exercisable for economic purposes only during the extended period lasting at least until December 10, 1952.

By s. 1 (1) of the present Act the powers conferred by Parts II, V and VI of the Act of 1945 are, by the repeal of the proviso to s. 5 (5) of the Transitional Powers Act, made exercisable at least until December 10, 1952, for both war and economic purposes, and, furthermore, the economic purposes for which the powers are exercisable are extended to include the purposes specified in the Supplies and Services (Extended Purposes) Act, 1947 (40 Halsbury's Statutes 1290).

For the purposes of s. 35 of the Act of 1945 (which temporarily amends the procedure for acquisition under the Defence Acts) and of ss. 40 and 41 (which provide, where notice to treat is given before the expiration of two years from the end of the war period for the adjustment of compensation so as to eliminate the effect of government war work), the expression "war period" is, by s. 1 (2) of the Act, extended to include the period for which the Transitional Powers Act is in force, with the result that the powers conferred by these sections also become exercisable at least until December 10, 1952.

Ss. 33 and 34 of the Act of 1945 (which respectively empower Ministers to acquire easements or restrictive rights and to acquire particular levels and reversionary interests), and the powers under which were exercisable only until February 24, 1948, are, by s. 1 (3) of the present Act, made permanent.

S. 4 of the Act of 1945 confers on Ministers a general power of acquisition of land affected by government war work or damaged by government war use, and by s. 6 thereof this power was exercisable, whether or not there were government war works on the land, where the value of land was diminished by government war work done thereon or by damage caused by government war use in order to secure its total or partial rehabilitation. The powers of this section are now extended by the addition of a further extension empowering the Minister of Agriculture and Fisheries to acquire compulsorily any land which is being used, or was being used at any time after August 23, 1939, for agriculture or forestry, if in his opinion it ought to be brought back into such use. The Minister must, however, before exercising his powers of acquisition under this provision, be satisfied that the effect on the land of the government war work or war use is such that a permanent adjustment of boundaries is necessary if the land is to be put to the most efficient use, and that this adjustment is only likely to be made if the land is acquired (s. 2).

S. 15 of the Act of 1945 (which empowers the Minister of Transport by order to

authorise the permanent stopping up or diversion of any highway which has been stopped up or diverted in the exercise of emergency powers) is applied by s. 3 of the present Act to past cases of temporary closure of highways where an order for such closure could have been, but was not, made under Defence (General) Regulations, and the powers of the section and also of ss. 16 and 21, which were limited to expire two years after the end of the war period, namely, on February 24, 1948, are extended at least until December 10, 1952.

Provisions are contained in s. 4 for the discharge or modification of easements over land acquired under Defence Acts and for the payment of compensation. S. 5 applies Part VIII of the Act of 1945 (which deals with adjustment of compensation on acquisition of land) to certain tenants in Northern Ireland, and s. 6 gives effect to certain minor and consequential amendments of the Act of 1945, as specified in the Schedule to the Act.

The next subject dealt with by the Act is that of compensation for the taking of possession of land in the exercise of emergency powers. This compensation, which is governed by s. 2 of the Act of 1939, comprises the sum total of (*a*) rental compensation, payable during the currency of the period of requisition, (*b*) terminal compensation, payable at the end of the period of requisition for damage done to the land during that period, (*c*) in the case of agricultural land, compensation in respect of tenant-right matters, and (*d*) compensation for expenses incurred in compliance with Ministerial directions.

Rental compensation was under s. 2 (1) (*a*) of the Act of 1939 to be equal to the rent which might reasonably be expected to be payable by a tenant in occupation of the land during the period of requisition under a lease granted immediately before the beginning of that period, whereby the tenant undertook to pay all the usual tenant's rates and taxes and to bear the cost of the repairs and insurance and any other expenses necessary to maintain the land in a state to command that rent. However, by proviso (i) to the subsection, in computing such rent no account was to be taken of any appreciation of values due to the emergency. Provision for increasing the rental compensation payable under the Act of 1939 was made by s. 45 of the Act of 1945, which provided in effect that, where possession of any land had been taken before the passing of that Act (namely, June 15, 1945), and the rental compensation had been determined by reference to a level of rental values which was both (*a*) less than that obtaining in respect of comparable land on March 31, 1939, and (*b*) less than the level of rental values obtaining in respect of comparable land on the appointed day for the purposes of the section (namely, February 24, 1946), any compensation accruing due after the latter date should be determined by the levels of rental values obtaining in respect of comparable land on March 31, 1939, or on February 24, 1946, whichever was the lower. The section was not, however, to apply unless a claim in that behalf were made within a particular time in accordance with the proviso to sub-s. (1) of the section.

Terminal compensation was payable by virtue of s. 2 (1) (*b*) of the Act of 1939 in respect of the cost of making good any damage to land occurring during the period of requisition, but by proviso (ii) to the subsection the sum to be paid in respect of such damage to land was not to be greater than the value of the land at the time when possession was taken, no account being taken of any appreciation in value due to the emergency.

The additional compensation in respect of agricultural land for tenant-right matters was payable by virtue of s. 2 (1) (*c*) of the Act of 1939, and was also subject to the restriction of proviso (i) that no account be taken of any appreciation in values due to the emergency, while the compensation in respect of expenses incurred in pursuance of Ministerial directions was payable under s. 2 (1) (*d*) of the Act of 1939.

The present Act abolishes the limitations imposed by provisos (i) and (ii) to s. 2 (1) of the Act of 1939, and enacts instead new limits so far as rental compensation and terminal compensation are concerned (ss. 7–11). It does not, however, affect rental compensation and terminal compensation which accrued due before the commencement of the Act (February 19, 1948), (see ss. 7 (1) and 10 (1)); and the same applies undoubtedly in the case of the compensation payable under s. 2 (1) (*c*) of the Act of 1939.

As regards rental compensation, a distinction must be drawn between (*a*) the case of land requisitioned after the commencement of the Act (see *supra*), and (*b*) land requisitioned before that date.

In case (*a*) rental compensation must not exceed (i) where the requisitioned land consists only of " rent-restricted land ", *i.e.*, land subject to the Rent Restriction Acts, the " permissible rent ", i.e., broadly, the rent recoverable under those Acts ; (ii) where the requisitioned land contains no rent-restricted land, 160 per cent. of what would be the rental compensation calculated by reference to the level of rental values obtaining in respect of comparable land on March 31, 1939 ; and (iii) where the requisitioned land consists partly of rent-restricted land and as to the remainder of other land, the aggregate of the " permissible rent " in respect of the rent-restricted land and of a proportionate part of what would be the limit of rental compensation for the whole of the requisitioned land if none of it were rent-restricted (s. 8). Moreover, where possession was taken before the appointed day for the purposes of the Town and Country Planning Act, 1947 (40 Halsbury's Statutes 285, 727) (July 1, 1948), the rental compensation is to be assessed on the assumption that at all material times the land was subject to a permanent restriction prohibiting the carrying out of development not comprised in " existing use " (s. 7 (2) (*b*)).

In case (*b*) rental compensation is on principle the same as in case (*a*), but the following special provisions apply : The compensation is to be assessed by reference to the level of rental values obtaining in respect of comparable land at the commencement of the Act (see *supra*), instead of by reference to the level obtaining immediately before possession was taken. The new provisions apply only if application in that behalf is duly made within six months from the commencement of the Act or such longer period as the authority in question may in special circumstances allow. The same time-limit is superimposed on that laid down in the proviso to sub-s. (1) of s. 45 of the Act of 1945 (*supra*) for applications for an increase of compensation under that section. On the other hand, the new provisions as to the calculation of rental compensation are in no case to operate so as to reduce the amount of rental compensation below the amount that would be payable under the Act of 1939 as originally enacted or by virtue of any increase under s. 45 of the Act of 1945. Any increase in rental compensation under the new provisions is payable as from the commencement of the Act or the date when the person making application for the increase became entitled to the rental compensation, whichever is the later (s. 9).

The new limit of terminal compensation (see *supra*) is the amount by which the " compulsory purchase price " of the land in the state in which it was when the compensation accrued due falls short of what would have been the compulsory purchase price of the land if it had then been in the state in which it was when possession was taken, the compulsory purchase price being based on the compensation which would be payable on the compulsory acquisition of the land by a Government department or other public or local authority (s. 10 (1)–(4)).

In the case of the retention of possession of land on the determination of some other right not conferred by emergency powers under s. 28 (2) of the Act of 1945 (3 Halsbury's Statutes (2nd Edn.) 1036) (which enables a Minister to retain or authorise the retention of possession of any land which is in his possession or in that of any person who is occupying or using it under his authority, notwithstanding the determination of any other right thereto), the new provisions as to rental compensation and terminal compensation are to apply as if possession had been taken on the determination of that other right (s. 7 (3)).

On the other hand, s. 54 of the Act of 1945 (3 Halsbury's Statutes (2nd Edn.) 1056) (under which in certain circumstances s. 2 of the Act of 1939 (*supra*) is to have effect as if a new period of requisition had begun) no longer applies to terminal compensation (s. 10 (5)).

It appears to have always been the intention of the Legislature that compensation under s. 3 of the Act of 1939 (32 Halsbury's Statutes (2nd Edn.) 993) (which relates to compensation in respect of the doing of work on land) should in no circumstances be payable in respect of work done on requisitioned land. But the intention of the Legislature was not made very clear by sub-s. (8) of that section, which provides that no compensation under the section is, in relation to any land, to be payable in respect of any period for which possession of that land is taken on behalf of His Majesty in the exercise of emergency powers. The Act, therefore, seeks to clarify the position by enacting that nothing in s. 3 of the Act of 1939 is to apply, or be deemed ever to have applied, to damage to land occurring while possession of the land is retained (s. 11 (2)).

The third subject with which the Act deals is that of government oil-pipe lines which were laid during the war. Temporary powers for the maintenance and use

of these lines were available under Part VI of the Act of 1945, while permanent provision could be made, not only by the acquisition of land carrying the line or accessory works, under Part II of the Act of 1945 (see *supra*), but also by the acquisition of easements or quasi-easements under that Part in conjunction with s. 59 (4) of the Act of 1945 (3 Halsbury's Statutes (2nd Edn.) 1059). The machinery for making permanent provision under the Act of 1945 proved, however, unsatisfactory in practice and a more expeditious way of dealing with government oil-pipe lines and works accessory thereto has therefore been devised.

Sub-ss. (1) and (3) (*a*) of s. 28 of the Act of 1945 (3 Halsbury's Statutes (2nd Edn.) 1036) (which authorise the maintenance and use of government war works for certain purposes and preserve the rights of persons using the works) are now made permanent and amplified. The operation of most of the new provisions will, however, depend, after December 31, 1949, on registration in the appropriate register of local land charges or, where regulations require, as a condition of the payment of compensation, the endorsement of documents of title and the production of evidence of the endorsement (see *infra*), on the production of evidence of an endorsement in accordance with the regulations ; and there are special provisions relating to the case where a pipe-line is diverted or works are moved (ss. 12, 14 and 15).

There are also new provisions as to compensation. Under those provisions the Treasury may by regulations require as a condition of the payment of compensation, that except in such circumstances as may be prescribed a claim is made in the prescribed form and manner, and within a certain time and that the prescribed documents of title are endorsed in the prescribed manner and that the prescribed evidence is produced of the endorsement (ss. 13, 14 (2) and 15 (2)).

These powers and certain other powers of making regulations were exercised by the Government Oil-Pipe Regulations, 1948 (S.I. 1948 No. 542). [2019]

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An Act to continue certain provisions of the Requisitioned Land and War Works Act, 1945, to make permanent certain other provisions thereof, and otherwise to amend that Act; to amend the Compensation (Defence) Act, 1939, as respects compensation for the taking of possession of land; to make further provision, by the amendment of those Acts and otherwise, as respects the maintenance and use of certain oil pipe-lines and the compensation therefor; and for purposes connected with the matters aforesaid. [2020]

[19th February, 1948.]

General provisions as to Requisitioned Land and War Works Act, 1945

1. Continuance of provisions of 8 and 9 Geo. 6, c. 43.—(1) The proviso to subsection (5) of section five of the Transitional Powers Act (under which the continuance and extension to transitional purposes under that Act of the powers exercisable under Parts II, V and VI of the Act of 1945 does not have effect unless it is certified that work was done or land was used for the purposes specified in subsection (1) of section one of the first-mentioned Act) is hereby repealed; and any reference in the said subsection (5) to the purposes so specified shall include a reference to the additional purposes specified in subsection (1) of section one of the Supplies and Services (Extended Purposes) Act, 1947. [2021]

(2) The following provisions of the Act of 1945, that is to say—

(*a*) section thirty-five (which temporarily amends the procedure for acquisition under the Defence Acts); and

(*b*) sections forty and forty-one (which provide, where notice to treat is given before the expiration of two years from the end of the war period, for the adjustment of compensation so as to eliminate the effect of government war work),

shall have effect as if the expression "war period" included any period during which the Transitional Powers Act is in force; and paragraph 18 of the Fifth Schedule to the Fire Services Act, 1947 (which is relation to the acquisition of land by fire authorities continues to provisions of the said sections forty and forty-one in like manner as they are continued by this subsection) is hereby repealed. [2022]

(3) Sections thirty-three and thirty-four of the Act of 1945 (which confer power to acquire easements and restrictive rights and to acquire particular levels and reversionary interests) shall have permanent effect. [2023]

General note.—As to the background and effect of this section, see Preliminary Note, *ante*.
Transitional Powers Act.—The Supplies and Services (Transitional Powers) Act, 1945 (see s. 20 (3), *post*). For s. 5 (5) thereof, see 33 Halsbury's Statutes 634.
Act of 1945.—The Requisitioned Land and War Works Act, 1945 (see s. 20 (3), *post*). For Parts II, V and VI and ss. 33, 34, 35, 40 and 41 thereof, see 3 Halsbury's Statutes (2nd Edn.) 1010, 1034, 1036, 1042 *et seq.*, 1046, 1047.
Supplies and Services (Extended Purposes) Act, 1947, s. 1 (1).—40 Halsbury's Statutes 1290.
Fire Services Act, 1947, Sched. V, para. 18.—40 Halsbury's Statutes 725.

2. Acquisition of agricultural land where use in existing units is affected by government war work.—The following subsection shall be added to section six of the Act of 1945 (which provides for the acquisition of land depreciated by government war work in order to secure its rehabilitation):—

"(3) Where there are government war works on the land or not, in the case of land which is being used for agriculture (as defined in the Agriculture Act, 1947) or for forestry, or which, if not being so used, was being so used at any time after the twenty-third day of August, nineteen hundred and thirty-nine and in the opinion of the Minister of Agriculture and Fisheries ought to be brought back into such use, the

power of acquisition shall be exercisable where the said Minister is satisfied that—

(*a*) the effect on the land of government war work or government war use is such that without a permanent adjustment of boundaries between the land and other land the most efficient use of the land either for agriculture (as defined as aforesaid) or for forestry will be prevented, and

(*b*) the adjustment is only likely to be made if the land is acquired by virtue of this Part of this Act." [2024]

Act of 1945.—The Requisitioned Land and War Works Act, 1945 (see s. 20 (3), *post*). For s. 6 thereof, see 3 Halsbury's Statutes (2nd Edn.) 1012.

Government war work; government war works; government war use.—For definitions, see s. 59 (1) of the Act of 1945 (3 Halsbury's Statutes (2nd Edn.) 1058).

General note.—This section extends the power to acquire land in order to secure its rehabilitation, conferred by s. 6 of the Act of 1945 (*supra*) so as to relate to land which (*a*) is being used for agriculture; or (*b*) is being used for forestry; or (*c*) if not being used for agriculture or forestry, was being so used at any time after August 23, 1939, *i.e.*, since the commencement of the Compensation (Defence Act, 1939) (3 Halsbury's Statutes (2nd Edn.) 988) (which is deemed to have come into operation on August 24, 1939), and in the opinion of the Minister of Agriculture and Fisheries ought to be brought back into such use. But the power of acquisition is only exercisable in the case of such land if the Minister is satisfied (*a*) that the land has been so affected by government war work or government war use that without a permanent adjustment of boundaries the most efficient use of the land either for agriculture or for forestry will be prevented, and (*b*) that the adjustment is only likely to be made if the power of acquisition is exercised.

"Agriculture" in this context has the same meaning as in the Agriculture Act, 1947 (1 Halsbury's Statutes (2nd Edn.) 157). By s. 109 (3) of that Act (1 Halsbury's Statutes (2nd Edn.) 220), "agriculture" includes horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and "agricultural" is to be construed accordingly, while by s. 109 (5) of that Act, "the farming of land" includes the carrying on in relation to the land of any agricultural activity.

Compulsory acquisition under the Agriculture Act, 1947.—The subsection added by the present section overlaps to some extent with s. 84 (1) (*c*) of the Agriculture Act, 1947 (1 Halsbury's Statutes (2nd Edn.) 196), under which the Minister of Agriculture and Fisheries may, in certain cases, by compulsory purchase or hiring acquire agricultural land which has been severed from other such land in the exercise of statutory powers conferred for non-agricultural purposes, or has been otherwise injuriously affected in the exercise of such powers, or which will be so severed or otherwise injuriously affected.

3. Highways.—(1) Where a Minister certifies as respects any highway—

(*a*) that in the circumstances existing at a time before the twenty-fourth day of February, nineteen hundred and forty-six an order could have been made under Regulation sixteen, fifty-two or sixty-nine A of the Defence (General) Regulations, 1939, as in force at that time, stopping up or diverting the highway; and

(*b*) that the exercise of the right to use the highway has been continuously prevented since that time, but without the making of such an order;

then section fifteen of the Act of 1945 (which provides for the permanent stopping up or diversion of highways stopped up in the exercise of emergency powers) shall apply as if the exercise of the right to use the highway had been prevented in pursuance of such an order. [2025]

(2) For the purposes of the said section fifteen, and of sections sixteen and twenty-one of the Act of 1945 (which provide for the retention of railways, cables and pipes where a highway is not stopped up and for the temporary continuation of orders for the stopping up or diversion of highways), the expression "war period" in the Act of 1945 shall include any period during which the Transitional Powers Act is in force. [2026]

Minister.—This is defined in s. 59 (1) of the Act of 1945 (3 Halsbury's Statutes (2nd Edn.) 1058) as meaning a Minister of the Crown and including the Admiralty, the Commissioners of Works, the Board of Trade and the Board of Education, but not including a Minister of Northern Ireland.

Highway.—At common law a highway is a way over which the public have a right to pass or repass.

Act of 1945.—The Requisitioned Land and War Works Act, 1945 (see s. 20 (3), *post*). For ss. 15, 16 and 21 thereof, see 3 Halsbury's Statutes (2nd Edn.) 1023, 1025, 1030.

Transitional Powers Act.—The Supplies and Services (Transitional Powers) Act, 1945 (see s. 20 (3), *post*). For that Act, see 38 Halsbury's Statutes 629.

Sub-s. (1).—This subsection deals with cases where a highway has, in fact, been stopped up or diverted and where (*a*) there has been a failure to obtain an order for the temporary stopping up or diverting of the highway, and that order could have been validly made under reg. 16, 52 or 69A of the Defence (General) Regulations, 1939, in the circumstances existing at a time before February 24, 1946 and (*b*) the exercise of the right to use the highway has, in fact, been continuously prevented since that time.

The omission can, by virtue of the present subsection, be rectified and the stopping up made permanent by the use of the powers which are provided by s. 15 of the Act of 1945 (*supra*). The Minister may, however, only exercise the powers of that section in accordance with ss. 17 *et seq.* of the Act of 1945 (3 Halsbury's Statutes (2nd Edn.) 1026 *et seq.*), in conjunction with sub-s. (2), *supra*.

Sub-s. (2).—As to the background and effect of this subsection, see the Preliminary Note, *ante*.

Telegraphic lines over highways permanently stopped up or diverted.—As to the rights of the Postmaster-General in respect of such lines and the alteration of such lines, see s. 6 and the Schedule, para. 6, *post*.

4. Discharge or modification of easements over land acquired under Defence Acts.—(1) Subject to the provisions of this section, the provisions of Part II of the Act of 1945 as to the discharge or modification of restrictions on the user of land arising by virtue of contract, and of section forty-one of that Act as to the adjustment of compensation on the discharge or modification of such restrictions, shall apply to easements over land which a Minister has acquired under the said Part II or has power so to acquire, or would have power so to acquire if he did not already own it, as if an easement were such a restriction. [2027]

(2) Subject to the provisions of this section, where a Minister having power, otherwise than by virtue of the said Part II, to acquire land under the Defence Acts has so acquired or proposes so to acquire any land which is subject to an easement, he may, by notice served on the persons and in the manner on whom and in which under those Acts notice to treat would be required to be served for the compulsory acquisition of the dominant tenement, extinguish the easement or modify it in such manner and to such extent as may be specified in the notice; and the provisions of subsections (3) and (4) of section seven of the Act of 1945 (which provide for compensation where a restriction is discharged or modified under that section) and the said section forty-one thereof shall with the prescribed adaptations apply where an easement is extinguished or modified under this subsection. [2028]

(3) Where apart from this subsection any easement, being a right of way or right of laying down, erecting, continuing or maintaining any apparatus on, under or over land, could be extinguished or modified under either of the two last foregoing subsections, and any interest in the dominant tenement is vested in the person carrying on a statutory undertaking (as defined in the Town and Country Planning Act, 1947) for the purpose of the carrying on thereof, the following provisions of the Town and Country Planning Act, 1944, that is to say—

(*a*) section twenty-five (which relates to the extinguishment of rights of way and rights as to apparatus of statutory undertakers and to compensation therefor),

(*b*) sections twenty-six and twenty-seven (which relate to the extension and modification of powers and duties of statutory undertakers and the relief of statutory undertakers from obligations the fulfilment of which he has been rendered impracticable), and

(*c*) the Schedules referred to in those sections,

shall, with the prescribed adaptations, apply as respects the interest of the person carrying on the statutory undertaking, and shall so apply in substitu-

tion for any corresponding provisions of the Act of 1945 or of subsection (2) of this section. [2029]

Act of 1945.—The Requisitioned Land and War Works Act, 1945 (see s. 20 (3), *post*). For Part II (ss. 4–14) and s. 41 thereof, as amended, see 3 Halsbury's Statutes (2nd Edn.) 1010 *et seq.*, 1047.

Easement.—This includes a right of support for, and a right to withdraw support from, any land or any buildings or works (see s. 59 (3) of the Act of 1945 ; 3 Halsbury's Statutes (2nd Edn.) 1059). See also as to the meaning of " works " and as to rights relating to mains and pipes, s. 59 (1) and (4) of the Act of 1945 ; and compare as to rights to take water, s. 6, *post*, in conjunction with Schedule, para. 9, *post*.

Minister.—See notes to s. 3, *ante*.

The Defence Acts.—This means any of the provisions of the Defence Acts, 1842 to 1935, as amended, extended or applied by or under any enactment, including the Act of 1945, and includes the provisions of s. 7 of the Lands Clauses Consolidation Acts Amendment Act, 1860 (3 Halsbury's Statutes (2nd Edn.) 962), and of s. 7 of the Militia (Lands and Buildings) Act, 1873 (17 Halsbury's Statutes 569), and, in the case of the Admiralty, the provisions of ss. 9–19 of the Admiralty Lands and Works Act, 1864 (3 Halsbury's Statutes 372 *et seq.*) (see s. 59 (1) of the Act of 1945 (*supra*)).

The Defence Acts, 1842 to 1935, in turn consist of the Defence Act, 1842 (3 Halsbury's Statutes 467) ; the Defence Act, 1854 (3 Halsbury's Statutes 484) ; the Defence Act, 1859 (3 Halsbury's Statutes 486) ; the Defence Act, 1860 (3 Halsbury's Statutes 488) ; the Defence Act, 1865 (3 Halsbury's Statutes 500) ; the Defence Acts Amendment Act, 1873 (3 Halsbury's Statutes 500) ; and the Defence (Barracks) Act, 1935 (28 Halsbury's Statutes 29).

Town and Country Planning Act, 1944.—For ss. 25–27 thereof and the Schedules referred to in those sections (*i.e.* Scheds. I and IV), reprinted as amended, see Town and Country Planning Act, 1947, Sched. XI (40 Halsbury's Statutes 891 *et seq.*, 901, 902).

Sub-s. (1).—This subsection relates to the discharge or modification of easements over land which a Minister has acquired under Part II of the Act of 1945 (*supra*) or has power so to acquire or would have power so to acquire if he did not already own it.

For the provisions of Part II of the Act of 1945 relating to the discharge or modification of restrictions on the user of land arising by virtue of contract, see ss. 7 (1) (*b*), (3), (4), 8, 9 (3), (5), (6), 11 (1), (4), 13 and 14 (3 Halsbury's Statutes (2nd Edn.) 1013, 1014, 1017, 1018, 1020 *et seq.*, in conjunction with Supplies and Services (Transitional Powers) Act, 1945, s. 5 (5) (38 Halsbury's Statutes 634), and s. 1 (1), *ante*.

Sub-s. (2).—This subsection enables a Minister to extinguish or modify easements over land which, *otherwise than under Part II of the Act of* 1945 (*supra*), he has acquired or proposes to acquire under the Defence Acts (*supra*).

For the prescribed adaptations of ss. 7 (3) and (4) and 41 of the Act of 1945 (*supra*), see Extinguishment or Modification of Easements Regulations, 1948 (S.I. 1948 No. 1582), reg. 3, *post*.

Sub-s. (3).—This subsection contains special provisions relating to the case where apart from the subsection a right as to apparatus could be extinguished or modified under sub-s. (1) or sub-s. (2), *supra*, and an interest in the dominant tenement is vested, for operational purposes, in the person carrying on a statutory undertaking.

By s. 119 (1) of the Town and Country Planning Act, 1947 (40 Halsbury's Statutes 855), " statutory undertakers " means persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of electricity, gas, hydraulic power or water, and " statutory undertaking " is to be construed accordingly.

For the prescribed adaptations of ss. 25–27 of, and Scheds. I and IV to, the Town and Country Planning Act, 1944, as amended (*supra*), see Extinguishment or Modification of Easements Regulations, 1948 (S.I. 1948 No. 1582), reg. 4, *post*.

5. Application of Part VIII of Act of 1945 to compensation to certain tenants in Northern Ireland. [2030]

6. Minor and consequential amendments.—The Act of 1945 shall have effect subject to the amendments specified in the Schedule to this Act, being minor amendments and amendments consequential on the foregoing provisions of this Act. [2031]

Act of 1945.—The Requisitioned Land and War Works Act, 1945 (see s. 20 (3), *post*). For that Act, see 3 Halsbury's Statutes (2nd Edn.) 1007.

Compensation for taking possession of land

7. Amount of rental compensation for requisitioned land.—(1) In relation to rental compensation in respect of the taking possession of land, that is to say compensation calculated in accordance with paragraph (*a*) of subsection (1) of section two of the Act of 1939 by reference to the rent which might reasonably be expected to be payable by a tenant in occupation of the

land, the said section two shall have effect, as respects any period after the commencement of this Act, subject to the provisions of this section. [2032]

(2) So much of proviso (i) to subsection (1) of the said section two as provides, in relation to rental compensation, for disregarding any appreciation of values due to the emergency shall not have effect, but—

(*a*) rental compensation shall not in any case exceed the maximum applicable in that case under the next following section;

(*b*) where the taking possession of land which gives rise to rental compensation has occurred before the appointed day for the purposes of the Town and Country Planning Act, 1947, the rental compensation shall be assessed on the assumption that at all material times the land was subject to such a permanent restriction of development as is specified in subsection (3) of section fifty-five of the said Act of 1947. [2033]

(3) Where possession of any land is or has been retained in exercise of the right conferred by subsection (2) of section twenty-eight of the Act of 1945 on the determination of some other right not conferred by emergency powers, this and the three next following sections shall apply as if possession had been taken on the determination of that other right. [2034]

General note.—This section must be read in conjunction not only with s. 8, *post*, which lays down maxima for rental compensation, but also with s. 9, *post*, which relates to the application of the provisions as to rental compensation in the case of land requisitioned before the commencement of the present Act.

As to the background and effect of this section and of ss. 8–11, see the Preliminary Note, *ante*.

Act of 1939.—The Compensation (Defence) Act, 1939 (see s. 20 (3), *post*). For s. 2 (1) thereof, see 3 Halsbury's Statutes (2nd Edn.) 989.

Commencement of the Act.—The date of the commencement of the Act is that of the Royal Assent (February 19, 1948).

Town and Country Planning Act, 1947.—For s. 55 (3) thereof, see 3 Halsbury's Statutes (2nd Edn.) 1098.

The day appointed under that Act is July 1, 1948 (see Town and Country Planning Act, 1947 (Appointed Day) Order, 1948 (S.I. 1948 No. 213), title TOWN AND COUNTRY PLANNING, *post*.

Act of 1945.—The Requisitioned Land and War Works Act, 1945 (see s. 20 (3), *post*). For s. 28 (2) thereof, see 3 Halsbury's Statutes (2nd Edn.) 1036.

Claims for Compensation.—As to claims for rental compensation accruing due after the commencement of the present Act, see the Compensation (Defence) Notice of Claim Rules, 1948 (S.I. 1948 No. 307), *post*.

8. Maxima for rental compensation.—(1) Where the requisitioned land consists only of rent-restricted land, the rental compensation shall not exceed the permissible rent. [2035]

(2) Where the requisitioned land includes no rent-restricted land, the rental compensation shall not exceed one hundred and sixty per cent. of what would be the amount thereof, calculated by reference to the level of rental values obtaining is respect of comparable land at the thirty-first day of March, nineteen hundred and thirty-nine, instead of by reference to the level obtaining immediately before possession of the land was taken, but otherwise in accordance with the Act of 1939 as originally enacted. [2036]

(3) Where the requisitioned land consists partly of rent-restricted land and as to the remainder of other land, there shall be ascertained—

(*a*) the amount which under subsection (1) of this section would be the limit of rental compensation if the requisitioned land consisted only of the rent-restricted land, and

(*b*) the amount which would be the limit of rental compensation for the whole of the requisitioned land if none of it were rent-restricted land,

and the rental compensation shall not exceed the aggregate of the amount ascertained under paragraph (*a*) of this subsection and so much of the amount ascertained under paragraph (*b*) thereof as is properly apportionable to that part of the requisitioned land which is not rent-restricted land. [2037]

(4) In this section the following expressions have the meanings hereby respectively assigned to them, that is to say :—

" requisitioned land " means the aggregate of the land in respect of which, in any case, rental compensation falls to be assessed ;

" rent-restricted land " means land consisting of one or more rent-restricted properties or parts thereof and of no other land ;

" rent-restricted property " means a property (whether or not the subject of a tenancy) in the case of which the following conditions are fulfilled, that is to say—

(*a*) that immediately before the time when possession was taken of the property or part thereof in question the property or part was being used for residential purposes, or if it was not then being used that it had been used for residential purposes when last used before that time, and

(*b*) that if an unfurnished tenancy of the property had been granted immediately before the said time the amount of the rent recoverable under the tenancy would have been restricted by the Rent and Mortgage Interest Restrictions Acts, 1920 to 1939 ;

" permissible rent " means—

(*a*) in relation to a rent-restricted property, the maximum rent which would in accordance with the last-mentioned Acts have been recoverable under the tenancy referred to in paragraph (*b*) of the last foregoing definition, on the assumption that the tenant undertook to pay all usual tenant's rates and taxes and to bear the cost of the repairs and insurance and the other expenses if any, necessary to maintain the property in a state to, command that rent.

(*b*) in relation to part of a rent-restricted property, so much of the said maximum rent as is properly apportionable thereto ;

" unfurnished tenancy " means a tenancy under which a property is let for residential purposes, not being a tenancy where the application of the said Acts of 1920 to 1939 is excluded by reason of the property being let at a rent including payments in respect of board, attendance or use of furniture. [2038]

General note.—This section supplements, and must be read in conjunction with, s. 7, *ante*. As to its general effect, see the Preliminary Note, *ante*.

Rent and Mortgage Interest Restrictions Acts, 1920 to 1939.—The Increase of Rent and Mortgage Interest (Restrictions) Act, 1920 (10 Halsbury's Statutes 332) ; the Rent Restriction (Notices of Increase) Act, 1923 (10 Halsbury's Statutes 361) ; the Rent and Mortgage Interest Restrictions Act, 1923 (10 Halsbury's Statutes 365) ; the Rent and Mortgage Interest (Restrictions Continuation) Act, 1925 (10 Halsbury's Statutes 374) ; the Rent and Mortgage Interest Restrictions (Amendment) Act, 1933 (26 Halsbury's Statutes 266) ; the Increase of Rent and Mortgage Interest (Restrictions) Act, 1935 (28 Halsbury's Statutes 119) ; the Increase of Rent and Mortgage Interest (Restrictions) Act, 1938 (31 Halsbury's Statutes 387) ; and the Rent and Mortgage Interest Restrictions Act, 1939 (32 Halsbury's Statutes 971).

The Act of 1939.—The Compensation (Defence) Act, 1939 (see s. 20 (3), *post*). For that Act, see 3 Halsbury's Statutes (2nd Edn.) 988.

9. Application of provisions as to rental compensation where land requisitioned before commencement of Act.—(1) Where the taking possession of land which gives rise to rental compensation occurred before the commencement of this Act, the Act of 1939 and section seven of this Act shall have effect subject to the provisions of this section. [2039]

(2) The rental compensation shall be assessed by reference to the level of rental values obtaining in respect of comparable land at the commencement of this Act, instead of by reference to the level obtaining immediately before possession of the land was taken :

Provided that section seven of this Act and this subsection shall not have effect in relation to the rental compensation payable in respect of any land

to any person, unless he or a person previously entitled to the rental compensation in respect of that land has made application in that behalf in such form and manner and to such authority as may be provided by rules made by the Treasury under the Act of 1939 and not later than the expiration of six months from the commencement of this Act or such longer period as that authority may in special circumstances allow. [2040]

(3) No application for an increase of rental compensation under section forty-five of the Act of 1945 (which provides for increasing rental compensation which has been determined by reference to a level of rental values lower both than the level obtaining on the thirty-first day of March, nineteen hundred and thirty-nine, and than that obtaining on the appointed day for the purposes of the said section forty-five) shall be of any effect if made after the expiration of six months from the commencement of this Act or such longer period as the authority to which under that section applications thereunder are required to be made may in special circumstances allow. [2041]

(4) Nothing in section seven of this Act shall operate, in a case falling within this section, so as to reduce the amount of rental compensation below the amount which would be payable apart from that section, whether by virtue of the Act of 1939 as originally enacted or by virtue of any increase under the said section forty-five. [2042]

(5) Any increase of rental compensation payable by virtue of section seven of this Act in a case falling within this section shall be payable as from the commencement of this Act or the date when the person making application for the increase became entitled to the rental compensation, whichever is the later. [2043]

General note.—This section deals with the assessment of rental compensation in the case of land which is under requisition at the commencement of the Act. The Act of 1939 (*infra*) and s. 7, *ante*, apply, but with the modification that the compensation is to be assessed by reference to the levels of rental values obtaining in respect of comparable land at the commencement of the Act, instead of immediately before the date when possession was taken. In the case of land requisitioned after the commencement of the Act, the new basis of compensation applies automatically, but in a case of an earlier requisition, it is necessary, in order to obtain the increased compensation, to make application within the time prescribed by the proviso to sub-s. (2), *supra*, *i.e.* apart from any extension for special purposes, by August 19, 1948. Application for increase of rental compensation under s. 45 of the 1945 Act must also be made within the same period.

Commencement of the Act.—See note to s. 7, *ante*.

Act of 1939.—The Compensation (Defence) Act, 1939 (see s. 20 (3), *post*). For that Act, see 3 Halsbury's Statutes (2nd Edn.) 988.

Rules made by the Treasury under the Act of 1939.—See the Compensation (Defence) Notice of Claim Rules, 1948 (S.I. 1948 No. 307), *post*.

Act of 1945.—The Requisitioned Land and War Works Act, 1945 (see s. 20 (3), *post*). For s. 45 thereof, see 3 Halsbury's Statutes (2nd Edn.) 1051.

Sub-s. (2).—The main provision of this subsection modifies s. 2 (1) (*a*) of the Act of 1939 (3 Halsbury's Statutes (2nd Edn.) 989).

With reference to the time-limit imposed by the proviso to the subsection, the Financial Secretary to the Treasury said at the committee stage of the Bill which became the present Act (446 H. of C. Official Report 1951, 1961) that in special cases where it could be shown that through illness, absence abroad or other reasons a claim could not be put in in time, extra time would be allowed and Departments would accept those claims, although according to the strict letter of the law they might be considered out of time, and that the subsection would be worked with the utmost sympathy.

As to claims for an increase of compensation under this subsection, see the Compensation (Defence) Notice of Claim Rules, 1948 (S.I. 1948 No. 307), *post*.

Sub-s. (3).—Note that the time-limit enacted by this subsection takes effect in addition to, and not in substitution for, those enacted by the proviso to sub-s. (1) of s. 45 of the Act of 1945 (*supra*).

As to claims for an increase under that section, see the Compensation (Defence) Notice of Claim for Increase of Compensation Rules, 1946 (S. R. & O. 1946, No. 129).

Sub-s. (4).—It is thought that for the purposes of this subsection an increase under s. 45 of the Act of 1945 (*supra*) is only to be taken into account if application therefor has been made in accordance with the proviso to sub-s. (1) thereto and sub-s. (3), *supra*.

10. Amount of compensation in respect of making good requisitioned land.—(1) Proviso (ii) to subsection (1) of section two of the Act of 1939 (which provides that the compensation payable under paragraph (*b*) of that subsection in respect of damage to land occurring during the period of requisition shall not exceed the value of the land at the time when possession thereof

was taken, no account being taken of any appreciation in the value thereof due to the emergency) shall not have effect as respects compensation under the said paragraph (*b*) accruing due after the commencement of this Act, but subject to the provisions of subsection (4) of this section such compensation shall not exceed the amount by which the compulsory purchase price of the land in the state in which it was when the compensation accrued due falls short of what would have been the compulsory purchase price of the land if it had then been in the state in which it was when possession of the land was taken. [2044]

(2) In this section the expression "compulsory purchase price," in relation to any land, means the amount of the compensation (excluding any compensation for disturbance or for severance or injurious affection) which would be payable on the compulsory acquisition by a Government department or other public or local authority, in pursuance of a notice to treat served immediately before the compensation under the said paragraph (*b*) accrued due, of a freehold interest in the land free from encumbrances but subject to any easement or other restriction affecting the land at the date of the notice to treat. [2045]

(3) For the purposes of this section, the compulsory purchase price of land in the state in which it was when compensation under the said paragraph (*b*) accrued due shall be calculated without regard—

(*a*) to war damage occurring during the period for which possession of the land was retained; or

(*b*) to any work done during that period in respect of which on such a compulsory acquisition as aforesaid subsection (2) or (3) of section forty-one of the Act of 1945 (which provide for taking into account increases of value paid for in whole or in part by persons interested in the land) would apply;

but notwithstanding anything in the said section forty-one regard shall be had in calculating the said price to all other damage occurring or work done on the land during that period. [2046]

(4) Where during the period for which possession of the land was retained damage (other than war damage) occurred to any such work as is mentioned in paragraph (*b*) of the last foregoing subsection, the amount to which the compensation is limited by virtue of subsection (1) of this section shall be increased so as to take account of that damage to such extent as may be just having regard to any such expense, agreement or payment as is mentioned in subsection (2) or (3) of the said section forty-one. [2047]

(5) Section fifty-four of the Act of 1945 (which provides for certain purposes that where a payment in respect of the value of works has been made under Part II of that Act the provisions as to compensation of section two of the Act of 1939 shall have effect as if a new period of requisition had begun on the date of the payment) shall not have effect as respects compensation under paragraph (*b*) of subsection (1) of the said section two. [2048]

General note.—This section relates to terminal compensation, *i.e.*, compensation under s. 2 (1) (*b*) of the Act of 1939 (*infra*). In relation to land retained under s. 28 (2) of the Act of 1945 (3 Halsbury's Statutes (2nd Edn.) 1036) on the determination of some other right not conferred by emergency powers, it must be read in conjunction with s. 7 (3), *ante*. On the other hand, it does not, of course, affect s. 47 of the Act of 1945 (3 Halsbury's Statutes (2nd Edn.) 1052), under which compensation for the removal of fixed machinery or plant may be reduced by the General Claims Tribunal. See also as to the effect on compensation of a reservation of rights under Part II of that Act, s. 46 thereof.

As to the background and general effect of this section, see the Preliminary Note, *ante*.

Act of 1939.—The Compensation (Defence) Act, 1939 (see s. 20 (3), *post*). For para. (*b*) of, and proviso (ii), to s. 2 (1) thereof, see 3 Halsbury's Statutes (2nd Edn.) 990.

Accrual of compensation under s. 2 (1) (*b*) *of the Act of* 1939.—The compensation accrues due on the relinquishment of possession (see s. 2 (3) of the Act of 1939; 3 Halsbury's Statutes (2nd Edn.) 990, in conjunction with s. 31 (2) of the Act of 1945; 3 Halsbury's Statutes (2nd Edn.) 1040).

After the commencement of this Act.—*I.e.*, on or after February 19, 1948 (compare notes to s. 9, *ante*).

War damage.—This, it is thought, means war damage within the meaning of the War Damage Act, 1943, as to which, see s. 2 thereof (36 Halsbury's Statutes 338).

Act of 1945.—The Requisitioned Land and War Works Act, 1945 (see s. 20 (3), *post*). For ss. 41 and 54 thereof, see 3 Halsbury's Statutes (2nd Edn.) 1047, 1056.

Work done on land.—By s. 17 (2) of the Act of 1939, as substituted by s. 50 of the Act of 1945 (3 Halsbury's Statutes (2nd Edn.) 1005), the doing of work on land means the doing of any work on, over or below the surface of the land, and, in particular, includes the making of any erection or excavation, the placing of any thing, and the maintenance, removal, demolition, pulling down, destruction or rendering useless of anything on, over or below that surface.

Claims for compensation.—As to claims for terminal compensation accruing due after the commencement of the present Act, see the Compensation (Defence) Notice of Claim Rules, 1948 (S.I. 1948 No. 307), *post*.

11. Minor amendments as to compensation for taking possession of land.—(1) There is hereby repealed so much of proviso (i) to subsection (1) of section two of the Act of 1939 as provides for disregarding any appreciation of values due to the emergency in computing for the purpose of compensation the amount which an incoming tenant of agricultural land might have been expected to pay in addition to rent. [2049]

(2) Nothing in section three of the Act of 1939 (which provides for compensation in respect of the doing of work on land) shall apply, or be deemed ever to have applied to damage to land occurring while possession of the land is retained. [2050]

Act of 1939.—The Compensation (Defence) Act, 1939 (see s. 20 (3), *post*). For proviso (i) to s. 2 (1) and s. 3 thereof, see 3 Halsbury's Statutes (2nd Edn.) 990, 993.

Sub-s. (1).—This subsection relates to compensation payable under s. 2 (1) (*c*) of the Act of 1939 (3 Halsbury's Statutes (2nd Edn.) 990). As to the background of the subsection, see the Preliminary Note, *ante*. As this subsection is not retrospective and compensation under s. 2 (1) (*c*) of the Act of 1939 accrues due at the time of requisitioning (see s. 2 (4) of that Act), it is clear that the present subsection does not apply where possession was taken before the commencement of the present Act (February 19, 1948).

As to claims for compensation under s. 2 (1) (*c*) of the Act of 1939 accruing due after the commencement of the present Act, see the Compensation (Defence) Notice of Claim Rules, 1948 (S.I. 1948 No. 307), *post*.

Sub-s. (2).—As to the background and effect of this subsection, see the Preliminary Note, *ante*.

Government oil pipe-lines

12. Permanent power to maintain government oil pipe-lines.—(1) In relation to government oil pipe-lines and works accessory thereto subsection (1), and paragraph (*a*) of subsection (3), of section twenty-eight of the Act of 1945 (which authorise the maintenance and use of government war works for the purpose of the public service or for any other purpose for which they were maintained or used in the exercise of emergency powers, and preserve the rights of persons using the works) shall, subject to the provisions of this Act, have permanent effect. [2051]

(2) In relation to government oil pipe-lines and works accessory thereto the powers conferred by the said section twenty-eight shall include power to maintain and use any such line or accessory works, or authorise the use thereof, for any purpose for which they are suitable. [2052]

(3) In this Act the expression "government oil pipe-line" means any government war works being the whole or part of a main or pipe installed for the transmission of petroleum. [2053]

(4) A Minister may remove any main or pipe or part thereof, being a government oil pipe-line, or any works accessory thereto, and may replace any such thing previously removed; and section twenty-eight of the Act of 1945 and this Act shall apply to any replacement as if it had been the original thing removed. [2054]

(5) If in pursuance of an agreement with a Minister a government oil pipe-line is diverted, or any works accessory thereto are moved to a new site, the said section twenty-eight and this Act shall apply to the line as diverted, or to the works on the new site, as the case may be, as if it or they had been the original line or works. [2055]

(6) If without the consent of a Minister any building or structure is erected over a government oil pipe-line or works accessory thereto or the site of such a line or such works, or so near thereto as to obstruct the use of the line or works or access thereto or to the site thereof, a Minister may cause the building or structure to be removed and may recover the cost of the removal from the person by whom the building or structure was erected. [2056]

(7) Any person who without lawful authority tampers with, alters or removes a government oil pipe-line or works accessory thereto shall be liable on summary conviction to a fine not exceeding ten pounds. [2057]

General note.—This section relates to government oil-pipe lines and works accessory thereto and is supplemented by ss. 13–15, *post*. It must be read in conjunction with s. 14, *post*, and, as respects abandoned lines and accessory works, reg. 6 of the Government Oil Pipe-Lines Regulations, 1948 (*infra*). See also the Preliminary Note, *ante*.

Government oil pipe-line and accessory works.—"Government oil pipe-line" is defined in sub-s. (3), *supra*. The expression "government war works" occurring in that definition and "works" are defined in s. 59 (1) of the Act of 1945 (3 Halsbury's Statutes (2nd Edn.) 1058). The expression "works accessory thereto" is not defined, but in the Government Oil Pipe-Lines Regulations, 1948 (S.I. 1948 No. 542), made under ss. 13–15, *post*, it means, by reg. 2 (1) (iv) thereof, any apparatus appertaining to government oil pipe-lines, including marker posts, stiles, man-holes, sluice valves, wash-outs, air valves and filters.

Act of 1945.—The Requisitioned Land and War Works Act, 1945 (see s. 20 (3), *post*). For s. 28 thereof, see 3 Halsbury's Statutes (2nd Edn.) 1036.

Minister.—See notes to s. 3, *ante*.

13. Compensation in respect of government oil pipe-lines.—(1) In respect of the exercise of the powers conferred by the last foregoing section, compensation shall be payable by the Minister of Works in accordance with the following provisions of this section. [2058]

(2) Where the value of any land is diminished by the coming into operation of the last foregoing section, compensation for the diminution shall be payable in the form of a lump sum of such amount as may be agreed between the Minister of Works and the persons interested in the land or, in default of agreement, as may be determined by arbitration in the prescribed manner; and compensation under this subsection shall be divisible among the said persons in such shares as they may agree, or in default of agreement, as may be determined as aforesaid. [2059]

(3) In assessing compensation under the last foregoing subsection regard shall be had to the rights to compensation conferred by subsection (6) of this section, and to the following provisions of this Act and the provisions of regulations thereunder. [2060]

(4) The right to compensation conferred by subsection (2) of this section shall as respects any period after the commencement of this Act be in substitution for any right to compensation under subsection (2) of section three of the Act of 1939 (which provides for compensation in respect of the doing of work on land by reference to the diminution of the annual value of the land); and interest on any share of compensation under subsection (2) of this section, at the like rate as is for the time being payable on compensation under the Act of 1939, shall run as from the commencement of this Act and be payable at the time when the share is paid. [2061]

(5) Where under subsection (4) of section three of the Act of 1939 (which provides for the termination of compensation under subsection (2) of that section and its replacement by a lump sum payment calculated by reference to the depreciation of estates and interests in land) any payment has been made before the commencement of this Act in respect of a government oil pipe-line or works accessory thereto, the payment shall be treated as a payment in respect of the estate or interest in question on account of the share attributable to that estate or interest of any compensation under subsection (2) of this section, and interest under the last foregoing subsection shall be reduced accordingly; and after the commencement of this Act no payment under subsection (4) of the said section three shall be made in respect of a

government oil pipe-line or works accessory thereto, whether it accrued due before or after the commencement of this Act:

Provided that in the case of a payment under the said subsection (4) which accrued due to any person before the commencement of this Act but has not been made before the commencement thereof, the said person shall be entitled to interest on the payment in accordance with the provisions in that behalf of the Act of 1939 as from the date when the payment accrued due until the commencement of this Act. [2062]

(6) Where in the exercise of any power of use, maintenance, removal or replacement of a government oil pipe-line or works accessory thereto which is conferred by the last foregoing section a person suffers loss by reason of damage to crops or other growing things, stock, chattels or any land or buildings or works on, under or over land, he shall be entitled to compensation in respect of the damage of such amount as may be agreed between the Minister of Works and the person in question or, in default of agreement, as may be determined by arbitration in the prescribed manner. [2063]

(7) The Treasury may by regulations require, as a condition of the payment of compensation under this section, that except in such circumstances as may be prescribed a claim shall be made in the prescribed form and manner and within such period as may be determined by or under the regulations; and references in subsection (2) of this section to persons interested in land do not include such persons who fail duly to make a claim required by regulations under this subsection. [2064]

Commencement of the Act.—See note to s. 7, *ante*.

Act of 1939.—The Compensation (Defence) Act, 1939 (see s. 20 (3), *post*). For s. 3 (2) and (4) thereof, see 3 Halsbury's Statutes (2nd Edn.) 993.

Government oil pipe-line or works accessory thereto.—See notes to s. 12, *ante*.

Interest . . . at the . . . rate . . . payable on compensation under the Act of 1939.—By virtue of the Interest on Compensation (Defence) Order, 1940 (S. R. & O. 1940, No. 107), made under s. 10 of the Act of 1939 (3 Halsbury's Statutes (2nd Edn.) 1002) the rate of interest is 2 per cent. per annum.

Sub-ss. (6) *and* (7).—These subsections are made applicable by s. 15 (2), *post*, in relation to powers conferred by s. 15 (1), *post*.

Sub-s. (7), *supra*, is supplemented by s. 14 (2), *post*, under which the Treasury may by regulations require, as a condition of the payment of compensation under sub-s. (2), *supra*, that the prescribed documents of title to interests in land shall be endorsed in the prescribed manner and that the prescribed evidence shall be produced of the endorsement.

Regulations.—For the determination of disputes as to compensation and conditions as to compensation, see regs. 3–5 and 10 of the Government Oil Pipe-Line Regulations, 1948 (S.I. 1948 No. 542), made by the Treasury under this section and ss. 14 and 15, *post*.

14. Registration of rights as to government oil pipe-lines.—(1) Subject to the provisions of this section, section twelve of this Act shall not after the thirty-first day of December, nineteen hundred and forty-nine, apply to any pipe-line, or works accessory thereto, unless the rights conferred by subsection (1) of that section have been registered in the prescribed manner in the appropriate register of local land charges. [2065]

(2) The Treasury may by regulations require, as a condition of the payment of compensation under subsection (2) of the last foregoing section, that the prescribed documents of title to interests in land shall be endorsed in the prescribed manner and that the prescribed evidence shall be produced of the endorsement; and the last foregoing subsection shall not apply where evidence of an endorsement has been produced in accordance with the regulations. [2066]

(3) Where a pipe-line is diverted, or works are moved, as mentioned in subsection (5) of section twelve of this Act, subsection (1) of this section shall not apply to the line as diverted or to the works on the new site, but the said section twelve shall not as against a purchaser (as defined in the Land Charges Act, 1925) apply if the purchase was completed after the agreement for the diversion of the line or moving of the works unless the rights

conferred by that section have been registered as aforesaid before the completion of the purchase :

Provided that section four of the Law of Property (Amendment) Act, 1926 (which relates to the date of effective registration and to priority notices), shall apply for the purposes of this subsection as if the registration of the said rights were to be made in pursuance of the Land Charges Act, 1925. [2067]

(4) The power conferred by subsection (6) of section fifteen of the Land Charges Act, 1925, to make rules for giving effect to the provisions of that section shall be exercisable for giving effect to the provisions of this section, and in subsection (1) of this section the expression " prescribed " means prescribed by rules made in the exercise of that power. [2068]

Land Charges Act, 1925.—For s. 15 (6) thereof, see 15 Halsbury's Statutes 538. By s. 20 (8) thereof (15 Halsbury's Statutes 543), " purchaser " means any person (including a mortgagee or lessee) who, for valuable consideration takes any interest in land or in a charge on land. See also as to the meaning of " land ", s. 20 (6) thereof.

Law of Property (Amendment) Act, 1926, *s.* 4.—15 Halsbury's Statutes 548.

Regulations.—As to sub-s. (2), see the Government Oil Pipe-Line Regulations, 1948 (S.I. 1948 No. 542), reg. 5. See also notes to s. 13, *ante*.

Rules.—As to registration, see the Local Land Charges Rules, 1934 (S. R. & O., 1934, No. 285/L.4), as amended. For amendments, see, in particular, the Local Land Charges (Amendment No. 2) Rules, 1948 (S.I. 1948 No. 2471/L.28), rr. 3 (*b*) and 4.

15. Supplementary provisions as to government oil pipe-lines.—(1) Any person authorised in that behalf by a Minister may, for the purpose—

(*a*) of exercising any powers conferred by section twelve of this Act, or

(*b*) of restoring land where a government oil pipe-line or works accessory thereto are abandoned, or

(*c*) of inspecting any such land or works,

enter upon any land of which the Minister is not in possession :

Provided that—

(i) except in a case of emergency or for the purpose of inspection by a person producing, if required, written evidence of his authority so to do, entry upon any land shall not be demanded as of right unless reasonable notice of the intended entry has been served on the occupier of the land in the manner provided by paragraphs (i) to (v) of subsection (1) of section eight of the Act of 1945 ;

(ii) where otherwise than for the purpose of inspection only any land has been entered upon in pursuance of this subsection without notice being served as aforesaid on the occupier of the land, the Minister shall forthwith cause notice of the entry to be served on the occupier in the manner aforesaid. [2069]

(2) Subsections (6) and (7) of section thirteen of this Act shall apply in relation to powers conferred by the last foregoing subsection as they apply to the powers mentioned in the said subsection (6). [2070]

(3) Sections seventy-eight to eighty-five of the Railways Clauses Consolidation Act, 1845 (which restrict the working of minerals, subject to the payment of compensation) as originally enacted and not as amended for certain purposes by section fifteen of the Mines (Working Facilities and Support) Act, 1923, shall apply in relation to any government oil pipe-line or works accessory thereto with the substitution—

(*a*) for references to the railway of references to the pipe-line or works ;

(*b*) for references to the company of references to the Minister or other person entitled to use the pipe-line or works ;

(*c*) for references to the Special Act of references to section twenty-eight of the Act of 1945. [2071]

(4) The Treasury may make regulations—

(*a*) for the protection of persons affected by the maintenance and use of government oil pipe-lines and works accessory thereto, and in

particular for requiring the Minister or other person entitled to the use thereof to keep any such line and works in good repair, to take such steps as may be prescribed for restoring land where any such line or works are abandoned, and to indemnify persons against loss or damage caused by any failure to keep any such line or works in good repair, and for relieving statutory undertakers and other persons of liabilities or obligations arising in consequence of any such failure or any exercise of the powers conferred by section twelve of this Act of this section ;

(*b*) for requiring notice to be given where a government oil pipe-line or works accessory thereto are abandoned, and for discontinuing the operation of provisions of section twelve of this Act or this section, or of regulations under this subsection, where such a notice is given ;

(*c*) for applying in relation to government oil pipe-lines passing under highways the provisions of Part VI of the Third Schedule to the Water Act, 1945 (which relates to the breaking-up of highways for the purposes of repairing pipes thereunder) and for excluding in relation to government oil pipe-lines the provisions of section sixteen of the Act of 1945. [2072]

Minister.—See notes to s. 3, *ante.*
Government oil pipe-line or works accessory thereto.—See notes to s. 12, *ante.*
Act of 1945.—The Requisitioned Land and War Works Act, 1945 (see s. 20 (3), *post*). For ss. 8 (1), 16 and 28 thereof, see 3 Halsbury's Statutes (2nd Edn.) 1014, 1025, 1036.
Railways Clauses Consolidation Act, 1845, ss. 78–85.—14 Halsbury's Statutes 61 *et seq.*
Mines (Working Facilities and Support) Act, 1923, *s.* 15.—14 Halsbury's Statutes 389.
Water Act, 1945, *Sched. III, Part VI.*—38 Halsbury's Statutes 552.
Regulations.—As to sub-s. (4), see the Government Oil Pipe-Line Regulations, 1948 (S.I. 1948 No. 542), regs. 6–9.

Supplementary

16. Expenses.—There shall be defrayed out of moneys provided by Parliament—

(*a*) any increase in consequence of this Act in the sums payable under the Act of 1939 or the Act of 1945 out of moneys so provided ;

(*b*) any other expenses of a Minister incurred under the provisions of this Act relating to easements over land acquired or proposed to be acquired under the Defence Acts or to government oil pipe-lines. [2073]

Act of 1939.—The Compensation (Defence) Act, 1939 (see s. 20 (3), *post*). For that Act, see 3 Halsbury's Statutes (2nd Edn.) 988.
Act of 1945.—The Requisitioned Land and War Works Act, 1945 (see s. 20 (3), *post*). For that Act, see 3 Halsbury's Statutes (2nd Edn.) 1007.
Minister.—See notes to s. 3, *ante.*
The provisions of this Act, etc.—See s. 4 and ss. 12–15, *ante.*

17. Regulations.—(1) Save as provided by this Act, the Treasury may by regulations prescribe anything authorised or required by this Act to be prescribed. [2074]

(2) Any power conferred by this Act to make regulations shall be exercisable by statutory instrument. [2075]

(3) Any statutory instrument made under this Act shall be subject to annulment by resolution of either House of Parliament. [2076]

Regulations.—The regulations made under this Act are the Government Oil Pipe-Lines Regulations, 1948 (S.I. 1948 No. 542), and the Extinguishment or Modification of Easements Regulations, 1948 (S.I. 1948 No. 1582), *post.*
Statutory instrument.—As to statutory instruments generally, see the Statutory Instruments Act, 1946 (39 Halsbury's Statutes 783). As to annulment, see ss. 5 (1) and 7 (1) thereof ; and see also the Laying of Documents before Parliament (Interpretation) Act, 1948, title STATUTES AND STATUTORY RULES AND ORDERS, *post.*

18. Application to Scotland. [2077]

19. Application to Northern Ireland. [2078]

20. Short title, citation, construction, and interpretation.—(1) This Act may be cited as the Requisitioned Land and War Works Act, 1948, and this Act and the Act of 1945 may be cited together as the Requisitioned Land and War Works Acts, 1945 and 1948. [2079]

(2) This Act shall be construed as one with the Act of 1945, so however that in the provisions thereof amending the Act of 1939 expressions have the meanings assigned to them by the Act of 1939. [2080]

(3) In this Act—

the expression " the Act of 1945 " means the Requisitioned Land and War Works Act, 1945;

the expression " the Act of 1939 " means the Compensation (Defence) Act, 1939;

the expression " the Transitional Powers Act " means the Supplies and Services (Transitional Powers) Act, 1945. [2081]

(4) References in this Act to any enactment shall be construed, except where the context otherwise requires, as references to that enactment as amended or extended by any other enactment, including this Act. [2082]

Requisitioned Land and War Works Act, 1945.—3 Halsbury's Statutes (2nd Edn.) 1007.
Compensation (Defence) Act, 1939.—3 Halsbury's Statutes (2nd Edn.) 988.
Supply and Services (Transitional Powers) Act, 1945.—38 Halsbury's Statutes 629.
Construed as one.—In *Canada Southern Ry. Co.* v. *International Bridge Co.* (1883), 8 App. Cas. 723, Lord SELBORNE said (at p. 727): " It is to be observed that [the] two Acts are to be read together by the express provision of the . . . concluding section of the amending Act; and therefore we must construe every part of each of them as if it had been contained in one Act, unless there is some manifest discrepancy, making it necessary to hold that the later Act has to some extent modified something found in the earlier Act." This definition was quoted with approval and applied by Lord HEWART, C.J., in *Hart* v. *Hudson Brothers, Ltd.*, [1928] 2 K. B. 629, 634; and see *Pratt* v. *Cook, Son & Co. (St. Paul's), Ltd.*, [1939] 1 K. B. 364, 386; [1938] 4 All E. R. 356, 367, *per* GODDARD, L.J.

Section 6 SCHEDULE

MINOR AND CONSEQUENTIAL AMENDMENTS OF ACT OF 1945

1. For the purposes of subsection (2) of section eight and of subsection (4) of section seventeen (which require proposals of a Minister to exercise the powers under the Act to be referred to the War Works Commission where an objection is made) and of any other provision referring to an objection such as is mentioned in either of those subsections, no account shall be, or be deemed ever to have been, required to be taken of an objection which is withdrawn.

2. In section eleven, in subsection (3) (which lays down the principles on which the War Works Commission are to act in considering proposals for the acquisition of land on the grounds specified in section six), for the words from " on the ground that " to " total or partial rehabilitation thereof " there shall be substituted the words " under section six of this Act ".

3. In section thirteen (which provides for disregarding work done on land possession of which has been taken for agricultural purposes by the Minister of Agriculture and Fisheries or by the War Agricultural Executive Committee) the reference to the War Agricultural Executive Committee shall include a reference to a County Agricultural Executive Committee established under the Agriculture Act, 1947.

4. As respects Scotland, in the said section thirteen the reference to the War Agricultural Executive Committee shall include a reference to any committee exercising under any enactment relating to Scotland (whether passed before or after the commencement of this Act) and corresponding to the Agriculture Act, 1947, functions similar to those exercised by a County Agricultural Executive Committee established under the last-mentioned Act.

5. In section fourteen, in subsection (3), the words " or the order is made " are hereby repealed.

6.—(1) Where in pursuance of an order made under section fifteen any highway is permanently stopped up or diverted, and immediately before the date on which

the order became operative there was under, in, upon, over, along or across the highway any telegraphic line belonging to or used by the Postmaster General, the Postmaster General shall have the same powers in respect of that line as if the highway had not been stopped up or diverted :

Provided that if any person entitled to land over which the highway subsisted requires that the telegraphic line should be altered, paragraphs (1) to (8) of section seven of the Telegraph Act, 1878, shall apply to the alteration and accordingly shall have effect, subject to any necessary modifications, as if references therein to undertakers included references to the person so requiring the line to be altered.

(2) In this paragraph the expression " alter " has the same meaning as in the Telegraph Act, 1878.

(3) Nothing in this paragraph shall be construed as limiting the powers conferred by Part IV (which relates to telegraphic lines constructed in the exercise of emergency powers).

7. In section twenty-one, in subsection (1) (which provides for the temporary continuance of orders made under Defence Regulations for the stopping up or diversion of highways notwithstanding the expiration or revocation of the Defence Regulation in question), the reference to the revocation of a Defence Regulation shall include, and be deemed always to have included, a reference to any amendment thereof narrowing the power to make orders thereunder.

8. In section twenty-nine, in subsection (1) (which, where work has been done on land or the value of land has been diminished, confers for certain purposes a right, as against all persons interested in the land, to enter on any land of which a Minister is not in possession) the words " in the land " where they first occur are hereby repealed.

9. The powers conferred by the Act of 1945 to acquire easements shall include power in the like manner and subject to the like provisions to acquire rights, as against all persons affected or to be affected, to take water from a watercourse for the benefit of any land, whether contiguous thereto or not, for the like purposes and to the like extent as water could be taken by virtue of ownership of land contiguous to the watercourse at the place where it is proposed to take the water.

10.—(1) The power of a Minister under section fifty-two to make good to any person interested in land the whole or part of expenditure incurred by him in dealing with the land with a view to its rehabilitation shall be extended in accordance with the following sub-paragraph.

(2) Where—

(*a*) under subsection (3) of section seventy-five of the Town and Country Planning Act, 1947 (which relates to the exercise by local planning authorities of powers to require owners or occupiers to remove government war works) an authority is liable to bear the whole or any part of the cost of taking the steps required by an enforcement notice relating to such works (whether the steps are taken by the authority or by a person entitled to recover expenditure from the authority), and

(*b*) in the opinion of a Minister it is expedient in the public interest that the steps should be taken,

the said power of the Minister shall include power to undertake, either absolutely or subject to such conditions as he may specify, to make good to the authority the whole or any part of the cost which they are liable to bear as aforesaid. [2083]

General note.—This Schedule, which takes effect by virtue of s. 6, *ante*, enacts minor and consequential amendments of the Act of 1945 (*infra*).

Act of 1945.—The Requisitioned Land and War Works, 1945 (see s. 20 (3), *post*).

For ss. 8 (2), 11 (3), 13, 14 (3), 15, 17 (4), 21 (1), 29 (1) and 52 thereof, see 3 Halsbury's Statutes (2nd Edn.) 1015, 1021, 1022, 1023, 1027, 1030, 1037, 1055 ; and for Part IV (ss. 23–25) thereof, see 3 Halsbury's Statutes (2nd Edn.) 1032 *et seq.*

Agriculture Act, 1947.—As to the establishment of county agricultural committees thereunder, see s. 71 thereof (1 Halsbury's Statutes (2nd Edn.) 187).

Telegraph Act, 1878.—For s. 7 thereof, see 19 Halsbury's Statutes 265. By s. 2 thereof (19 Halsbury's Statutes 261), " alter " includes the substitution of any new line or portion of a line, either in the same place or in some other place, also any removal of or other dealing with any telegraphic line or any part of such line.

Town and Country Planning Act, 1947, s. 75 (3).—40 Halsbury's Statutes 813.

ORDERS, CIRCULARS AND MEMORANDA

ACQUISITION OF LAND (CLAIMS FOR ADJUSTMENT OF COMPENSATION FOR WAR DAMAGED LAND) REGULATIONS, 1948

S.I. 1948 *No.* 207

February 5, 1948

The Treasury, in exercise of the power conferred upon them by sub-paragraph (2) of paragraph 1 of the Seventh Schedule to the Town and Country Planning Act, 1947, hereby make the following Regulations :—

1. In these Regulations

(*a*) " the Act " means the Town and Country Planning Act, 1947 ;
(*b*) the expression " the acquiring authority " has the meaning assigned to it by Regulation 2 of these Regulations ;
(*c*) " the Commission " means the War Damage Commission ;
(*d*) " the Seventh Schedule " means the Seventh Schedule to the Act. [2084]

2.—(1) Where the amount of the compensation payable in respect of the compulsory acquisition of an interest in land or the purchase price payable in respect of the acquisition of an interest in land by agreement, falls to be reduced in accordance with the provisions of sub-paragraph (1) or sub-paragraph (5) of paragraph 1 of the Seventh Schedule and the Minister or authority by whom that interest is acquired (in these Regulations referred to as " the acquiring authority ") becomes entitled in accordance with the provisions of sub-paragraph (2) of that paragraph to claim from the Commission a sum equal to the amount of the reduction, a claim in respect of such sum shall subject to Regulation 3 of these Regulations be made :—

(i) In a case where the reduction falls to be made under sub-paragraph (1) of paragraph 1 of the Seventh Schedule

(*a*) where a certificate of after-damage value has been issued by the Commission before the date on which these Regulations come into force and such certificate has not been cancelled or amended pursuant to paragraph (2) of Rule 6 of the Acquisition of Land (Compensation for War Damaged Land) Rules, 1945, within the period of three months after the date on which these Regulations come into force ;

(*b*) in any other case, within the period of three months after the certificate or amended certificate of after-damage value has been issued by the Commission.

(ii) In a case where the reduction falls to be made under sub-paragraph (5) of paragraph 1 of the Seventh Schedule

(*a*) where the acquiring authority has, before the date on which these Regulations come into force, notified the Commission pursuant to sub-section (2) of Section 4 of the Acquisition of Land (Authorisation Procedure) Act, 1946, that an agreement has been entered into for the purchase of an interest in land the war damage to which has not been made good at the date of that agreement, within the period of 60 days after the date on which these Regulations come into force ;

(*b*) in any other case, within the period of 60 days after the date of notifying the Commission of such an agreement.

(2) The Commission may from time to time extend the period within which a claim may be made under this Regulation on a written application being

made to them in that behalf notwithstanding that the period has expired. [2085]

3. In any case in which the settlement of a claim to such supplement as is mentioned in sub-head (*c*) of sub-paragraph (1) of paragraph 1 of the Seventh Schedule has, in default of agreement, become the subject of arbitration or other proceedings pursuant to sub-section (1) of Section 60 of the Town and Country Planning Act, 1944, at the expiration of any of the periods for the making of claims under Regulation 2 of these Regulations or any extension of those periods a claim relating thereto under these Regulations shall be made within 30 days after the date of the award of the arbitrator or the determination by the court of any question arising on a claim to such a supplement, as the case may be. [2086]

4. A claim under these Regulations shall contain the following particulars :—

(*a*) Particulars of the amount paid to the person from whom the interest in question is acquired of such supplement as is mentioned in sub-head (*c*) of sub-paragraph (1) of paragraph 1 of the Seventh Schedule or of the amount of that part of the purchase price which represents the amount of such supplement which would have been payable if the interest in question had been compulsorily acquired, as the case may be, together with a statement in writing by the person from whom the interest is acquired agreeing with the acquiring authority that an amount equal to the sum specified by the acquiring authority in the said particulars represents the amount of such supplement or part of the purchase price, as the case may be.

(*b*) The date of payment of the amount so paid or, if interest has become payable from a date earlier than the date of such payment (whether by virtue of entry on the land to which the claim relates or otherwise), the date from which such interest became payable.

(*c*) In the absence of such a statement as is mentioned in sub-paragraph (*a*) hereof and in the event of the claim to such supplement as is therein mentioned not having become the subject of arbitration or other proceedings pursuant to sub-section (1) of Section 60 of the Town and Country Planning Act, 1944, a statement in duplicate, in lieu of the particulars specified in sub-paragraph (*a*) of this paragraph, of the amount which the acquiring authority claims to have been included in the compensation payable in respect of the compulsory acquisition of the interest in question or in the purchase price payable in respect of the acquisition of the interest in question by agreement, as the case may be, as representing the amount of such supplement or part of the purchase price as is mentioned in sub-paragraph (*a*) hereof, together with particulars in support thereof.

(*d*) In the event of a claim to such supplement as is mentioned in sub-paragraph (*a*) of this paragraph having been determined pursuant to sub-section (1) of Section 60 of the Town and Country Planning Act, 1944, a copy of the award of the arbitrator or of the order of the court, as the case may be. [2087]

5. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [2088]

6. These Regulations shall come into force on the 11th day of February, 1948, and may be cited as the Acquisition of Land (Claims for adjustment of compensation for War Damaged Land) Regulations, 1948. [2089]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to explain their general purport.)

By Section 50 (2) of the Town and Country Planning Act, 1947, the provisions of the Seventh Schedule to that Act have effect :—

(1) *In relation to land compulsorily acquired in pursuance of a Notice to Treat served after the commencement of the Town and Country Planning Act, 1944, and before the passing of the Town and Country Planning Act, 1947, and*

(2) *In relation to land acquired by agreement during that period by an authority authorised to acquire it compulsorily.*

Where a supplement is payable to an owner-occupier by Section 58 of the Town and Country Planning Act, 1944, either as originally enacted or as amended by the Acquisition of Land (Increase of Supplement) Order, 1946, and the amount of a converted value payment payable under Section 14 of the War Damage Act, 1943, (which provides for value payments to be made where partially damaged land is acquired compulsorily or by agreement by a person authorised to acquire it compulsorily) falls to be increased by the War Damage (Increase of Value Payments) Order, 1947, the said Seventh Schedule provides for a reduction in the amount of the compensation or purchase price payable in respect of the acquisition by a sum not exceeding the amount by which the converted value payment is increased or the amount of the supplement which is payable, or which would have been payable if the land had been compulsorily acquired, whichever is the less.

This provision is intended to eliminate the overlap between the owner-occupier supplement and the increase of the converted value payment.

This elimination is effected by the War Damage Commission, on a claim by the acquiring authority, deducting the amount of the overlap (with interest thereon) from the amount of any value payment (with interest thereon) payable by the War Damage Commission under the War Damage Act, 1943, to the person from whom the land is acquired and paying that sum to the acquiring authority.

This Order specifies the time and manner for making any such claim.

COMPENSATION (DEFENCE) NOTICE OF CLAIM RULES, 1948

S.I. 1948 No. 307

February 19, 1948

The Lords Commissioners of His Majesty's Treasury, in pursuance of the powers conferred upon Them by Section 11 of the Compensation (Defence) Act, 1939 and of all other powers enabling Them in that behalf, hereby make the following Rules :—

1.—(1) Claims for compensation under the said Act (as amended by the Requisitioned Land and War Works Acts, 1945 and 1948) accruing due on or after the date on which these Rules come into operation in respect of the taking possession of any land shall be made by notice in accordance with the forms specified in relation to such claims respectively in the First Schedule hereto.

(2) In accordance with the provisions of paragraph (1) of this Rule the Compensation (Defence) Notice of Claims Rules, 1939, and Forms Nos. 1 and 2 specified in the Schedule thereto, shall not apply to claims in respect of land of which possession is taken or relinquished, as the case may be, on or after the date on which these Rules come into operation. [2090]

2. Claims under Section 9 of the Requisitioned Land and War Works Act, 1948, for an increase of the compensation payable in respect of any land under paragraph (*a*) of sub-section (i) of Section 2 of the Compensation (Defence) Act, 1939, shall be made by notice in accordance with the form specified in the Second Schedule hereto. [2091]

3. Every such notice of claim shall be signed by the claimant or by a person duly authorised by the claimant on his behalf and shall be delivered to the competent authority by whom the compensation is payable or to such other person as the competent authority shall direct. [2092]

4.—(1) These Rules may be cited as the Compensation (Defence) Notice of Claim Rules, 1948.

(2) These Rules shall come into operation on the 19th day of February, 1948. [2093]

* * * * *

SCHEDULES

FORM 1 (R)

THE FIRST SCHEDULE

COMPENSATION (DEFENCE) ACT, 1939

Requisition No.

N.B.—The form should be completed in duplicate and both copies sent to :—

.....

.....

.....

NOTICE OF CLAIM FOR COMPENSATION UNDER SECTION 2 (1) (*a*), (*c*) AND (*d*) OF THE ACT (AS AMENDED) IN RESPECT OF THE TAKING OF POSSESSION OF LAND AND/OR BUILDINGS ON BEHALF OF HIS MAJESTY.

(1) Name of Claimant	
Address	
(2) Situation, area and precise description of the land and/or buildings requisitioned, with plan if available. Area of any adjoining land of the claimant of which possession has not been taken. Buildings or parts of buildings on the land of which possession has not been taken.	
(3) Purpose for which last used before requisition (e.g. residential, offices, etc.)	
(4) Nature of Interest If owner, state date and rent of last known letting (if none the fact should be stated) If tenant, state— (*a*) Landlord's name and address .. (*b*) Nature of tenancy or lease .. (*c*) Date of tenancy or lease and short particulars and any special covenants or circumstances	

(*d*) How determinable and term unexpired	
(*e*) Rent payable	
(*f*) Who is responsible for—	
(1) tenant's rates and taxes ..	
(2) repairs	
(3) insurance	
(4) other expenses or outgoings, if any	
(5) (*a*) Rateable value	
(*b*) Net assessment for Schedule A Income Tax	
(6) Particulars of—	
(*a*) Land Tax	
(*b*) Tithe Redemption Annuity or Corn Rent	
(*c*) Land Drainage Rates	
(*d*) Other outgoings, if any ..	
(In Scotland particulars of—	
(1) Land Tax	
(*b*) Feu duty	
(*c*) Ground annual	
(*d*) Teind or stipend	
(*e*) Other outgoings (if any)) ..	
(7) Particulars, in the case of agricultural land, of the holding giving details in respect of—	
(*a*) Things previously done for the purpose of the cultivation of the land and	
(*b*) Seeds	
Tillages	
Growing crops	
Unexhausted Manures ..	
Other similar matters ..	
(8) Date possession taken by competent authority	
(9) Particulars of claim, showing how the amount claimed under each of the following heads is calculated—	
(*a*) In respect of compensation under Section 2 (1) (*a*)	
(*b*) In the case of agricultural land the amount payable by an incoming tenant under Section 2 (1) (*c*)	
(*c*) In respect of expenses incurred in complying with direction (Section (2) (1) (*d*))	

Dated the day of , 19 .

Signature of Claimant .....
(or his duly authorised agent)

Name and address of Agent (if any) .....

(This form is not to be used for claiming compensation for making good damage under Section 2 (1) (*b*) (see Form 2 (R)) or for the requisition or acquisition of goods (see Form 5 to S.R. & O. 1939 No. 1296)).

FORM 2 (R) COMPENSATION (DEFENCE) ACT, 1939

Requisition No.

N.B.—This form should be completed in duplicate and both copies sent to :—

.....

.....

.....

NOTICE OF CLAIM FOR MAKING GOOD DAMAGE UNDER SECTION 2 (1) (*b*) OF THE ACT (AS AMENDED) IN RESPECT OF THE TAKING OF POSSESSION OF LAND AND/OR BUILDINGS ON BEHALF OF HIS MAJESTY.

(1) Name of Claimant	
Address	
(2) Situation and precise description of the property requisitioned.	
(3) Purpose for which last used before requisition (*e.g.* residential, offices, etc.)	
(4) Nature of interest	
(5) Particulars of mortgages, charges or other incumbrances stating names and addresses of mortgagees, chargees or other incumbrancers. (In Scotland, particulars of any heritable securities and the names and addresses of the heritable creditors.)	
(6) Date possession taken by competent authority	
(7) Date possession relinquished ..	
(8) Particulars of claim showing in detail— (*a*) the items of damage occurring to the land and/or buildings during the period of possession in respect of which compensation is claimed (*b*) the amount claimed, showing how arrived at	

Dated the day of , 19 .

Signature of Claimant .....
(or his duly authorised agent)

Name and address of Agent (if any) .....

[2094]

FORM 12 THE SECOND SCHEDULE

COMPENSATION (DEFENCE) ACT, 1939

REQUISITIONED LAND AND WAR WORKS ACTS, 1945 AND 1948

Requisition No.

N.B.—This form should be completed in duplicate and both copies sent to :—

.....

.....

.....

NOTICE OF CLAIM UNDER SECTION 9 OF THE REQUISITIONED LAND AND WAR WORKS ACT, 1948 FOR INCREASE IN COMPENSATION PAYABLE UNDER SECTION 2 (1) (*a*) OF THE COMPENSATION (DEFENCE) ACT, 1939, IN RESPECT OF THE TAKING OF POSSESSION OF LAND AND/OR BUILDINGS ON BEHALF OF HIS MAJESTY.

(1) Name of Claimant .. .. .. Address	
(2) Situation area and precise description of the land and/or buildings requisitioned.	
(3) Purpose for which last used before requisition (e.g. residential, offices, etc.)	
(4) Nature of interest— If owner, state date and rent of last known letting (if none the fact should be stated) If tenant, state (unless the information has already been given and there has been no subsequent change)— (*a*) Landlord's name and address (*b*) Nature of tenancy or lease .. (*c*) Date of tenancy or lease and short particulars and any special covenants or circumstances .. .. .. (*d*) How determinable and term unexpired .. .. .. (*e*) Rent payable .. .. (*f*) Who is responsible for— (1) tenant's rates and taxes.. (2) repairs .. .. .. (3) insurance .. .. (4) other expenses or outgoings, if any.	
(5) Existing compensation payable under Section 2 (1) (*a*)	
(6) Amount claimed, with particulars of how the sum is calculated.	

Dated the day of , 19 .

Signature of Claimant .....
(or his duly authorised agent) .....

Name and address of Agent (if any).....

EXPLANATORY NOTE

(This Note is not part of the Rules, but is intended to indicate their general purport.)

These Rules provide new forms of claim for compensation in respect of requisitions of land made or relinquished after the commencement of the Requisitioned Land and War Works Act, 1948, in order to fit in with the new basis of compensation laid down by that Act. They also provide a form of claim for an increase of rental compensation under that Act in respect of land already requisitioned.

TRANSFER OF FUNCTIONS (MINISTER OF HEALTH AND MINISTER OF TRANSPORT) ORDER, 1948

S.I. 1948 *No.* 490

March 11, 1948

Whereas it is provided by the Ministers of the Crown (Transfer of Functions) Act, 1946, that it shall be lawful for His Majesty by Order in Council to transfer to any Minister of the Crown any functions theretofore exercisable by another Minister of the Crown :

And Whereas the Minister of Health exercises and performs the functions mentioned in Article 2 of this Order which functions appear to His Majesty to be more suitable for the Minister of Transport :

Now therefore His Majesty is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1.—(1) This Order may be cited as the Transfer of Functions (Minister of Health and Minister of Transport) Order, 1948, and shall come into operation on the first day of April, 1948.

(2) The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament. [2096]

2. There shall be transferred to the Minister of Transport the functions of the Minister of Health of—

(*a*) confirming compulsory purchase orders made by local authorities under the Acquisition of Land (Authorisation Procedure) Act, 1946, relating to the acquisition of land under section 159 of the Local Government Act, 1933, or section 100 of the London Government Act, 1939, for the purposes of—

(i) section 154 of the Public Health Act, 1875, as interpreted by section 83 of the Public Health Act, 1925 (which relates to the widening and improvement of streets) ; or

(ii) the exercise of powers vested in the London County Council by virtue of paragraph (viii) of section 3 of the Local Government Act, 1888 (which relates, so far as is material, to bridges and roads repairable with bridges) as applied by subsection (6) of section 40 of the said Act ; or

(iii) section 68 of the Public Health Act, 1925, as amended by section 16 of the Restriction of Ribbon Development Act, 1935 (which relates to the provision of parking places for vehicles) ;

(*b*) giving authorisation for any of the purposes aforesaid under section 2 of the Acquisition of Land (Authorisation Procedure) Act, 1946 (which gives temporary powers for speedy acquisition of land in urgent cases). [2097]

3.—(1) In the construction and for the purposes of any enactment (other than an enactment contained in the Ministers of the Crown Act, 1937) or other instrument passed or made before the date of the coming into operation of this Order any reference to, or which is to be construed as a reference to, the Minister of Health shall, so far only as may be necessary for the purpose or in consequence of the transfer hereby made, be construed as a reference to the Minister of Transport.

(2) This Order shall not prejudice the operation of any compulsory purchase order confirmed, or authorisation under section 2 of the Acquisition of Land (Authorisation Procedure) Act, 1946, given, or the validity of anything preliminary to the confirmation of a compulsory purchase order or the giving of such an authorisation done, by the Minister of Health before the date of the coming into operation of this Order in the exercise of functions thereby transferred, but any such order or authorisation shall, if then in force, continue in force to the like extent and subject to the like provisions as if it had been duly made, and anything done as aforesaid shall have effect as if it had been duly done, by the Minister of Transport. [2098]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order transfers from the Minister of Health to the Minister of Transport the functions of confirming compulsory purchase orders, and of otherwise authorising the speedy acquisition of land, under the Acquisition of Land (Authorisation Procedure) Act, 1946, for certain highway purposes.

EXTINGUISHMENT OR MODIFICATION OF EASEMENTS REGULATIONS, 1948

S.I. 1948 *No.* 1582

July 6, 1948

The Lords Commissioners of His Majesty's Treasury, in pursuance of the powers conferred upon Them by sub-sections (2) and (3) of Section 4 of the Requisitioned Land and War Works Act, 1948, and of all other powers enabling Them in that behalf, hereby make the following Regulations :—

1. These Regulations may be cited as the Extinguishment or Modification of Easements Regulations, 1948, and shall come into operation on the 9th day of July, 1948. [2099]

2.—(1) In these Regulations :—

(*a*) the expression " the Act of 1945 " means the Requisitioned Land and War Works Act, 1945 ;

(*b*) the expression " the Act of 1948 " means the Requisitioned Land and War Works Act, 1948.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [2100]

3. The provisions of sub-sections (3) and (4) of Section 7 of the Act of 1945, and of Section 41 thereof, shall apply, where an easement is extinguished

or modified under sub-section (2) of Section 4 of the Act of 1948, with the following adaptations, that is to say :—

(*a*) in sub-section (3) of Section 7, for the words " a restriction discharged or modified under paragraph (*b*) of sub-section (1) of this section " there shall be substituted the words " an easement extinguished or modified under sub-section (2) of Section 4 of the Requisitioned Land and War Works Act, 1948 " ; and

(*b*) for the word " discharge " there shall be substituted the word " extinguishment," and for the word " restriction " there shall be substituted the word " easement." [2101]

4. Sections 25, 26 and 27 of the Town and Country Planning Act, 1944, as amended by the Town and Country Planning Act, 1947, and the Schedules, as so amended, referred to in those sections, shall, in connection with the operation of sub-section (3) of Section 4 of the Act of 1948, apply with the following adaptations, that is to say :—

(*a*) in sub-section (1) of Section 25, after the words " Where there subsists over land " there shall be added the words " which a Minister has acquired under Part II of the Requisitioned Land and War Works Act, 1945, or has power so to acquire, or would have power so to acquire if he did not already own it, or which a Minister having power, otherwise than by virtue of the said Part II, to acquire land under the Defence Acts (as defined in the said Act) has so acquired or proposes so to acquire (any such Minister being hereinafter in this section called ' the acquiring Minister '), or " ;

(*b*) in subhead (*c*) of sub-section (1) of Section 27, after the word " Act " there shall be added the words " or under Section 25 of this Act, as applied for the purposes of sub-section (3) of Section 4 of the Requisitioned Land and War Works Act, 1948," ;

(*c*) in subhead (*e*) of paragraph 1 of the Fourth Schedule, there shall be added the words " or of sub-section (3) of Section 4 of the Requisitioned Land and War Works Act, 1948 " ;

(*d*) before the words " the purchasing or appropriating authority " there shall be added the words " the acquiring Minister or " ; and

(*e*) the expression " extinguishment " shall include modification, and the expression " extinguish " shall be construed accordingly. [2102]

5. These Regulations shall apply to Scotland subject to the following modifications :—

(*a*) for references to the Town and Country Planning Act, 1944, and to the following provisions of that Act, that is to say, Sections 25, 26 and 27, and the Schedules referred to in those Sections, there shall be respectively substituted references to the Town and Country Planning (Scotland) Act, 1945, and to the following provisions of that Act, that is to say, Sections 24, 25 and 26, and the Schedules referred to in those Sections ;

(*b*) for references to the Town and Country Planning Act, 1947, there shall be substituted references to the Town and Country Planning (Scotland) Act, 1947 ; and

(*c*) the expression " easement " includes servitude. [2103]

6. These Regulations shall apply to Northern Ireland subject to the following modification, that is to say, Regulation 4 of these Regulations shall have effect as if the Town and Country Planning Act, 1944, as amended, extended to Northern Ireland. [2104]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations but is intended to indicate their general purport.)

Subsection (2) of Section 4 of the Requisitioned Land and War Works Act, 1948, gives power to certain Ministers, who have acquired under the Defence Acts, otherwise than by virtue of Part II of the Requisitioned Land and War Works Act, 1945, or who propose so to acquire any land, to extinguish or modify any easement to which the land is subject, and provides for the application, with prescribed adaptations, of the provisions contained in Section 7 (3), 7 (4) and 41 of the latter Act, thus placing the compensation payable for the extinguishment or modification of easements on the same footing as the compensation payable for the discharge or modification of restrictions on the user of land.

Subsection (3) of the same section provides that, where an interest in land benefited by certain types of easement is vested in a statutory undertaking (as defined), the provisions of Sections 25, 26 and 27 of the Town and Country Planning Act, 1944 (or, if the land is in Scotland, of Sections 24, 25 and 26 of the Town and Country Planning (Scotland) Act, 1945) and of the Schedules referred to in those sections shall apply with prescribed adaptations, as regards the interest of the undertaking in lieu of the provisions mentioned above.

These Regulations prescribe the necessary adaptations.

CASES

Emergency legislation—Requisition of land—Dwelling-house—Delegation of power—Delegation to local authority—Exercise of power by authority—Conditions in circulars issued by Minister of Health—Purported ratification and adoption by Minister—Defence (General) Regulations, 1939 (S. R. & O., 1939, No. 927 (as amended)), reg. 51 (1), (5)—Supplies and Services (Transitional Powers) Act, 1945 (c. 10), s. 1 (1).

Practice—Discovery—Privilege—Local authority—Correspondence between departments—Correspondence between authority and Ministry of Health—Reports and proceedings of committees of authority.

The Defence (General) Regulations, 1939, reg. 51, provides: "(1) A competent authority, if it appears to that authority to be necessary or expedient so to do [for any of the purposes specified in s. 1 (1) of the Supplies and Services (Transitional Powers) Act, 1945] may take possession of any land, and may give such directions as appear to the competent authority to be necessary or expedient in connection with the taking of possession of that land. . . . (5) A competent authority may, to such extent and subject to such restrictions as it thinks proper, delegate all or any of its functions under paras. (1) to (3) of the regulation to any specified persons or class of persons."

As a competent authority the Minister of Health, acting under para. 5, delegated his power to take possession of dwelling-houses under para. 1 to local authorities, including the plaintiffs, by means of "circulars," which contained "conditions," *inter alia*, that (i) no chattel on the premises might be requisitioned and the requisition notice should contain a direction as to the disposal of any chattel therein, and (ii) where within 14 days the owner notified his intention to occupy the house, the authority should not proceed further in the matter unless the local authority was satisfied that to allow the owner to occupy the premises would result in serious under-occupation. The defendant was the owner of a house at B. in which he occupied one room only, letting the remainder to a tenant. When the tenant left, the defendant began negotiations for the sale of the house. The prospective purchaser paid a deposit on June 18, 1946, but on June 20 a requisition notice was served on

the defendant under reg. 51 (1) stating that the town clerk of B. had that day taken possession of the premises. A substantial quantity of the defendant's furniture remained on the premises, but the requisition notice contained no direction as to its disposal. The proposed purchaser withdrew from the transaction, and on June 26 the defendant went into occupation of the house, intimating to the town clerk that he intended to use it as his own residence. On July 29, in the course of correspondence which ensued, the town clerk stated that the Minister of Health wished him to emphasise that the defendant had committed an offence under the Defence Regulations, that he was a trespasser, and that the premises must be vacated forthwith. On Aug. 20, in a letter to the defendant's solicitors, the Minister of Health purported to confirm the town clerk's actions, and on Nov. 28 (after the commencement of this action) the Minister, by letter to the town clerk, purported to ratify all the actions of the town clerk in connection with the premises. The plaintiffs, the corporation of B., sought possession of the dwelling-house, damages for trespass, and an injunction :—

Held : (i) the provision of housing for the inadequately housed was within the term " supplies and services " as employed in s. 1 (1) of the Act of 1945, and was, therefore, within the scope of reg. 51, as amended.

(ii) the original attempt at requisition on June 20 was inoperative because, in breach of the conditions or limitations applicable to the delegated powers, the notice purported to requisition the house and its contents and contained no direction as to the exclusion or disposal of the chattels.

(iii) (by SCOTT and ASQUITH, L.JJ., EVERSHED, L.J., *dubitante*), on June 26, on the notification by the defendant of his intention himself to occupy the premises, the plaintiffs ought not to have proceeded further in the matter, being legally debarred therefrom by the terms of the circulars.

(iv) the result of the letters of July 29 and August 20 was not to effect a requisitioning of the premises by the Minister himself, because (*a*) the Minister had not in his sub-delegated legislation reserved power so to act ; and (*b*) the Minister did not, in fact, then requisition or take possession of, the premises.

(v) (*a*) the Minister, when delegating his powers, had for the time being divested himself of those powers, and, therefore, he had no power to ratify the purported requisition of June 20, and (*b*) neither the plaintiffs nor the town clerk were acting as the Minister's agent.

Claims made on behalf of the B. corporation of privilege from disclosure to the defendant of (*a*) correspondence between departments of the corporation and (*b*) correspondence between the corporation and the Ministry of Health, *held*, not to disclose any legal grounds of privilege :—

Held : also, that copies of reports, proceedings and instructions of committees of the corporation were not privileged from disclosure save in so far as they emanated from or were addressed to the legal advisers of the corporation for the purposes of the litigation.

Observations on the importance and desirability of facilitating the ascertainment by the private citizen of the manner in which his rights are effected by sub-delegated legislation.—BLACKPOOL CORPORATION *v.* LOCKER, [1948] 1 K. B. 349 ; [1948] 1 All E. R. 85 ; [1948] L. J. R. 847 ; 112 J. P. 130 ; 46 L. G. R. 58, C.A. [2105]

Requisition—House—Delegation of powers—Sufficiency of letter from Minister—Requisition of part of premises—Need for part to be specified in delegation—Defence (General) Regulations, 1939 (*S. R. & O.,* 1939, *No.* 927 (*as amended*)), *reg.* 51 (1), (5)—*Emergency Powers (Defence) Act,* 1939 (*c.* 62), *s.* 7.

The Minister of Health by letter delegated to the clerk of a local authority his " functions under reg. 51 of the Defence (General) Regulations, 1939, for

the purpose of requisitioning part of [specified] premises for re-housing purposes." In pursuance of the powers so conferred the clerk served on the owner notice of requisition of the premises " excluding shop and shop parlour " :—

Held: (i) under the Emergency Powers (Defence) Act, 1939, s. 7, production of the letter was sufficient proof of the delegation.

(ii) the Minister having power to requisition part of the premises under reg. 51 could delegate power to requisition a part thereof without specifying which part, but leaving it to his delegate to requisition so much of the premises as he thought fit.—CARLISH *v.* EAST HAM CORPN., [1948] 2 K. B. 380; [1948] 2 All E. R. 550; [1949] L. J. R. 113; 112 J. P. 387; 64 T. L. R. 419; 92 Sol. Jo. 471; 46 L. G. R. 455. [2106]

LAND CHARGES

PAGE

ORDERS, CIRCULARS AND MEMORANDA :—
Agriculture Act, 1947 (Registration of Supervision Orders) Rules, 1948—*See title* AGRICULTURE.
Town and Country Planning Acts, 1944 and 1947 (Registration of Orders and Lists of Buildings) Rules, 1948—*See title* TOWN AND COUNTRY PLANNING.
Local Land Charges (Amendment) Rules, 1948—*See title* TOWN AND COUNTRY PLANNING.

LAND DRAINAGE

STATUTES :— PAGE
Emergency Laws (Miscellaneous Provisions) Act, 1947, ss. 4, 12 – – – 706
River Boards Act, 1948 – – – – – – – – – – 708

STATUTES

EMERGENCY LAWS (MISCELLANEOUS PROVISIONS) ACT, 1947

(11 & 12 Geo. 6, c. 10)

PRELIMINARY NOTE

S. 4 of this Act, which section came into force on December 31, 1947, effects a further extension of certain emergency enactments relating to agriculture, namely, Part I and (excepting certain sections) Part III of the Agriculture (Miscellaneous War Provisions) Act, 1940 (33 Halsbury's Statutes 3). Part I of that Act relates to wheat and is not relevant to this title. Part III, consisting of ss. 14–22, relates to land drainage, and by s. 22 (4) thereof the powers in relation to dams and sluices and the powers of entry conferred by that Part are not to be exercised after the end of the " war period ". This period was originally defined by s. 30 (1) (*c*) of the Act to mean the period during which the Emergency Powers (Defence) Act, 1939, was in force. That Act expired on February 24, 1946, but by sub-s. (1) of s. 3 of the Emergency Laws (Transitional Provisions) Act, 1946 (30 Halsbury's Statutes 882) it was provided that, for the purposes of the Act of 1940 (other than s. 20 thereof) and of certain other agricultural enactments, the expression " war period " should include the period during which the said s. 3 was in force, which by sub-s. (4) thereof was to continue until December 31, 1947, and then expire.

S. 4 of the present Act now amends s. 3 of the Act of 1946, firstly, by substituting for sub-s. (1) thereof a new subsection under which the extended definition of " war period " applies only for the purposes of Part I and Part III (except ss. 14 and 15)

of the Act of 1940, and secondly by amending sub-s. (4) thereof to refer to December 10, 1950 instead of to December 31, 1947.

The effect of the present section is, accordingly, to continue in force Part I and (excepting ss. 14, 15 and 20) Part III of the Act of 1940 until December 10, 1950.

As to s. 15, see the Agriculture Act, 1947, s. 96 (1 Halsbury's Statutes (2nd Edn.) 210). [2107]

ARRANGEMENT OF SECTIONS

Section		Page
* * * * *		
4.	Further extension of emergency enactments relating to agriculture ..	707
* * * * *		
12.	Short title and commencement	708
* * * * *		

An Act to make further provision with respect to the Defence Regulations continued in force by the Emergency Laws (Transitional Provisions) Act, 1946, and with respect to certain emergency and temporary enactments extended by or contained in that Act; to repeal certain other emergency enactments; and for purposes connected with the matters aforesaid. [2108]

[18th December, 1947.]

* * * * *

4. Further extension of emergency enactments relating to agriculture.—(1) For subsection (1) of section three of the Act of 1946 (which subsection provides for the extension until the thirty-first day of December, nineteen hundred and forty-seven of the war period for the purposes of the Agriculture (Miscellaneous War Provisions) Act, 1940, the Agriculture (Miscellaneous Provisions) Act, 1941, and section fourteen of the Agriculture (Miscellaneous Provisions) Act, 1943) there shall be substituted the following subsection:—

"(1) For the purposes of Part I of the Agriculture (Miscellaneous War Provisions) Act, 1940 (which relates to wheat) and Part III of that Act (which relates to land drainage), except sections fourteen and fifteen thereof, the expression 'war period' shall include the period during which this section is in force after the expiry of the Emergency Powers (Defence) Acts, 1939 to 1945". [2109]

(2) Subsection (4) of section twenty-two of the Agriculture (Miscellaneous War Provisions) Act, 1940 (which provides that no scheme shall be approved under Part III of that Act after the end of the war period) shall not be construed as preventing the variation under section four of the Agriculture (Miscellaneous Provisions) Act, 1943, after the end of the war period, of any drainage scheme approved before the end of that period. [2110]

(3) Subsection (2) of section three of the Act of 1946 is hereby repealed. [2111]

(4) In subsection (4) of section three of the Act of 1946, for the reference to the thirty-first day of December, nineteen hundred and forty-seven, there shall be substituted a reference to the tenth day of December, nineteen hundred and fifty. [2112]

General effect of section.—See Preliminary Note, *ante*.

Act of 1946.—The Emergency Laws (Transitional Provisions) Act, 1946. For s. 3 thereof, see 39 Halsbury's Statutes 882.

Agriculture (Miscellaneous War Provisions) Act, 1940.—33 Halsbury's Statutes 3. "War period" is defined in s. 30 (1) (c) thereof (1 Halsbury's Statutes (2nd Edn.) 107).

Expiry of the Emergency Powers (Defence) Acts, 1939 *to* 1945.—These Acts expired on February 24, 1946.

Agriculture (Miscellaneous Provisions) Act, 1943, *s.* 4.—36 Halsbury's Statutes 3.

Sub-s. (3).—S. 3 (2) of the Act of 1946 (*supra*) enabled land to be acquired under s. 6 (1) of the Agriculture (Miscellaneous Provisions) Act, 1943 (36 Halsbury's Statutes 7) in pursuance of a contract for acquisition made or a notice to treat served up to December 31, 1947. The time is now extended to December 10, 1950, by virtue of sub-s. (4), *supra*.

* * * * *

12. Short title and commencement.—(1) This Act may be cited as the Emergency Laws (Miscellaneous Provisions) Act, 1947. [2113]

(2) This Act, except sections eight, ten and eleven, shall come into operation on the thirty-first day of December, nineteen hundred and forty-seven. [2114]

* * * * *

RIVER BOARDS ACT, 1948

(11 & 12 Geo. 6, c. 32)

PRELIMINARY NOTE

This Act, which came into force on receiving the Royal Assent on May 28, 1948, is a measure for the administrative re-organisation of certain functions connected with water. It is designed to place responsibility for land drainage, fisheries and the prevention of river pollution, hitherto divided among multifarious authorities, upon a single authority, to be known as a river board, for each of the main rivers of England and Wales.

The Act is based on recommendations made by the Central Advisory Water Committee in their Third Report (Cmd. 6465), presented to Parliament in August 1943, and which were generally endorsed in the White Paper on National Water Policy (Cmd. 6515). The Act represents only a preliminary step in dealing with the country's water problems and, except in one instance, is concerned only with the transfer of existing functions and not with their extension. Further legislation will be initiated to strengthen the existing powers, particularly with regard to river pollution and land drainage, when the Committee have reported on these matters.

The Act requires the Ministers of Health and of Agriculture and Fisheries acting jointly to make orders establishing river boards for areas comprising together the whole of England and Wales other than certain excluded areas (s. 1). The Minister of Agriculture, in moving the Second Reading of the Bill in the House of Commons, stated that there were to be twenty-nine boards in all and that their establishment would take a long time (447 H. of C. Official Report 1959). The excluded areas are the Thames and Lee catchment areas, the administrative county of London, and any area adjoining that county not within an existing catchment area. Their exclusion is rendered necessary by problems peculiar to those areas, such as the relationship of the Thames and Lee Conservancy Boards to the Metropolitan Water Board and the pollution functions of the Port of London Authority. The Ministers are, however, empowered to make an order bringing the excluded areas or any part thereof into the river board scheme if at any time it should prove desirable to do so (s. 7).

The area of each river board is to be defined by the order establishing it (s. 1 (1) (*a*)), and is to consist of an area the drainage of which is directed to a river or group of rivers, together with such adjoining areas as the Ministers consider expedient to include (s. 2 (1)). The areas are left to be defined by individual order instead of being defined in the Act itself, since, as the Joint Parliamentary Secretary to the Ministry of Agriculture explained when moving the Second Reading of the Bill in the House of Lords, the delimitation of areas is particularly controversial and it was felt preferable to leave the matter to be decided by the Minister after consultation with the interested bodies rather than by parliamentary debate (152 H. of L. Official Report 712). For the purposes of their fishery and river pollution functions, river board areas are to include certain tidal and coastal waters (s. 5).

The composition of a river board is to follow with modifications that of catchment boards under the Land Drainage Act, 1930 (23 Halsbury's Statutes 529).

The members are not, as a general rule, to exceed forty in number, of whom, after allowing for one member appointed by the Ministers, between three-fifths and two-thirds are to be appointed by county councils and county borough councils (s. 2 (2)). District councils lose the power of direct appointment that they have in the case of catchment boards, but county councils are required to secure adequate representation for them, and in the case of the more important district councils, are to appoint a nominee of the district council (s. 2 (5)).

As from the appointed day (which is to be separately appointed in respect of each river board area by the order establishing it (s. 35)) the functions of catchment boards and fishery boards and the river pollution functions of local authorities and of joint boards and joint committees of local authorities, are transferred to the river boards, and will cease to be exerciseable by the former authority in relation to any area included in a river board area (s. 4).

The relevant enactments and statutory orders are consequentially applied to river board areas subject to the modifications, adaptations and exceptions specified in Sched. III (s. 4). The principal enactments concerned are, as respects land drainage, the Land Drainage Act, 1930 (23 Halsbury's Statutes 529); as respects fisheries, the Salmon and Freshwater Fisheries Act, 1923 (10 Halsbury's Statutes (2nd Edn.) 59); and, as respects river pollution, the 1923 Act and the Rivers Pollution Prevention Acts, 1876 and 1893 (20 Halsbury's Statutes 316, 345).

When river boards have been established for the whole of the country, 53 catchment boards, 377 drainage boards, 48 fishery boards and over 1,600 pollution authorities will have been replaced by some 29 river boards.

An order made by the Ministers, including the Minister of Transport, may provide for transferring to a river board any of the functions of a navigation, conservancy or harbour authority in the area (s. 8).

As already stated, pending further legislation river boards will be confined to exercising existing functions, since no new powers are conferred by the Act. To this, however, there is one exception. River boards are required to conserve the water resources of their areas, and for this purpose new powers and duties are conferred on them with regard to the measurement and recording of rainfall and the flow or volume of rivers (s. 9). These powers and duties are also conferred, with modifications, on the appropriate authorities for the excluded areas (s. 9 (10)).

The Act contains a number of financial and administrative provisions dealing with such matters as borrowing powers (s. 11), the acquisition of land (s. 12), powers of entry and inspection (s. 16), and the making of bye-laws (s. 18), which are designed to provide a uniform procedure to replace the differing procedures for separate functions under existing legislation. In addition, since river boards will be important local authorities, there are provisions assimilating their position with that of other local authorities in regard to such matters as the promotion of bills (s. 21), default powers of the Ministers (s. 22) and the holding of inquiries (s. 23), and officers of river boards are brought within the scope of the Local Government Superannuation Act, 1937 (30 Halsbury's Statutes 385).

Compensation is to be paid to former employees of the transferor authorities who suffer financially as a result of the transfer (s. 30).

The procedure for making orders and provisions as to their validity are contained in Sched. I. [2115]

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An Act to provide for establishing river boards and for conferring on or transferring to such boards functions relating to land drainage, fisheries and river pollution and certain other functions; and for purposes connected with the matters aforesaid. [2116] [28th May, 1948.]

Establishment and functions of river boards

1. Establishment of river boards for areas comprising whole of England and Wales except Thames, Lee and London areas.—(1) The Ministers shall, as soon as practicable, in accordance with the following provisions of this Act—

(*a*) by order define areas (to be known as "river board areas") which shall between them comprise the whole of England and Wales, except

the Thames and Lee catchment areas, the administrative county of London and any area adjoining that county which is not at the date of the passing of this Act included in any catchment area ;

(*b*) by order establish boards (to be known as " river boards ") for the areas so defined, who shall have the functions conferred on or transferred to them by or under the following provisions of this Act, being functions relating to land drainage, fisheries and river pollution and certain other functions relating to rivers, streams and inland waters. [2117]

(2) Without prejudice to the duty of the Ministers under the preceding subsection, orders defining river board areas and establishing river boards may be made at different times for different areas. [2118]

Orders.—As to orders generally, see s. 33, *post*. No orders under this section had been made at the date of going to press.

Thames and Lee catchment areas.—For provisions concerning the drainage board of the Thames catchment area and the Conservators of the River Thames, and the drainage board of the Lee catchment area and the Lee Conservancy Board, see the Land Drainage Act, 1930, ss. 79, 80 (23 Halsbury's Statutes 579, 581), as respectively amended by the Thames Conservancy Act, 1932, s. 6, Sched. I (22 & 23 Geo. 5, c. xxxvii), and the Lee Conservancy Catchment Board Act, 1936 (ss. 2 (1), 7 (26 Geo. 5 & 1 Edw. 8, c. lxviii).

Definitions.—For definitions of " catchment area ", " functions ", " river pollution " and " the Ministers ", see s. 36 (1), *post*.

2. Definition of river board areas and constitution of river boards.—(1) Each river board area shall consist of an area the drainage of which is directed to a river or group of rivers, together with such adjoining areas as the Ministers consider it expedient to include in the river board area, and the order defining a river board area shall do so either by reference to a map or by reference to the line of any watershed or the boundary of any area of local government or catchment area existing immediately before the making of the order, or partly by one method and partly by another. [2119]

(2) An order establishing a river board shall provide for the appointment of such number of members not exceeding forty as may be specified in the order, who shall be appointed as follows :

(*a*) one member shall be appointed by the Ministers ;

(*b*) such number, not being less than three-fifths or more than two-thirds of the remaining members, as may be specified in the order shall be appointed, whether from their own members or not, by the councils of the counties and county boroughs whose area, or any part of whose area, is included in the river board area ;

(*c*) the remainder of the members shall be appointed by the Minister of Agriculture and Fisheries and shall consist of—

(i) persons appointed, after consultation with the drainage boards whose districts are wholly or partly included in the river board area, to represent those boards, and persons appointed to represent that portion, if any, of the river board area for which drainage boards might be, but have not been, established ; and

(ii) persons appointed to represent fishery interests in the river board area after consultation with any association or person appearing to the Minister to represent a substantial fishery interest in that area. [2120]

(3) As respects the members of a river board to be appointed by the councils of counties and county boroughs, the number to be appointed by each of the said councils shall be such as the Ministers may determine, having regard to the estimated amounts of the contributions to be made by those councils respectively towards the expenses of the board, and shall be specified in the order. [2121]

(4) Where it appears to the Ministers that, owing to the small estimated amount of the contribution to be made by the council of any county or county

borough as aforesaid, the council ought not to appoint a member of the river board, the Ministers may provide in the order that that council shall be represented by a member appointed by agreement between that council and the council of any other county or county borough concerned, or, in default of agreement between the councils, by a member appointed by the Ministers to represent the councils jointly. [2122]

(5) The councils of counties shall secure that adequate representation is given to the county districts wholly or partly included in a river board area, having regard to the relative rateable values of property in those districts or parts thereof, and in particular, where the total rateable value of property in any county district or part of a county district included in a river board area bears to the total rateable value of the property in the county or part of the county so included a proportion greater than that borne by the number one to the number of members of the river board to be appointed by the council of that county, one or more of the members so appointed shall be appointed from among persons nominated by the council of the county district, and the number of members to be appointed from among persons so nominated shall be fixed having regard to the said proportion and shall be specified in the order establishing the river board. [2123]

(6) The councils of counties and county boroughs and the Ministers and the Minister of Agriculture and Fisheries in making appointments under this section shall have regard to the desirability of including, as far as practicable, among the members appointed by them persons having a practical knowledge of the various matters with respect to which river boards exercise functions, and the councils of counties and county boroughs shall not appoint any officer or servant of the council or of any other local authority :

Provided that the council of a county or county borough shall not thereby be precluded from appointing a member of the council who is also an officer or servant of another local authority. [2124]

(7) Where a river board is established for an area which consists of or includes the River Ouse (Yorks) Catchment Area or the River Trent Catchment Area, the order establishing the board shall provide for the appointment of a member by the National Coal Board, and that member shall be additional to the members appointed under subsection (2) of this section and shall be disregarded for the purposes of that subsection. [2125]

(8) Any order defining a river board area or establishing a river board shall be made in accordance with Part I of the First Schedule to this Act, and Part III of that Schedule shall apply with respect to the validity of any such order ; and Part II of that Schedule shall, in the case of any order defining a river board area, apply for the purpose of making the order subject to special parliamentary procedure in the circumstances specified in that Part. [2126]

(9) The provisions of the Second Schedule to this Act shall have effect with respect to river boards and their members, the appointment of committees, the proceedings of river boards and their committees, and the appointment by river boards of officers and servants. [2127]

Orders.—As to orders generally, see s. 33, *post*. No orders under this section had been made at the date of going to press.

Constitution of river boards.—The order establishing a river board, which is to be made jointly by the Ministers of Health and of Agriculture and Fisheries, is to provide for the appointment of members not exceeding forty in all (but see sub-s. (7) as to the appointment of a member by the National Coal Board). Such order is to be made in accordance with Sched. I, *post* (sub-s. (8)). As regards the various interests represented in a river board, the general principle has been adopted that only those who directly contribute to the funds of the river board should have representation on it.

Appointments to the Board.—Two principal groups are to be represented on the Board. On the one hand there are to be representatives of the local authorities concerned, which authorities have a general interest in all the functions of the Board ; and on the other hand there are to be representatives of bodies with a specialised interest, *i.e.* those representing drainage and fishery interests.

National Coal Board.—The National Coal Board was established by the Coal Industry Nationalisation Act, 1946, s. 1 (39 Halsbury's Statutes 256).

Sub-s. (7), *supra*, continues for river boards the long-standing arrangement under which colliery owners (now the National Coal Board) in the Doncaster area, where mining subsidence creates important drainage problems, were represented on the Ouse and Trent catchment boards. The order establishing a river board consisting of, or including, this area, must provide for the appointment of an additional member by the National Coal Board.

Special parliamentary procedure.—As to special parliamentary procedure, see the Statutory Orders (Special Procedure) Act, 1945 (38 Halsbury's Statutes 439).

Definitions.—For definitions of "catchment area", "drainage board", and "the Ministers", see s. 36 (1), *post*.

3. Variation of river board areas and of constitution of river boards.—(1) The Ministers may, whether before or after they have defined river board areas comprising the whole area mentioned in section one of this Act, by order—

(*a*) alter an existing river board area, whether by way of extension or reduction; or

(*b*) define a new river board area which includes or consists of one or more existing river board areas or any part or parts thereof;

and subsection (1) of the last preceding section shall apply to any order made under this subsection and to the area as defined thereby, subject to the modification that the reference to a catchment area shall include a reference to a river board area:

Provided that nothing in this subsection shall be taken as authorising the inclusion in a river board area of the whole or any part of the areas excluded from section one of this Act. [2128]

(2) An order made under the preceding subsection shall state whether it is to be regarded as altering an existing river board area or as defining a new river board area for which a new river board is required to be established, and in the latter case the Ministers shall by order establish a new river board in accordance with the preceding provisions of this Act, and in the former case the Ministers may, to such extent as appears to them to be necessary in consequence of the alteration of the river board area, by order vary the constitution of the river board for the altered area, but not so as to depart from the requirements of the last preceding section. [2129]

(3) The Ministers may by order vary the constitution of any river board to such extent as appears to them to be necessary in consequence of any substantial alteration of the areas of local government included wholly or partly in the river board area or any substantial change in the rateable value of the property in any such area of local government, but not so as to depart from the requirements of the last preceding section. [2130]

(4) Any order made under this section shall be made in accordance with Part I of the First Schedule to this Act, and Part III of that Schedule shall apply with respect to the validity of any such order; and Part II of that Schedule shall, in the case of any order altering or defining a river board area, except an order altering a river board area which states that the alteration is due solely to an alteration in the direction of the drainage of any land, apply for the purpose of making the order subject to special parliamentary procedure in the circumstances specified in that Part. [2131]

Orders.—As to orders generally, see s. 33, *post*. No orders under the present section had been made at the date of going to press.

Variation of river board areas.—The Ministers of Health and of Agriculture and Fisheries, acting jointly, may at any time by an order made in accordance with Sched. I, *post*, alter an existing river board area or define a new area. The provisions of s. 2 (1), *ante*, are to apply to any such order and to the area as defined thereby. It is expressly provided that the Thames and Lee catchment areas, the administrative county of London and any area adjoining that county which, on May 28, 1948, was not included in any catchment area, cannot be included in a river board area, as altered, or newly defined under the present section.

Variation of constitution of river boards.—The constitution of any river board may be varied by order of the Ministers to any extent as appears to them necessary (*a*) where the local government areas included wholly or partly in the river board area are substantially altered or (*b*) when there is a substantial change in the rateable value of the property in any such local government area. In either case, the variation of the constitution must comply with the requirements of s. 2, *ante*.

Special parliamentary procedure.—As to special parliamentary procedure, see the Statutory Orders (Special Procedure) Act, 1945 (38 Halsbury's Statutes 439).
Definition.—For definition of "the Ministers", see s. 36 (1), *post.*

4. Functions of river boards.—(1) For the purpose of conferring on river boards the functions of catchment boards and fishery boards and the functions exercisable by local authorities and joint boards and joint committees of local authorities under section sixty-nine of the Public Health Act, 1875, the Rivers Pollution Prevention Act, 1876, and any enactment relating to river pollution contained in a local Act or statutory order, the enactments and statutory orders referred to in the Third Schedule to this Act shall have effect, as from the appointed day, in relation to any river board area, subject to the modifications, adaptations and exceptions specified in the said Schedule. [2132]

(2) As from the appointed day, any catchment board, fishery board, local authority, joint board or joint committee, the whole or any part of whose area or district is included in a river board area, shall cease to exercise the functions aforesaid or, as the case may be, cease to exercise them in relation to that part of their area or district, but nothing in this section or in the Third Schedule to this Act shall affect the exercise of functions by any such body in relation to any area or district, or any part of an area or district, not included in a river board area. [2133]

(3) Where, in consequence of an order made under the last preceding section, there is included in any new or existing river board area the whole or any part of another river board area, there shall become exercisable, as from the appointed day, by the river board for the first-mentioned area (in addition to the functions which become exercisable by that board under subsection (1) of this section) any other functions previously exercisable in the other river board area or part thereof, as the case may be, by the river board for that area, and those functions shall as from that day cease to be exercisable or, as the case may be, cease to be exercisable in that part, by the last-mentioned river board. [2134]

General note.—This section provides for transferring to river boards the functions of catchment boards and fishery boards, and the pollution function of local authorities and joint boards and joint committees of local authorities.
Public Health Act, 1875, *s.* 69.—13 Halsbury's Statutes 654.
Rivers Pollution Prevention Act, 1876.—20 Halsbury's Statutes 316.
Appointed day.—See s. 35, *post.*
Definitions.—For definitions of "catchment board", "fishery board", "functions", "local authority", "river pollution" and "statutory order", see s. 36 (1), *post.*

5. Extension of river board areas for purposes of certain functions.—(1) A river board area shall—

(*a*) for the purposes of the functions of the river board relating to fisheries, include those tidal waters and parts of the sea adjoining the coast of the river board area within which His Majesty's subjects have the exclusive right of fishing; and

(*b*) for the purposes of the functions of the river board relating to river pollution, include such tidal waters and parts of the sea adjoining the coast of the river board area as are included in the definition of "stream" for the purposes of the Rivers Pollution Prevention Act, 1876, by virtue of an order made, whether before or after the passing of this Act, under section twenty of that Act or section fifty-five of the Salmon and Freshwater Fisheries Act, 1923. [2135]

(2) Any question arising under the preceding subsection as to the extent of the tidal waters or parts of the sea included in any river board area for the purposes mentioned in paragraph (*a*) of that subsection shall be determined by the Minister of Agriculture and Fisheries. [2136]

Rivers Pollution Prevention Act, 1876, *s.* 20.—20 Halsbury's Statutes 323.
Salmon and Freshwater Fisheries Act, 1923, *s.* 55.—10 Halsbury's Statutes (2nd Edn.) 100.
Definitions.—For definitions of "functions" and "river pollution", see s. 36 (1), *post.*

6. Definition of main river.—(1) When a new river board area has been defined, or an existing river board area has been altered so as to affect the extent of the main river for the purposes of Part II of the Land Drainage Act, 1930, the Minister of Agriculture and Fisheries shall cause a map of the area as defined or altered to be prepared showing by some distinctive colour the extent to which any river or watercourse in the area is to be treated as the main river or part of the main river for the said purposes, and shall cause to be published, in one or more newspapers circulating in the area, a notice stating that the map has been prepared and specifying the place at which a copy of the map may be inspected and the time (not being less than twenty-eight days) within which, and the manner in which, objections thereto may be made. [2137]

(2) On the expiration of the time within which objections may be made as aforesaid, the Minister of Agriculture and Fisheries shall, if no objections have been made, forthwith approve the map as prepared and, if any objections have been made, shall take those objections into consideration and after so doing proceed to approve the map, either as prepared or with such modifications as he thinks fit. [2138]

(3) The Minister of Agriculture and Fisheries may at any time, on the application of the river board, after giving notice of his intention so to do in such manner as he thinks best adapted for informing persons affected and after considering any objections made to him, vary the map as approved by him under this section. [2139]

(4) The map as approved or as varied in accordance with the provisions of this section shall be conclusive evidence for all purposes as to what is the main river, and shall, for the purposes of the Documentary Evidence Acts, 1868 to 1895, be deemed to be a document issued by the Minister of Agriculture and Fisheries. [2140]

(5) The Minister of Agriculture and Fisheries shall supply to the river board a copy of the map approved by him under this section for their area, and if at any time thereafter he varies the map, he shall supply to the board a copy of the map as varied. [2141]

Land Drainage Act, 1930, *Part II.*—23 Halsbury's Statutes 530–540.
Under that Act, a catchment area is the administrative unit for land drainage purposes; this means the area drained by a main river (including an arterial drain) and its tributaries. The limits of the area are determined by a map prepared by the Minister of Agriculture and Fisheries showing by some distinctive colour the "main river" (see s. 5 of the Act). For the definition of "main river", see s. 81 thereof (23 Halsbury's Statutes 582).
Documentary Evidence Acts, 1868 *to* 1895.—These are the Documentary Evidence Acts, 1868, 1882, 1895 (9 Halsbury's Statutes (2nd Edn.) 590, 602, 612).

7. Thames and Lee Catchment areas and London.—(1) The Ministers may at any time by order provide that the whole or any part of the areas excluded from section one of this Act shall cease to be excluded from that section, and accordingly shall, whether in that order or in any subsequent order, make such provision in accordance with the preceding provisions of this Act as the Ministers think fit for the purpose of defining as, or including in, a river board area or river board areas the whole or part of the areas excluded as aforesaid. [2142]

(2) Where, in pursuance of the preceding subsection, any new river board area is defined or any existing river board area is altered, the Ministers shall by order provide in accordance with the preceding provisions of this Act, but subject to the following provisions of this section, for establishing a new river board or, as the case may be, for varying the constitution of the existing river board to such extent, if any, as appears to the Ministers to be necessary in consequence of the alteration. [2143]

(3) Where the whole or any part of the areas excluded from section one of this Act has ceased to be so excluded, the powers of the Ministers under section three of this Act shall be exercisable with respect thereto. [2144]

(4) The Ministers, in making any order establishing or varying the constitution of a river board for an area which consists of or includes the whole or any part of the areas originally excluded from section one of this Act, shall make such provision for the representation of bodies or persons having special interests in the said areas or part thereof as the Ministers consider necessary or expedient, and may depart from the requirements of section two of this Act with respect to the constitution of river boards to such extent (if any) as they may consider necessary or expedient to enable provision for such representation to be made; and Part II of the First Schedule to this Act shall apply for the purpose of making any such order subject to special parliamentary procedure in the circumstances specified in that Part. [2145]

(5) Where a new river board area is defined so as to consist of or include the whole or any part of the areas originally excluded from section one of this Act, or a river board area is altered by the inclusion therein of any part of the said areas, section four of this Act shall have effect subject to such modifications as may be specified by order of the Ministers, and the order may in particular provide—

(*a*) for the transfer to the board from the Conservators of the River Thames or the Lee Conservancy Catchment Board of functions not mentioned in that section, or for the transfer to the board of functions from authorities not mentioned in that section, being authorities exercising in the said areas or part thereof functions relating to land drainage fisheries or river pollution;

(*b*) for requiring any such authority to make payments to the river board in respect of expenses incurred by the board in exercising any functions transferred to them from the authority by the order; and

(*c*) for the making of such modifications or adaptations of, or exceptions from, or the repeal of such provisions of, any local Act or statutory order as the Ministers consider necessary or expedient in consequence of any transfer of functions made by the order. [2146]

(6) Any order made under this section providing that the whole or any part of the areas excluded from section one of this Act shall cease to be excluded from that section, and any order made under the last preceding subsection, shall be made in accordance with Part I of the First Schedule to this Act, and Part II of that Schedule shall apply for the purpose of making such orders subject to special parliamentary procedure in the circumstances specified in that Part, and Part III of that Schedule shall apply with respect to the validity of such orders. [2147]

General note.—S. 1, *ante*, provides for the establishment of river boards for areas comprising the whole of England and Wales except London and the Thames and Lee catchment areas. By the present section the Ministers may by order include these areas or any part of them in the river board scheme if that course should prove desirable or necessary.

Order.—As to orders generally, see s. 33, *post*. No order under the present section had been made at the date of going to press.

Special parliamentary procedure.—As to special parliamentary procedure, see the Statutory Orders (Special Procedure) Act, 1945 (38 Halsbury's Statutes 439).

Definitions.—For definitions of "functions", "river pollution" and "the Ministers", see s. 36 (1), *post*.

8. Transfer of navigation functions.—(1) The Ministers may, on application made by the river board or authority concerned and after consultation with the authority or board concerned other than the applicant, by order provide for the transfer to a river board of any functions exercisable in the river board area by any navigation authority, conservancy authority or harbour authority. [2148]

(2) Any order made under this section may provide for the making of such modifications or adaptations of, or exceptions from, or the repeal of such provisions of, any local Act or statutory order relating to the functions

transferred by the order as the Ministers consider necessary or expedient in consequence of that transfer. [2149]

(3) An order made under the preceding provisions of this section shall be made in accordance with Part I of the First Schedule to this Act and Part II of that Schedule shall apply for the purpose of making such orders subject to special parliamentary procedure in the circumstances specified in that Part, and Part III of that Schedule shall apply with respect to the validity of such orders. [2150]

(4) Where functions are exercisable or are to become exercisable by a river board, being functions which have been or are to be transferred to the board by an order made under the preceding provisions of this section or have been so transferred to another river board and subsequently become or are to become exercisable by the first-mentioned board, and it appears to the Ministers that those functions, together with any other functions of the river board relating to navigation, are of sufficient importance to justify the appointment of an additional member of the board to represent the interests affected by the exercise of those functions, they may at any time by order provide for the appointment by the Minister of Transport of such a member, who shall be additional to the members appointed under subsection (2) of section two of this Act and shall be disregarded for the purposes of that subsection; and if at any time it appears to the Ministers that the functions which justified the appointment of such a member have ceased to be of sufficient importance to justify his continued membership, they may revoke the order and thereupon the member so appointed shall vacate his office.

The powers conferred by this subsection may be exercised by an order made under the preceding provisions of this section, or by an order made under section three of this Act establishing or varying the constitution of a river board, or by a separate order. [2151]

General note.—This section enables the Ministers, where application is made either by the river board or the authority concerned, by order to provide for the transfer to a river board of any functions exercisable in the board's area by a navigation, conservancy or harbour authority.

The section may be compared with the Land Drainage Act, 1930, s. 40 (23 Halsbury's Statutes 558), which provides for the transfer to drainage boards of the powers and duties of navigation and conservancy authorities.

Order.—As to orders generally, see s. 33, *post.*

Special parliamentary procedure.—As to special parliamentary procedure, see the Statutory Orders (Special Procedure) Act, 1945 (38 Halsbury's Statutes 439).

Definitions.—For definitions of "conservancy authority", "functions", "harbour authority", "navigation authority" and "the Ministers", see s. 36 (1), *post.*

9. Conservation of water resources and provision of information.—(1) It shall be the duty of every river board, in exercising the functions conferred on or transferred to them by or under this Act, to conserve so far as practicable the water resources of their area. [2152]

(2) Any river board may submit to the Minister of Health a scheme for the measurement and recording of the rainfall in the river board area or any part thereof or of the flow or volume of any river, stream or inland water in the area, and for the installation and maintenance for those purposes of gauges or other apparatus and works connected therewith, and the Minister may approve any such scheme with or without modification, and on such approval the river board shall carry out the scheme. [2153]

(3) The Minister of Health may give directions requiring any river board—

(*a*) to measure and record the rainfall in the river board area or any part thereof or the flow or volume of any river, stream or inland water in the area and for those purposes to install and maintain such gauges or other apparatus and works connected therewith as may be specified in the directions;

(*b*) to furnish such information obtained in pursuance of the directions

or any scheme approved under the last preceding subsection at such times and in such form as may be so specified;

(*c*) to furnish such information as to the abstraction of water from, and the discharge of effluents into, any river, stream or inland water in the river board area, and such other information relating to water resources in the area as may be specified in the directions, at such times and in such form as may be so specified;

and it shall be the duty of the river board to comply with any directions so given. [2154]

(4) Section fifty-five of the Land Drainage Act, 1930 (which provides for the making of grants towards expenditure incurred in the construction or improvement of works) shall extend to the construction or improvement of any such gauges or other apparatus or works as aforesaid. [2155]

(5) Every river board shall give reasonable facilities for the inspection of records kept by them of the rainfall or the flow or volume of any river, stream or inland water in their area, and for the taking of copies of and extracts from such records, and such facilities shall be available free of charge to all local authorities and drainage boards whose areas or districts are wholly or partly included in the river board area and shall be available to other persons on payment of such fees as may be approved by the Minister of Health. [2156]

(6) Where any gauge for measuring and recording the flow or volume of any river, stream or inland water was installed before the date when functions relating to land drainage first became exercisable by a river board in the place where the gauge was installed, the person having possession of the gauge on the said date shall, within three months from the said date, give notice of the installation to the river board and shall state in the notice where the records of the flow or volume are kept; and any person who proposes to install any such gauge in a place where the said functions are exercisable by a river board shall, at least three months before commencing the work, give notice to the river board and shall, within one month after the gauge has been installed, give notice to the board where the records of the flow or volume are kept. [2157]

(7) A river board shall have a right, at all reasonable hours, to inspect any records kept by any person of the flow or volume of any river, stream or inland water in the river board area, and to take copies of and extracts from such records. [2158]

(8) A river board may give directions requiring any person who in their opinion is abstracting water from any river, stream or inland water in the river board area in quantities which are substantial in relation to the flow or volume of the river, stream or inland water or is discharging effluents into any such river, stream or inland water, to give such information as to the abstraction or discharge, at such times and in such form, as may be specified in the directions:

Provided that any person to whom such directions are given may, if he considers that the directions are unreasonable or unduly onerous, make representations to the Minister of Health with respect thereto and the Minister may thereupon, if he thinks fit, require the river board to revoke or modify the said directions, and the river board shall comply with the Minister's requirement. [2159]

(9) Any person who—

(*a*) fails to give a notice which he is required to give by subsection (6) of this section, within the time therein mentioned; or

(*b*) fails to comply with any directions given under subsection (8) of this section within such time as may be specified in the directions;

shall, in respect of each such failure, be liable on summary conviction to a fine not exceeding twenty pounds, and, in respect of any such failure as is mentioned in paragraph (*b*) hereof, to a further fine not exceeding five pounds for each day on which the failure continues after conviction therefor. [2160]

(10) This section except subsection (1) thereof shall apply to the Conservators of the River Thames and to the Lee Conservancy Catchment Board as if they were river boards and their catchment areas were river board areas, subject to the modification that for the references in subsection (6) to the date therein mentioned there shall be substituted references to the date of the passing of this Act, and the provisions of the Land Drainage Act, 1930, so far as they relate to the said Conservators and Catchment Board, shall apply for the purposes of this section as they apply for the purposes of the said Act. [2161]

General note.—The functions of river boards with regard to the measurement and recording of rainfall and the gauging of the flow or volume of rivers, etc., are new.

Land Drainage Act, 1930, *s.* 55.—23 Halsbury's Statutes 569.

Effluents.—As to the power of river boards to take samples of effluents for analysis, see s. 15, *post*. As to the meaning of "effluent", see note to that section.

Definitions.—For definitions of "drainage board", "functions" and "local authority", see s. 36 (1), *post*.

Financial and administrative provisions

10. Financial provisions.—(1) The expenses of a river board, so far as they are not defrayed out of revenues of the board under any enactment other than this section, shall be apportioned by the board among the councils of the several counties and county boroughs which are included wholly or partly in the river board area, on the basis of the totals of the rateable values of all such hereditaments in the respective areas of those councils as are situated within the river board area.

In this subsection the expression "expenses" includes the interest on, and provision for the repayment of, any borrowed moneys. [2162]

(2) A river board may issue precepts to the councils of counties or county boroughs requiring payment of amounts apportioned to those councils under the preceding subsection, and, subject to the following provisions of this section, every such council shall pay, in accordance with any precepts so issued to it, the amount thereby demanded. [2163]

(3) The aggregate amount for which a precept may be issued under the last preceding subsection in any one financial year to the council of any county or county borough shall not, except with the consent of the majority of those members of the river board who are appointed by or represent councils of counties and county boroughs, exceed the estimated amount which would be produced by a rate of fourpence in the pound levied on that part of the county or county borough which is within the river board area:

Provided that, where a river board have borrowed or are about to borrow any money under this Act, this subsection shall, if a majority of the said members so resolve, have effect during the currency of the loan as if the said sum of fourpence were increased by such amount as is specified in the resolution. [2164]

(4) For the purposes of any apportionment of expenses under this section, the rateable value of hereditaments shall be taken to be the rateable value thereof as shown in the valuation lists in force on the first day of the financial year immediately preceding the financial year in which those expenses are chargeable, and the councils of the several counties and county boroughs wholly or partly included in a river board area shall from time to time, if and when so required by the river board, furnish to them a true and correct statement of the total of the rateable values of all such hereditaments in their respective areas as are situated in the river board area. [2165]

(5) It shall be the duty of a river board to prepare, in such form as the Ministers may direct, a statement of the purposes to which the amount

demanded by any precept issued by the board under this section is intended to be applied and of the basis upon which it is calculated, and to send a copy of such statement with every precept to which it relates; and the council of the county or county borough shall not be under any obligation to pay the amount demanded by any such precept until they have received the said statement. [2166]

(6) Where a river board hold any funds, or any interest in any funds, created under any local Act for fishery purposes, those funds or that interest shall only be used for the purposes for which they or it could have been used if this Act had not been passed, but save as aforesaid all revenues of a river board shall be available for defraying the expenses of the board generally. [2167]

"*Any enactment other than this section.*"—The functions transferred to river boards are specified in s. 4, *ante*, and by s. 25, *post*, the effect of such a transfer is to vest all property, rights, etc. of the transferor board in the river board. The river boards will, as a result, inherit the powers of catchment boards to require contributions from internal drainage boards under the Land Drainage Act, 1930, s. 21 (23 Halsbury's Statutes 543), and contributions from local authorities in respect of drainage works expenses under s. 32 of that Act. Grants from the Minister of Agriculture and Fisheries under s. 55 thereof will also be available and will be extended to cover the construction or improvement of gauges (see s. 9 (4), *ante*).

For the power to levy navigation rates in certain cases, see s. 42 of the said Act. River boards will also be able to secure revenue by the issue of fishing licences and the levying of fishing rates.

Precepts.—Under the Land Drainage Act, 1930, s. 22 (23 Halsbury's Statutes 545), catchment boards could on their own initiative levy a precept up to the produce of a 2*d.* rate on, *inter alia*, county councils and county borough councils. This section, so far as it applies to such councils, is not to apply to a river board (see Sched. III, para. 2, *post*), but similar power is conferred on river boards by sub-ss. (2) and (3), *supra*, with the substitution of a 4*d.* precept for a 2*d.* precept.

As to estimating the amount which would be produced by a given rate, see the Transport and Electricity Authorities' Payments (Rate Product) Regulations, 1948 (S.I. 1948 No. 2194).

Definitions.—For definitions of "financial year" and "the Ministers", see s. 36 (1), *post*.

11. Borrowing powers.—(1) A river board may borrow temporarily, by way of overdraft or otherwise, such sums as they may require—

(*a*) for the purpose of defraying expenses pending the receipt of revenues receivable by them in respect of the period of account to which those expenses are chargeable and taken into account in their estimates made by them for that period;

(*b*) for the purpose of defraying, pending the raising of money by a mortgage which they have been authorised to raise under this section, expenses intended to be defrayed by means of that money. [2168]

(2) A river board may, with the consent of the Ministers, borrow money by mortgage for all or any of the following purposes, that is to say—

(*a*) the acquisition of land or the erection of buildings;

(*b*) the execution of any permanent work, or the doing of any other thing the cost of which, in the opinion of the Ministers, ought to be spread over a term of years;

(*c*) the repayment of any money previously borrowed by them or any authority from whom functions are transferred to the river board by or under this Act. [2169]

(3) Moneys borrowed by a river board under the last preceding subsection shall be charged indifferently on all the revenues of the board except any such funds as are referred to in subsection (6) of the last preceding section. [2170]

(4) Sections one hundred and ninety-eight to two hundred, sections two hundred and two, two hundred and three, two hundred and five, two hundred and six, two hundred and seven (except subsection (5)), and two hundred and eight to two hundred and fourteen of the Local Government Act, 1933, so far as they are applicable to the borrowing of money by a river board by mortgage under this section, shall apply to such borrowing, subject to the following modifications:—

(*a*) for references to a local authority there shall be substituted references to a river board;

(*b*) for references to the Minister of Health there shall be substituted references to the Ministers;

(*c*) the expression "prescribed", except in section two hundred and five, shall mean prescribed by regulations made by the Ministers;

(*d*) for references to the county fund or the general rate fund there shall be substituted references to the general revenues of the river board. [2171]

(5) Where money is borrowed in pursuance of paragraph (*b*) of subsection (1) of this section and subsequently money is raised by such a mortgage as is mentioned in that paragraph, then, for the purposes of the provisions of the Local Government Act, 1933, so far as applied by the last preceding subsection, which regulate the repayment of the money raised by that mortgage, the money shall, to the extent of the sum borrowed in pursuance of the said paragraph, be deemed to have been raised at the time when the said borrowing took place. [2172]

(6) Nothing in this section shall be taken as authorising any river board to exercise the powers of borrowing conferred thereby otherwise than in compliance with the provisions of the Local Authorities Loans Act, 1945, and any order made under section one of the Borrowing (Control and Guarantees) Act, 1946, and for the time being in force. [2173]

General note.—This section, dealing with the borrowing powers of river boards, aims at providing a uniform procedure to replace the differing procedures under existing legislation.
Acquisition of land.—See s. 13, *post*.
Local Government Act, 1933, ss. 198–200, 202, 203, 205–214.—26 Halsbury's Statutes 414–421.
Regulations.—As to regulations generally, see s. 33, *post*.
Local Authorities Loans Act, 1945.—38 Halsbury's Statutes 308.
Borrowing (Control and Guarantees) Act, 1946.—39 Halsbury's Statutes 314.
Definitions.—For definitions of "land" and "the Ministers", see s. 36 (1), *post*.

12. Reports and accounts.—(1) Every river board shall, before such date in every year as the Ministers may fix, send to the Minister of Agriculture and Fisheries and the Minister of Health a report in respect of the preceding year, and shall at the same time send a copy of the report to the council of every county or county borough which is wholly or partly included in the river board area. [2174]

(2) Every report under this section shall be in such form and shall contain particulars with respect to such matters as the Ministers may direct. [2175]

(3) The accounts of the receipts and expenditure of river boards and of the officers of river boards shall be subject to audit by a district auditor. [2176]

(4) As soon as the accounts of a river board have been audited the board shall send a copy of the accounts to the Minister of Agriculture and Fisheries and the Minister of Health and shall at the same time send a copy to the council of every county or county borough which is wholly or partly included in the river board area and a copy of the accounts shall be kept at the office of the board and any person interested shall be entitled, without payment, to inspect and take copies of, or extracts from, the copy of the accounts. [2177]

(5) Copies of reports of a river board under this section and of statements summarising the accounts of a river board shall be furnished to any person on application and on payment of such reasonable sum as the board may determine. [2178]

General note.—This section requires river boards to send yearly reports to the Ministers of Agriculture and Fisheries and of Health, and copies thereof to all county councils and county borough councils which are wholly or partly within the river board area.
Definition.—For definition of "the Ministers", see s. 36 (1), *post*.

13. Acquisition and disposal of land.—(1) A river board may acquire by agreement any land which they require for any purpose connected with the exercise of their functions:

Provided that land not immediately required for such a purpose as aforesaid shall not be acquired under this subsection except with the approval of and subject to any conditions imposed by the Ministers. [2179]

(2) The Ministers may authorise a river board to purchase compulsorily any land which they require for any such purpose, and the Acquisition of Land (Authorisation Procedure) Act, 1946 (except section two thereof) shall apply, in relation to any such compulsory purchase, as if this Act had been in force immediately before the commencement of that Act, and it is hereby declared for the avoidance of doubt that the expression " local authority " in the said Act includes a river board. [2180]

(3) This section shall be without prejudice to the power under section seventy-six of the Land Drainage Act, 1930, to acquire accretions of land resulting from drainage works, and any power conferred by the Salmon and Freshwater Fisheries Act, 1923, to acquire works, artificial obstructions, fisheries, fishing rights, land, and easements for the purposes specified in that Act. [2181]

(4) A river board may, with the approval of the Ministers, sell, exchange or let any land vested in them which is not required for any purpose connected with the exercise of any of their functions. [2182]

Acquisition of Land (Authorisation Procedure) Act, 1946.—3 Halsbury's Statutes (2nd Edn.) 1064. S. 1 of, and Sched. I to, that Act provide a uniform procedure for authorising the compulsory acquisition of land by local authorities when power to authorise such acquisition is conferred by a public general Act (other than certain specified Acts) in force before that Act.

By virtue of sub-s. (2), *supra*, the uniform procedure will apply to the compulsory acquisition of land by river boards.

S. 2 of the Act of 1946, which is not to apply to river boards, provides temporary powers for the speedy acquisition of land in certain cases.

Land Drainage Act, 1930, s. 76.—23 Halsbury's Statutes 577.

Salmon and Freshwater Fisheries Act, 1923.—10 Halsbury's Statutes (2nd Edn.) 59. As to the acquisition of works, artificial obstructions, fisheries, etc., under that Act, see ss. 16, 20 (7) and 38 thereof.

Definitions.—For definitions of "functions", "land" and "the Ministers", see s. 36 (1), *post*.

14. Power to erect buildings.—A river board shall have power to erect such offices and other buildings as they may require in connection with the exercise of any of their functions. [2183]

Definition.—For definition of " functions ", see s. 36 (1), *post*.

15. Power to take samples of effluents.—(1) A river board shall have a right to obtain and take away samples of any effluent which is passing from any land or vessel into any river, stream, watercourse or inland water in the river board area. [2184]

(2) The result of any analysis of a sample taken under this section shall not be admissible as evidence in any legal proceedings in respect of any effluent passing from any land or vessel unless the following requirements have been complied with, that is to say, the person taking the sample shall forthwith notify to the occupier of the land or vessel his intention to have it analysed, and shall there and then divide the sample into three parts, shall cause each part to be placed in a container which shall be sealed up and marked and shall—

(*a*) deliver one part to the occupier of the land or vessel ;

(*b*) retain one part for future comparison ; and

(*c*) if he thinks fit to have an analysis made, submit one part to the analyst :

Provided that, if it is not reasonably practicable forthwith to comply with the aforesaid requirement as to notification, the said requirement and the other requirements aforesaid shall be complied with as soon as reasonably practicable. [2185]

(3) In this section the expression " watercourse " means any channel through which water flows :

Provided that it does not include any sewer maintained by a sewerage authority (as defined by section ninety of the Public Health Act, 1936) without prejudice however to the taking of samples under this section of any effluent passing from any such sewer into a river, stream, watercourse or inland water. [2186]

(4) In relation to any legal proceedings in respect of any effluent passing from any such sewer as aforesaid, subsection (2) of this section shall have effect as if the reference to the occupier of the land from which the effluent is passing were construed as a reference to the sewerage authority by whom the sewer is maintained. [2187]

Effluent.—"Effluent" is not defined by this Act. The expression "trade effluent" is defined in the Public Health (Drainage of Trade Premises) Act, 1937, s. 14 (30 Halsbury's Statutes 706) to mean any liquid, either with or without particles of matter in suspension therein, which is wholly or in part produced in the course of any trade or industry carried on at trade premises, and, in relation to any trade premises, to mean any such liquid as aforesaid which is so produced in the course of any trade or industry carried on at those premises, but not to include domestic sewage.

Information may be required as to the discharge of effluents into rivers, streams and inland waters, (see s. 9 (3) (c), (8), *ante*).

Public Health Act, 1936, s. 90.—29 Halsbury's Statutes 392. "Sewerage authority" is defined by that section to mean a local authority, a metropolitan borough council, a county council (*including the London County Council*) and a joint sewerage board. By s. 1 (2) of that Act "local authority" means a borough, urban district or rural district council.

Definition.—For definition of "land", see s. 36 (1), *post*.

16. Powers of entry and inspection.—(1) Subject to the provisions of this section, any person authorised by a river board shall, on producing, if so required, some duly authenticated document showing his authority, have a right, at all reasonable hours,—

(*a*) to enter any land for the purpose of exercising any functions of the board;

(*b*) for the purpose of determining whether, and if so in what manner, any such functions are to be exercised, or whether any provision of any enactment (including this Act) relating to such functions or any notice, order, direction or byelaw served, given or made under any such enactment is being or has been complied with, to enter any land and inspect or survey the land and inspect any articles thereon. [2188]

(2) The rights conferred by the preceding subsection shall, without prejudice to the generality thereof, be exercisable for the purpose of inspecting any local Acts, statutory orders, awards or other documents in the possession of any body relating to functions of that body which are or have been exercisable in the river board area, and the person carrying out any such inspection shall have a right to take copies of or extracts from any such documents. [2189]

(3) Subject to the provisions of this section, any person authorised by the Minister of Agriculture and Fisheries, the Minister of Health or the Minister of Transport shall, on producing, if so required, some duly authenticated document showing his authority, have a right, at all reasonable hours,—

(*a*) to enter any land for the purpose of exercising any functions conferred on the Minister, whether alone or jointly with any other Minister, by or under this Act or any other enactment relating to land drainage, fisheries or river pollution, or any enactment relating to navigation contained in the Land Drainage Act, 1930; and

(*b*) for the purpose of determining whether, and if so in what manner, any such functions are to be exercised, or whether any functions of a river board ought to be exercised, or are being or have been properly exercised, to enter on any land and inspect or survey the land and inspect any article thereon. [2190]

(4) Admission to any land used for residential purposes shall not be demanded as of right under this section unless twenty-four hours notice of the intended entry has been given to the occupier. [2191]

(5) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—

(*a*) that admission to any land which any person is entitled to enter under this section has been refused to that person, or that refusal is apprehended, or that the land is unoccupied or that the occupier is temporarily absent, or that the case is one of urgency, or that an application for admission will defeat the object of the entry; and

(*b*) that there is reasonable ground for entry on the land for the purpose for which entry is required;

the justice may by warrant under his hand authorise that person to enter the land, if need be by force:

Provided that such a warrant shall not be issued, unless the justice is satisfied either that notice of the intention to apply for a warrant has been given to the occupier, or that the land is unoccupied, or that the occupier is temporarily absent, or that the case is one of urgency, or that the giving of such a notice would defeat the object of the entry. [2192]

(6) Any person entitled to enter any land by virtue of any right of entry under this section may take with him such other persons as may be necessary and on leaving any unoccupied land which he has entered by virtue of such a right shall leave it as effectually secured against trespassers as he found it. [2193]

(7) Every warrant granted under this section shall continue in force until the purpose for which the entry is necessary has been satisfied. [2194]

(8) If—

(*a*) any person who in compliance with the provisions of this section or of a warrant issued thereunder is admitted into a factory or workplace discloses, otherwise than in the performance of his duty, to any person any information obtained by him in the factory or workplace with regard to any manufacturing process or trade secret; or

(*b*) any member or officer of a river board to whom by reason of his official position, any information obtained as aforesaid is disclosed, discloses, otherwise than in the performance of his duty, that information to any person,

he shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months. [2195]

General note.—Powers of entry and inspection, similar to those conferred by this section, were conferred on drainage boards and on county and county borough councils by the Land Drainage Act, 1930, ss. 43, 51 (23 Halsbury's Statutes 560, 566).

As to the penalties for obstructing a person exercising a right of entry under the present section, see s. 17, *post*.

Notice.—As to notices, see s. 19, *post*.

Land Drainage Act, 1930.—23 Halsbury's Statutes 529. As to the enactments contained therein relating to navigation, see ss. 40, 41 (23 Halsbury's Statutes 558, 559).

Definitions.—For definitions of "factory", "functions", "land", "local Act", "river pollution", "statutory order" and "workplace", see s. 36 (1), *post*.

17. Penalty for obstruction.—Any person who wilfully obstructs any person exercising a right conferred by this Act to enter any land, or to carry out any inspection or survey, or to make copies of or extracts from any document, or to obtain and take away samples, shall, in respect of each offence, be liable on summary conviction to a fine not exceeding five pounds in the case of a first offence or twenty pounds in the case of a second or any subsequent offence. [2196]

Right to enter land, etc.—See s. 16, *ante*.

Right to take away samples.—See s. 15, *ante*.

Definition.—For definition of "land", see s. 36 (1), *post*.

18. Procedure for making byelaws.—(1) The following provisions of this section shall apply to byelaws made by a river board under any enactment conferring powers on them to make byelaws. [2197]

(2) Byelaws shall not have effect until confirmed by the Ministers, and at least one month before application for confirmation of any byelaws is made, notice of the intention to apply for confirmation shall be given in the London Gazette and one or more local newspapers circulating in the area to which the byelaws will apply and a copy of the byelaws shall be sent to every local authority whose county or borough or district is wholly or partly within that area. [2198]

(3) For at least one month before application for confirmation is made, a copy of the byelaws shall be deposited at the offices of the river board and shall at all reasonable hours be open to public inspection without charge, and the board shall supply printed copies thereof free of charge to any person appearing to the board to be interested. [2199]

(4) The Ministers, with or without a public local inquiry, may refuse to confirm any byelaw submitted under this section for confirmation, or may confirm the byelaw either without modification or (subject to the consent of the river board) with such modification as they think fit, and the board shall, if so directed by the Ministers, cause notice of any proposed modification to be given in accordance with such directions. [2200]

(5) The Ministers may fix the date on which any byelaws are to come into operation, and if no date is so fixed the byelaws shall come into operation at the expiration of one month from the date of their confirmation. [2201]

(6) A copy of the byelaws, when confirmed, shall be printed and deposited at the offices of the river board and shall at all reasonable hours be open to public inspection without charge, and a copy thereof shall, on application, be furnished to any person on payment of such reasonable sum as the board may determine. [2202]

(7) The Ministers, if they consider that the revocation of any byelaw is necessary or desirable, may, after giving notice to the river board and considering any objections raised by them, and, if so required by them, holding a public local inquiry, revoke that byelaw. [2203]

(8) The production of a printed copy of a byelaw purporting to be made by a river board upon which is endorsed a certificate purporting to be signed by the clerk of the board stating—

(*a*) that the byelaw was made by the board;
(*b*) that the copy is a true copy of the byelaw;
(*c*) that on a specified date the byelaw was confirmed by the Ministers; and
(*d*) the date, if any, fixed by the Ministers for the coming into operation of the byelaw;

shall be prima facie evidence of the facts stated in the certificate, and without proof of the handwriting or official position of any person purporting to sign the certificate. [2204]

General note.—The procedure prescribed by this section follows fairly closely that laid down in the Local Government Act, 1933, s. 250 (26 Halsbury's Statutes 440), which contains a general code of procedure for making bye-laws.

"*Any enactment conferring powers.*"—By s. 4, *ante*, river boards will exercise, as from the appointed day, the functions of catchment boards, fishery boards, "pollution" authorities, etc. Examples of power to make bye-laws are contained in the Land Drainage Act, 1930, s. 47 (1) (23 Halsbury's Statutes 563) and in the Salmon and Freshwater Fisheries Act, 1923 (10 Halsbury's Statutes (2nd Edn.) 59), which apply to river boards subject to the modifications and adaptations contained in Sched. III, *post*.

Notice to the river board.—See s. 19 (5), *post*.

Definitions.—For definitions of "local authority" and "the Ministers", see s. 36 (1), *post*.

19. Notices and other documents.—(1) All notices and other documents required or authorised by or under this Act or any other enactment to be given, made or issued by or to a river board shall be in writing. [2205]

(2) Any notice or other document which a river board are required or authorised as aforesaid to give, make or issue may be signed on behalf of the board by the clerk of the board or any other officer of the board authorised by them in writing to sign documents of the particular kind or, as the case may be, the particular document, and any document purporting to bear the signature of the clerk of the board, or of a person expressed to be duly authorised by the board to sign such a document or that particular document shall be deemed, until the contrary is proved, to be duly given, made or issued by authority of the board.

In this subsection the expression " signature " includes a facsimile of a signature by whatever process reproduced. [2206]

(3) Any notice or other document which is required or authorised as aforesaid to be given to or served on any person by a river board shall be duly given or served if it is delivered to him, or left at his proper address, or sent to him by post in a registered letter. [2207]

(4) Any notice or other document required or authorised to be given to or served on an incorporated company or body by a river board shall be duly given or served if given to or served on the secretary or clerk of the company or body. [2208]

(5) Any notice or other document required or authorised to be given to or served on a river board shall be duly given or served if given to or served on the clerk of the board in the manner specified in subsection (3) hereof. [2209]

(6) For the purposes of this section and of section twenty-six of the Interpretation Act, 1889, the proper address of any person to or on whom any such notice or other document as aforesaid is to be given or served shall, in the case of the secretary or clerk of any incorporated company or body, be that of the registered or principal office of the company or body, and in any other case be the last known address of the person in question. [2210]

(7) Where any notice or other document is to be given to or served on a person by a river board as being the person having any interest in land, and it is not practicable after reasonable inquiry to ascertain his name or address, the document may be given or served by addressing it to him by the description of the person having that interest in the land (naming it), and delivering the document to some responsible person on the land or by affixing it, or a copy of it, to some conspicuous object on the land. [2211]

Interpretation Act, 1889, s. 26.—18 Halsbury's Statutes 1002.

20. Publicity for proceedings of river boards.—(1) The minutes of proceedings of meetings of a river board shall be open to the inspection of any local government elector for any part of the river board area, on payment of a fee not exceeding one shilling, and any such local government elector may make a copy thereof or an extract therefrom. [2212]

(2) Notwithstanding anything in this section any such part of the minutes of proceedings of a river board as contains information with respect to any manufacturing process or trade secret obtained in the exercise of powers under this Act shall not be open to the inspection of a local government elector. [2213]

(3) In this section, the expression " local government elector " means a person registered as a local government elector in the register of electors in accordance with the provisions of the Representation of the People Acts. [2214]

General note.—This section puts river boards as regards inspection of minutes of their proceedings in the same position as local authorities under the Local Government Act, 1933, s. 283 (26 Halsbury's Statutes 455).

Local government electors.—As to registration of local government electors, see the Representation of the People Act, 1948, Part II, title ELECTIONS, *ante*, the coming into force of which is governed by s. 80 (1) thereof.

21. Power to promote and oppose legislation.—A river board, or two or more river boards acting jointly, may, with the consent of the Ministers, promote or without any such consent may oppose Bills in Parliament or may apply for or oppose applications for statutory orders. [2215]

Definitions.—For definitions of "the Ministers" and "statutory order", see s. 36 (1), *post.*

22. Default powers of Ministers.—(1) If a complaint is made to the Ministers that a river board have failed to exercise any of their functions in a case where they ought to have done so, or the Ministers are of opinion that an investigation should be made as to whether any river board have failed as aforesaid, they may cause a public local inquiry to be held into the matter. [2216]

(2) If after a public local inquiry has been held in pursuance of the preceding subsection, the Ministers are satisfied that there has been such a failure on the part of the board in question, they may make an order declaring the board to be in default and directing them for the purpose of removing the default to exercise such of their functions in such manner and within such time or times as may be specified in the order. [2217]

(3) If the board declared to be in default by an order made under the last preceding subsection fail to comply with any requirement thereof within the time limited thereby for compliance, the Ministers, in lieu of enforcing the order by mandamus or otherwise, may make an order transferring to themselves such of the functions of that board as they think fit. [2218]

(4) Where the Ministers have transferred any functions to themselves under this section, any expenses incurred by them in exercising those functions shall be paid in the first instance by them, but the amount of those expenses as certified by the Ministers shall on demand be paid to them by the board, and the board shall have the like power of raising the money required as they have of raising money for defraying expenses incurred directly by them. [2219]

(5) Any order made under subsection (3) of this section may provide for the transfer to the Ministers of such of the property, rights, liabilities and obligations of the board in default, as, in the opinion of the Ministers, may be necessary or expedient, and when any such order is revoked the Ministers may, either by the revoking order or by a subsequent order, make such provision as appears to them to be desirable with respect to any property, rights, liabilities and obligations held by them for the purposes of the functions transferred. [2220]

General note.—Apart from their default powers under the present section, the Ministers may cause inquiries to be held under s. 24, *post.*

Order.—An order under this section need not be made by statutory instrument (see s. 33 (1), *post*).

Definitions.—For definitions of "functions" and "the Ministers", see s. 36 (1), *post.*

23. Expenses of Ministers.—Any expenses incurred by the Minister of Agriculture and Fisheries, the Minister of Health or the Minister of Transport in the exercise of functions under this Act shall be defrayed out of moneys provided by Parliament. [2221]

Definition.—For definition of "functions", see s. 36 (1), *post.*

24. Inquiries by Ministers.—The Ministers, the Minister of Agriculture and Fisheries, the Minister of Health or the Minister of Transport may cause an inquiry to be held in any case where it appears to them or him to be advisable to do so in connection with any matter arising under this Act or otherwise in connection with any functions of river boards, and the provisions of section two hundred and ninety of the Local Government Act, 1933, shall apply to all inquiries held by the Ministers or by any such Minister as aforesaid under

this Act, and the reference in subsection (4) of the said section to a local authority shall, in relation to any such injury, be construed as including a reference to any river board, drainage board, fishery board, navigation authority, conservancy authority or harbour authority:

Provided that no such board or authority shall be ordered to pay costs under the said subsection (4) unless they are a party to the inquiry. [2222]

Local Government Act, 1933, s. 290.—26 Halsbury's Statutes 459.
Definitions.—For definitions of "conservancy authority", "drainage authority", "fishery board", "functions", "harbour authority", "local authority", and "navigation authority", see s. 36 (1), *post*.

Transfer of assets and liabilities to river boards

25. Transfer to river boards of assets and liabilities of catchment boards, fishery boards, and certain joint boards and joint committees of local authorities. —(1) Where functions are transferred by section four of this Act from any of the following bodies (hereafter in this section referred to as "the transferor board"), that is to say, a catchment board, fishery board or any joint board or joint committee of local authorities to a river board, all property, rights, liabilities and obligations which, immediately before the appointed day, were the property, rights, liabilities and obligations of the transferor board, shall on the said day vest by virtue of this Act and without further assurance in the river board. [2223]

(2) Every agreement to which the transferor board was a party immediately before the appointed day, whether in writing or not, and whether or not of such a nature that rights, liabilities and obligations thereunder could be assigned by the board, shall have effect as from the said day as if—

(*a*) the river board had been a party to the agreement;

(*b*) for any reference (however worded and whether expressed or implied) to the transferor board there were substituted, as respects anything falling to be done on or after the said day, a reference to the river board;

(*c*) for any reference (however worded and whether expressed or implied) to any member or officer of the transferor board there were substituted, in respect of anything falling to be done on or after the said day, a reference to such person as the river board may appoint or, in default of appointment, to the member or officer of the river board who corresponds as nearly as may be to the member or officer of the transferor board;

(*d*) for any reference (however worded and whether expressed or implied) to any fund or revenues of the transferor board there were substituted, as respects anything falling to be done on or after the said day, a reference to the corresponding fund or revenues of the river board;

(*e*) in the case of an agreement for the rendering of personal services to the transferor board, the services to which the agreement relates were, on and after the said day, services under the river board to be selected by that board which are reasonably equivalent services. [2224]

(3) Other documents, not being enactments or statutory orders, which refer, whether specifically or generally to the transferor board, shall be construed in accordance with the provisions of the last preceding subsection, so far as applicable. [2225]

(4) Any proceedings pending on the said day to which the transferor board is a party shall be continued as if the river board were a party thereto in lieu of the transferor board. [2226]

General note.—This section and the next two succeeding sections deal with the transfer to a river board of the assets and liabilities of those authorities whose functions are transferred under s. 4, *ante*.

Appointed day.—See s. 35, *post*.

Definitions.—For definitions of "catchment board", "fishery board", "functions", "local authority" and "statutory order," see s. 36 (1), *post*.

26. Transfer to river boards of certain assets and liabilities of local authorities.—(1) Where functions are transferred by section four of this Act from any local authority, all property which immediately before the appointed day was held or used by the local authority wholly or mainly for the purposes of the transferred functions, and all rights, liabilities and obligations acquired or incurred by the local authority for the said purposes and subsisting immediately before the said day, shall, save as may be otherwise directed by the Minister of Health, vest on the said day by virtue of this Act and without further assurance in the river board. [2227]

(2) Subsections (2) to (4) of the last preceding section shall apply in relation to agreements entered into by the local authority for the purposes of the transferred functions, and to other documents and proceedings relating to those functions, as if the references to the transferor board were references to the local authority. [2228]

(3) Any question arising under this section as to whether any property is or was held or used by a local authority wholly or mainly for the purposes of the transferred functions or whether any rights, liabilities or obligations were acquired or incurred by a local authority for the said purposes or whether any agreements or documents relate or related to those functions shall, in default of an agreement between the local authority and the river board concerned, be determined by the Minister of Health. [2229]

General note.—This section deals with the transfer to a river board of certain assets and liabilities of local authorities whose functions under certain enactments are transferred under s. 4, *ante*.

Further provisions as to the transfer of assets and functions, are made by s. 27, *post*.

Appointed day.—See s. 35, *post*.

Definitions.—For definitions of "functions" and "local authority", see s. 36 (1), *post*.

27. Further provisions as to transfer of assets and functions.—(1) The Ministers may by order provide—

(*a*) in a case where part of the area or district of any body mentioned in either of the last two preceding sections, but not the whole area or district, is included in the river board area, for determining what, if any, of the property, rights, liabilities and obligations which would, if the whole area or district were included in the river board area, be transferred under subsection (1) of the last preceding section or, as the case may be, subsection (1) of the last but one preceding section, is to be so transferred and what is to remain vested in the said body, and for the apportioning of liabilities and the making of financial adjustments, in such cases as may be specified by the order or determined thereunder, as between any such body as aforesaid and the river board concerned, and for the amendment of any instruments affected by such apportionment or adjustments;

(*b*) in a case where different parts of the area or district of any such body as aforesaid are included in different river board areas, for determining in which of the river boards concerned any such property, rights, liabilities or obligations as aforesaid are to vest, and for the apportioning of liabilities and the making of financial adjustments, in such cases as may be specified by the order or determined thereunder, as between those river boards, and for the amendment of any instruments affected by such apportionment or adjustments;

(*c*) for the registration of the title of a river board to assets vesting in them by virtue of this Act, being assets of a kind subject to provision

for the registration of title thereto, and for any other matters for which provision appears to the Ministers to be necessary or expedient for the purpose of securing the effective transfer of any assets vesting in a river board by virtue of this Act;

(*d*) for enabling entries relating to mortgages or to transfers and transmissions of mortgages contained in any register kept by a body from whom functions are transferred to a river board by section four of this Act to be transferred to the register of mortgages kept by the river board and for any matters consequential on or incidental to such transfer. [2230]

(2) The Ministers may by order provide—

(*a*) for dissolving any body whose functions wholly cease in consequence of this Act, or anything done thereunder, and for winding up the affairs of that body;

(*b*) for varying the constitution, so far as may be necessary, of any body part of whose area or district, but not the whole thereof, is included in a river board area, or any body some, but not all, of whose functions are transferred to a river board, and for enabling the body to exercise their functions in relation to the remainder of their area or district, or, as the case may be, to exercise the remainder of their functions, and for making such modifications or adaptations of, or exceptions from, or repealing such provisions of, any local Act or statutory order relating to the body which appear to the Ministers to be necessary or expedient for the purposes aforesaid, and for making such other provision with respect to the affairs of that body as the Ministers consider necessary or expedient; or

(*c*) for any matters consequential on or incidental to the matters aforesaid for which the Ministers consider it is necessary or expedient to provide. [2231]

(3) Where functions are transferred by or under this Act from one river board to another river board, the Ministers may by order provide for the transfer of property, rights, liabilities and obligations of the first-mentioned board to the last-mentioned board, and for any other matters consequential on or incidental to the said transfer of functions for which the Ministers consider it necessary or expedient to provide. [2232]

General note.—Orders under this section may be made dealing with such matters as (i) the apportionment of liabilities; (ii) the registration of title of river boards; (iii) the transfer of entries in mortgage registers of the transferor bodies to the mortgage registers of river boards; (iv) the dissolution of bodies whose functions wholly cease in consequence of this Act; and (v) the variation of the constitution of any body where part, but not all, of its area or functions is transferred to a river board.

Order.—As to orders generally, see s. 33, *post*.

Definitions.—For definitions of "functions", "local Act" and "statutory order", see s. 36 (1), *post*.

28. Transitional provisions in case of transfer of functions by order.—(1) Where an order made under section seven of this Act provides for the transfer to a river board of functions to which the last three preceding sections do not apply, the Ministers may by that order provide, in relation to that transfer of functions, for any of the matters for which provision is made by or under any of the last three preceding sections in relation to the transfer of functions mentioned therein. [2233]

(2) Any order made under section eight of this Act transferring functions from any of the authorities mentioned therein to a river board may provide, in relation to that transfer, for any of the matters for which provision is made by or under any of the last three preceding sections in relation to the transfer of

functions mentioned therein, and may make such provision (if any) as appears to the Ministers to be just—

(*a*) for the payment of compensation by the river board to the authority from whom the functions are transferred;

(*b*) in a case where the functions transferred are of an onerous character, for the making of payments by the authority to the river board in respect of the transfer; and

(*c*) for making other financial adjustments between the river board and the authority, and for other matters consequential on or incidental to the matters aforesaid. [2234]

General note.—The three preceding sections deal with the transfer of assets and liabilities in the usual case, *i.e.* where the functions of the transferor body are automatically transferred under s. 4, *ante*. The present section enables these three sections to be applied to cases where a transfer of functions is effected by order, either, under s. 7, *ante* (under which the areas excluded from s. 1, *ante*, may be brought within it), or under s. 8, *ante* (which provides for the transfer of navigation functions). In addition, an order under s. 8, *ante*, is enabled to include compensation and other provisions incidental to the transfer.

Order.—As to orders generally, see s. 33, *post*.

Definitions.—For definitions of "functions" and "the Ministers", see s. 36 (1), *post*.

Pension rights and compensation of officers

29. Pension rights.—(1) The Local Government Superannuation Act, 1937, shall have effect as if river boards were specified in Part I of the First Schedule to the Act (which sets out the local authorities whose whole-time officers are to be compulsorily superannuable). [2235]

(2) Any statutory resolution passed under subsection (2) of section three of the said Act by a body from whom functions are transferred to a river board by or under this Act, and in force immediately before the appointed day, in respect of a servant or part-time officer who becomes on that day a servant or part-time officer of the board, shall continue in force and have effect as if it had been passed by the board. [2236]

(3) In relation to officers and servants of a river board, the appropriate superannuation fund for the purposes of the said Act shall, if there is no county within which the whole or the greater part of the river board area is situated, be the superannuation fund maintained by such county council as may agree with the river board that the superannuation fund maintained by them should be treated as the appropriate superannuation fund aforesaid, or, in default of such agreement, the superannuation fund maintained by such county council as the Minister of Health may direct:

Provided that, where functions are transferred to a river board from a catchment board and, immediately before the appointed day, the catchment board were a constituent authority in relation to a combination scheme in force under section two of the said Act, the river board may agree with the joint committee established by the scheme to make such modifications in the scheme as appear to them to be necessary for making the river board a constituent authority instead of the catchment board and applying the scheme to officers and servants of the river board, and the scheme shall have effect as so modified and, in relation to officers and servants of the river board, the joint superannuation fund maintained under the scheme shall, so long as the scheme remains in force and the river board is a constituent authority, be the appropriate superannuation fund for the purposes of the said Act. [2237]

(4) Where any person, who becomes an officer or servant of a river board in consequence of the transfer of rights, liabilities and obligations under this Act, had immediately before the appointed day any pension rights otherwise than under Part I of the Local Government Superannuation Act, 1937, he may, by notice served on the board before the expiration of three months from the appointed day, elect to retain those rights, and in that case he shall not acquire any pension rights by virtue of the preceding provisions of this

section ; but, if he does not serve such a notice, the pension rights which he had immediately before the appointed day shall be deemed to have come to an end as from the appointed day :

Provided that, if any fund maintained for the purposes of satisfying any such pension rights as aforesaid is transferred to the river board, and any of the persons entitled to those rights do not elect to retain them, the board shall, in accordance with a scheme approved by the Minister of Health, apply the fund, to such extent as may be specified in the scheme, in supplementing the pensions payable by virtue of subsection (1) of this section to or in respect of the said persons. [2238]

(5) For the purpose of enabling persons electing under the last preceding subsection to retain the pension rights therein mentioned, the Ministers shall by order provide, to such extent as appears to them to be necessary, for modifying and adapting, so as to apply to a river board, any scheme or arrangement, whether contained in an enactment, statutory order or other instrument, by which the rights were conferred. [2239]

(6) The provisions of this Act relating to the transfer of property, rights, liabilities and obligations to a river board from any other body shall apply to customary obligations of that other body in respect of pensions, notwithstanding that the body was under no legal obligation in respect of those pensions, and if any question arises as to the existence or extent of any such customary obligation, the question shall, in default of agreement, be referred to a referee or board of referees appointed by the Minister of Labour and National Service, after consultation with the Lord Chancellor, and the decision of the referee or board of referees shall be final, and nothing in the Arbitration Acts, 1889 to 1934, shall be construed as applying to any proceedings before the referee or board. [2240]

(7) The Minister of Labour and National Service may, with the consent of the Treasury, pay out of monies provided by Parliament—

(*a*) to any such referee or to the members of any such board of referees such fees and allowances as he may, with the consent of the Treasury, determine ; and

(*b*) to persons giving evidence before any such referee or board such allowances as he may, with the consent of the Treasury, determine. [2241]

Local Government Superannuation Act, 1937, *ss.* 2, 3 (2), *Part I, Sched. I, Part I.*—30 Halsbury's Statutes 388, 389, 387–407, 419.

Appointed day.—See s. 35, *post.*

Notice.—As to the service of notices on a river board, see s. 19 (5), *ante.*

Order.—As to orders generally, see s. 33, *post.*

Arbitration Acts, 1889 to 1934.—The Arbitration Acts, 1889 to 1934 are the Arbitration Act, 1889 ; the Arbitration Clauses (Protocol) Act, 1924 ; the Arbitration (Foreign Awards) Act, 1930 ; and the Arbitration Act, 1934 (2 Halsbury's Statutes (2nd Edn.) 4, 21, 23, 29).

Definitions.—For definitions of "catchment board", "functions", "pension", "pension rights", "statutory order" and "the Ministers", see s. 36 (1), *post.*

30. Compensation of officers and servants.—(1) The Ministers shall by regulations require every river board to pay, in such cases and to such extent as may be specified in the regulations, compensation to officers and servants of any catchment board, local authority, joint board, joint committee, fishery board or other authority (including another river board) from whom functions are transferred by or under this Act to the river board, being officers or servants who suffer loss of employment or loss or diminution of emoluments in consequence of the said transfer of functions. [2242]

(2) Different regulations may be made under this section in relation to different classes of persons, and any such regulations may be so framed as to have effect as from a date earlier than the making thereof, so however, that so much of any regulations as provides that any provision thereof is to have effect as from a date earlier than the making thereof shall not place any person other than a river board in a worse position than he would have been in if

the regulations had been made to have effect only as from the date of the making thereof. [2243]

(3) Regulations made under this section may include provision as to the manner in which and the person to whom any claim for compensation under this section is to be made, and for the determination of all questions arising under the regulations. [2244]

Regulations.—As to regulations generally, see s. 33, *post*. No regulations under this section had been made at the date of going to press.

Definitions.—For definitions of "catchment board", "fishery board", "functions", "local authority" and "the Ministers", see s. 36 (1), *post*.

Supplementary provisions

31. Saving for existing orders regulations, etc.—A transfer of functions to a river board by or under this Act shall not affect any order, regulation, bye-law, scheme, rule, appointment, direction, instruction, licence, approval, requirement or authorisation made or given or other thing done before the appointed day, in the exercise of the said functions, by the catchment board, fishery board, local authority, joint board, joint committee or other authority (including another river board) from whom the functions are transferred, but every such thing shall, if in force at the said day, continue in force to the like extent and subject to the like provisions as if it had been duly made, given or done by the river board to whom the functions are transferred. [2245]

Transfer of functions.—For the transfer of functions to a river board by a catchment board, fishery board, local authority, joint board or joint committee of a local authority, see s. 4, *ante*. Functions of navigation, conservancy and harbour authorities may be transferred under s. 8, *ante*.

As to the transfer of functions from one river board to another, see s. 3, *ante*.

Appointed day.—See s. 35, *post*.

Definitions.—For definitions of "catchment board", "fishery board", "functions" and "local authority", see s. 36 (1), *post*.

32. Power to postpone triennial appointment of new members of catchment boards and river boards.—(1) Where a new river board area is defined or an existing river board area is altered by an order made under this Act and the order involves the transfer to the river board for the area as so defined or altered of all the functions of a catchment board or another river board, or such of those functions as will necessitate the variation of the constitution of that catchment board or that other river board, and the order is made during a year in which the term of office of the members of that catchment board or other river board will come to an end and before the first day of August in that year, and it appears to the Ministers that the appointed day for the transfer of functions to the river board for the said area, whether it has already been appointed or not, will be later than the thirty-first day of October in that year, they may by order provide for extending the term of office of the said members for such period not exceeding six months as may be specified in the order, and the Ministers may, if it subsequently appears to them at any time before the expiration of the period so specified to be necessary or expedient so to do, provide by order for extending the term of office of the said members for a further period not exceeding six months:

Provided that the powers of the Ministers under this subsection in relation to an order extending the term of office of members of catchment boards only shall be exercisable by the Minister of Agriculture and Fisheries instead of by the Ministers. [2246]

(2) Where the term of office of the members of any catchment board or river board is extended under this section, and the functions of the catchment board or river board do not wholly cease on the said appointed day, the term of office of the members who are appointed to succeed those members shall be shortened to a corresponding extent. [2247]

Order.—As to orders generally, see s. 33, *post.*
Appointed day.—See s. 35, *post.*
Definitions.—For definitions of "catchment board", "functions" and "the Ministers", see s. 36 (1), *post.*

33. Regulations and orders.—(1) All regulations made under this Act, and all orders made thereunder, except orders made under the provisions relating to the compulsory purchase of land and the default powers of the Ministers, shall be made by statutory instrument. [2248]

(2) All regulations made under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament. [2249]

(3) Any power conferred by this Act to make an order shall include a power, exercisable in the like manner and subject to the like conditions, to revoke or vary the order. [2250]

Regulations and orders.—No regulations or order had been made under this Act at the date of going to press.
Statutory instrument.—As to statutory instruments generally, see the Statutory Instruments Act, 1946 (39 Halsbury's Statutes 783), which was brought fully into force on January 1, 1948 by S.I. 1948 No. 3. S. 5 of that Act deals with statutory instruments which are subject to annulment in pursuance of a resolution of either House of Parliament.
Definitions.—For definitions of "land" and "the Ministers", see s. 36 (1), *post.*

34. Exercise of functions by appropriate Minister in certain cases.—(1) The powers of the Ministers under this Act in relation to the borrowing of money, the acquisition of land and the making of byelaws by river boards may—

(*a*) if the money, land or byelaw is required solely for the purposes of the functions of a river board relating to river pollution or the measuring and recording of rainfall or the flow or volume of any river, stream or inland water, be exercised by the Minister of Health;

(*b*) if the money, land or byelaw is required solely for the purposes of the functions transferred to a river board under section eight of this Act, be exercised by the Minister of Transport; and

(*c*) if the money, land or byelaw is required solely for the purposes of any function of a river board not referred to in paragraph (*a*) or paragraph (*b*) hereof, be exercised by the Minister of Agriculture and Fisheries:

Provided that this section shall not apply to any power to make regulations. [2251]

(2) Byelaws made for the purposes specified in paragraph (*p*) of subsection (1) of section fifty-nine of the Salmon and Freshwater Fisheries Act, 1923, (which relates to the contamination of waters containing fish) shall be deemed to be byelaws to which paragraph (*c*) of the preceding subsection applies. [2252]

Borrowing of money.—See s. 11, *ante.*
Acquisition of land.—See s. 13, *ante.*
Making of bye-laws.—See s. 18, *ante.*
Functions relating to river pollution, rainfall, etc.—For the functions of the river boards relating to river pollution, see s. 4, *ante*; for their functions relating to rainfall or the flow or volume of a river, etc., see s. 9, *ante.*
Salmon and Freshwater Fisheries Act, 1923, s. 59 (1) (*p*).—10 Halsbury's Statutes (2nd Edn.) 103.
Definitions.—For definitions of "functions", "land", "river pollution" and "the Ministers", see s. 36 (1), *post.*

35. Appointed day.—(1) Where a new river board area is defined or an existing river board area is altered by an order made under this Act, the Ministers shall appoint a day on which the functions referred to in section four of this Act are to become exercisable by the river board in relation to the area as so defined or altered, and are to cease to be exercisable by other bodies, and on which any consequential vesting in the river board of property, rights, liabilities and obligations is to take place, and any reference to "the appointed day" in the said section four or in any other provision of this Act

relating to the transfer of functions or of property, rights, liabilities and obligations from any body to a river board shall, subject to subsection (3) of this section, be construed accordingly, and until the said day the exercise of functions by any other body (including another river board) shall not be affected by the said order. [2253]

(2) The said day shall be appointed—

(*a*) in a case where a new river board area is defined, or an existing river board area is so altered as to involve the variation of the constitution of the river board, by the order establishing the river board or, as the case may be, varying the constitution thereof; and

(*b*) in any other case, by the order altering the river board area. [2254]

(3) References to the appointed day in section twenty-nine and section thirty-one of this Act shall, in relation to the transfer of functions under section eight of this Act and the transfer of rights, liabilities and obligations in consequence thereof, be construed as references to such day as may be appointed by the order transferring those functions. [2255]

Order defining or altering river board area.—For the Ministers' powers to make orders defining a new river board area or altering an existing area, see ss. 1 (1) (*a*), 2 (1), (8), 3 (1), (2), 7, *ante*.

Consequential vesting of property, rights, etc.—See ss. 25–28, *ante*.

Definitions.—For definitions of "functions" and "the Ministers", see s. 36 (1), *post*.

36. Interpretation.—(1) In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say:—

"catchment area" and "catchment board" have the same meanings as in the Land Drainage Act, 1930;

"conservancy authority" has the same meaning as in the Merchant Shipping Act, 1894;

"drainage board" has the same meaning as in the Land Drainage Act, 1930, except that, in section two of this Act, it includes a catchment board or river board which have become the drainage board of an internal drainage district (within the meaning of the said Act) but does not include any other catchment board;

"factory" has the same meaning as in the Factories Act, 1937;

"financial year" means a year ending on the thirty-first day of March;

"fishery board" and "fishery district" mean any such fishery board or fishery district as is referred to in section forty-four of the Salmon and Freshwater Fisheries Act, 1923;

"functions" includes powers and duties and any reference to the conferring or exercise of functions shall include a reference to the imposing or performance of duties;

"harbour authority" has the same meaning as in the Merchant Shipping Act, 1894;

"land" includes land covered by water and easements and other rights over land;

"local Act" includes any enactment in a public general Act which amends a local Act;

"local authority" means the council of any county, county borough or county district;

"navigation authority" means any person or body of persons having power under any enactment or statutory order to work or maintain a canal or other inland navigation (including a navigation in tidal water);

"pension", in relation to any person, means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of him, and includes a gratuity so payable and a return of contributions to a pension fund, with or without interest thereon or in addition thereto;

" pension rights " include, in relation to any person, all forms of right to liability for a pension or future payments of a pension to or in respect of that person, and any expectation of the accruer of a pension to or in respect of that person under any customary practice, and includes a right of allocation in respect of the pension or future payments of a pension ;

" river pollution " includes the pollution of streams and other inland waters ;

" statutory order " means an order, byelaw, scheme or award made under an Act of Parliament, including an order or scheme confirmed by Parliament or brought into operation in accordance with special parliamentary procedure ;

" the Ministers " means the Minister of Health and the Minister of Agriculture and Fisheries acting jointly, except that, for the purposes of section eight of this Act and in relation to the borrowing of money, the acquisition of land and the making of byelaws for the purposes of functions transferred under that section, the exercise of default powers with respect to those functions, and the making of regulations providing for the compensation of officers and servants of any authority whose functions are transferred under that section, it means the said Ministers and the Minister of Transport acting jointly ;

" workplace" has the same meaning as in the Public Health Act, 1936 [2256]

(2) Any reference in this Act to the transfer of functions from any body to a river board shall be construed as including a reference to a case where functions cease to be exercisable by the body in any area and substantially the same functions become exercisable in that area by a river board, and any reference to transferred functions shall be construed accordingly. [2257]

(3) References in this Act to any enactment shall be construed as including references to that enactment as amended by any subsequent enactment including this Act. [2258]

Land Drainage Act, 1930.—23 Halsbury's Statutes 529. As to the meaning of " catchment area ", see s. 2 thereof and Sched. I, Pt. I thereto (26 Halsbury's Statutes 530, 585); as to " catchment board ", see s. 3 thereof ; and as to " drainage board ", see s. 1 thereof.

Merchant Shipping Act, 1894.—18 Halsbury's Statutes 162. As to the meaning of " conservancy authority " and " harbour authority ", see s. 742 thereof (18 Halsbury's Statutes 411).

Factories Act, 1937.—9 Halsbury's Statutes (2nd Edn.) 996. As to the meaning of " factory ", see s. 151 thereof (9 Halsbury's Statutes (2nd Edn.) 1113).

Salmon and Freshwater Fisheries Act, 1923, s. 44.—10 Halsbury's Statutes (2nd Edn.) 92.

Public Health Act, 1936.—29 Halsbury's Statutes 309. As to the meaning of " workplace ", see s. 343 thereof (29 Halsbury's Statutes 539).

37. Provisions as to Border rivers and Solway Firth.—(1) Section one of the Rivers Pollution Prevention (Border Councils) Act, 1898, shall have effect, as from the day first appointed for the transfer of any functions relating to river pollution from the council of any of the following counties, that is to say, Cumberland, Durham and Northumberland, to a river board, subject to the following adaptations, that is to say :—

(*a*) the reference to the council of any of the counties through or by which a river situated partly in England and partly in Scotland or any tributary thereof passes shall, in so far as the said county is included in a river board area, be construed as including a reference to the river board for that area instead of a reference to that county ;

(*b*) other references to the said counties or to the counties represented by the committee or body constituted under the said section shall include a reference to the said river board. [2259]

(2) The functions under the Salmon and Freshwater Fisheries Acts, 1923 to 1935, and the Diseases of Fish Act, 1937, exercisable by the river board whose area includes so much of the river Esk as is situated in England shall be exercisable with respect to the whole of that river, together with its banks and tributary streams up to their source, as if they were part of the river board area :

Provided that—

(*a*) offences against the said Acts committed within Scottish jurisdiction shall be prosecuted and fines recovered in manner directed by the Salmon Fisheries (Scotland) Act, 1868 ;

(*b*) nothing in this subsection shall authorise the river board to purchase compulsorily under this Act any land in Scotland. [2260]

(3) Nothing in this Act shall be construed as authorising any river board to exercise functions under the Acts mentioned in the last preceding subsection with respect to the river Tweed within the meaning of the expression " the river " as defined by the Tweed Fisheries Amendment Act, 1859, and any byelaw amending that definition. [2261]

(4) Section eighty-four of the Salmon and Freshwater Fisheries Act, 1923 (which provides for the constitution of a fishery board for the Solway Firth), the words in section eighty-five of that Act " Until such an order as is mentioned in the last preceding section is made and until such date thereafter as may be prescribed by such order ", and the Fourth Schedule to that Act are hereby repealed. [2262]

Rivers Pollution Prevention (Border Councils) Act, 1898, *s.* 1.—20 Halsbury's Statutes 345.
Salmon and Freshwater Fisheries Acts, 1923 *to* 1935.—These Acts are the Salmon and Freshwater Fisheries Act, 1923 (10 Halsbury's Statutes (2nd Edn.) 59) ; the Salmon and Freshwater Fisheries (Amendment) Act, 1929 (10 Halsbury's Statutes (2nd Edn.) 126) ; and the Salmon and Freshwater Fisheries Act, 1935 (10 Halsbury's Statutes (2nd Edn.) 127).
Diseases of Fish Act, 1937.—10 Halsbury's Statutes (2nd Edn.) 128.
Tweed Fisheries Amendment Act, 1859.—22 & 23 Vict. c. lxx.

38. Short title, and extent.—(1) This Act may be cited as the River Boards Act, 1948. [2263]

(2) Except for the last preceding section this Act shall not extend to Scotland and shall not extend to Northern Ireland. [2264]

SCHEDULES

Section 2

FIRST SCHEDULE

PROCEDURE FOR MAKING ORDERS AND PROVISIONS AS TO THE VALIDITY OF ORDERS

PART I

General provisions

1. Before making an order to which this Schedule applies the Ministers shall, after consultation with such of the associations and persons concerned as the Ministers consider it appropriate to consult at that stage, prepare a draft order and shall cause notice of the intention to make the order and of the place where copies of the draft order and of any map referred to therein may be inspected and obtained, and of the time (not being less than 28 days) within which, and the manner in which, objections to the draft order may be made, to be published in the London Gazette and in such other manner as they think best adapted for informing persons affected, and, subject as hereinafter provided, to be served on the council of every county, county borough or county district wholly or partly included in the area affected by the order and on every river board, drainage board, fishery board, navigation authority, conservancy authority or harbour authority which is known to the Ministers to be exercising jurisdiction within the area affected by the order and, in a case where the area affected by the order includes the whole or any part of the

areas originally excluded from section one of this Act, the Metropolitan Water Board.

Provided that—

(*a*) in the case of an order establishing or varying the constitution of a river board, it shall not be necessary to serve a notice on the council of any county district not specified in the order or on any navigation authority, conservancy authority or harbour authority, except the Port of London Authority in a case where the area affected by the order includes the whole or any part of the areas originally excluded from section one of this Act; and

(*b*) in the case of an order transferring functions from a navigation authority, conservancy authority or harbour authority to a river board, it shall only be necessary to serve a notice on the councils of the counties and county boroughs aforesaid, any drainage board within whose district the navigation or any part thereof, or inland waters connected with the navigation, are situated, the river board and the authority from whom the functions are to be transferred.

2. Before making the order the Ministers shall consider any objections which may be duly made to the draft order and may in any case cause a public local inquiry to be held with respect to any objections to the draft order.

3. In this Part of this Schedule the expression "the area affected by the order"—

(*a*) in the case of an order defining or altering any river board area, means the river board area as proposed to be defined or altered by the order;

(*b*) in the case of an order establishing or varying the constitution of a river board for a river board area, means that river board area;

(*c*) in the case of an order providing that the whole or any part of the areas excluded from section one of this Act shall cease to be excluded from that section means the whole or, as the case may be, that part of those areas; and

(*d*) in the case of an order transferring functions from a navigation authority, conservancy authority or harbour authority to a river board, means the river board area of that river board. [2265]

PART II

Provisions applicable to orders which are subject to special parliamentary procedure

4. After an order to which this Part of this Schedule applies has been made, the Ministers shall, if an objection has been made under Part I by any body, other than the council of a county district, on whom notice is required to be served under that Part and has not been withdrawn, give notice of the making of the order and the effect thereof to every such body who has made such an objection which has not been withdrawn, and in that case the order shall not have effect before the expiration of twenty-eight days from the date of the said notice, and if within that period any such body gives notice to the Ministers that they object to the order and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

Provided that, in the case of an order defining or altering a river board area, this paragraph shall not apply to a navigation authority, conservancy authority or harbour authority, except the Port of London Authority in a case where the river board areas as proposed to be defined or altered includes the whole or any part of the areas originally excluded from section one of this Act. [2266]

PART III

Provisions with respect to the validity of orders not confirmed by Parliament

5. After the making of an order to which this Schedule applies the Ministers shall publish in the London Gazette, and in such other manner as they think best adapted for informing persons affected, a notice stating that the order has been made, and naming a place where a copy thereof may be seen at all reasonable hours:

Provided that, in the case of an order to which Part II of this Schedule applies, the said notice shall not be published until the expiration of the period of twenty-eight days referred to in the said Part II, and the notice shall state whether or not the order is to be subject to special parliamentary procedure.

6. If any person aggrieved by the order desires to question its validity on the ground that it is not within the powers of this Act or that any requirement of this Act has not been complied with, he may, within six weeks after the date of the first publication of the said notice, make an application for the purpose to the High Court, and if any such application is duly made, the court, if satisfied that the order is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by any requirements of this Act not having been complied with, may quash the order either generally or in so far as it affects the applicant; but save as aforesaid the order shall not at any time be questioned by prohibition or certiorari or in any legal proceedings whatsoever:

Provided that this paragraph shall not apply to an order which is confirmed by Act of Parliament under section six of the Statutory Orders (Special Procedure) Act, 1945, and shall have effect in relation to any other order which is subject to special parliamentary procedure by virtue of Part II of this Schedule as if for the reference to the date of the publication of the notice there were substituted a reference to the date on which the order becomes operative under the said Act. [2267]

Order to which this Schedule applies.—See ss. 2 (8), 3 (4), 7 (4), (6), 8 (3), *ante*.

Consultation.—In order to secure the greatest possible measure of local information and agreement in advance of the publication of orders, the Ministers have set up the River Board Areas Consultative Committee consisting of representatives of local authorities and other bodies concerned.

Notice.—As to notices, see s. 19, *ante*.

Inquiry.—As to inquiries by the Ministers, see s. 24, *ante*.

Special parliamentary procedure.—As to special parliamentary procedure, see the Statutory Orders (Special Procedure) Act, 1945 (38 Halsbury's Statutes 439).

It should be noticed that the authorities entitled to require that an order shall be subject to this procedure do not include all the authorities upon whom notice must be served of intention to make an order. Among the excluded authorities are county district councils, it being felt that where the objections of such a council are of real substance they will be able to secure the support of their county council.

Statutory Orders (Special Procedure) Act, 1945, s. 6.—38 Halsbury's Statutes 444.

Definitions.—For definitions of "conservancy authority", "drainage board", "fishery board", "harbour authority", "navigation authority" and "the Ministers", see s. 36 (1), *ante*.

Section 2

SECOND SCHEDULE

PROVISIONS AS TO RIVER BOARDS, THEIR MEMBERS, COMMITTEES, PROCEEDINGS, ETC.

1. The board shall be a body corporate with perpetual succession and a common seal and power to hold land without licence in mortmain.

2. The first members of the board shall hold office until the first day of November in the calendar year next following the calendar year in which the first meeting of the board is held.

3. Any members of the board other than the first members thereof shall come into office on the first day of November next after the day on which they are appointed, and shall hold office for a term of three years.

4. Where the constitution of the board is varied by an order made under section three of this Act, any members who are required by or under the order to vacate their office shall do so notwithstanding the provisions of the last preceding paragraph, and any new members of the board appointed in pursuance of the order shall hold office so long only as the other members of the board will hold office.

5. If for any reason whatsoever the place of a member of the board becomes vacant before the end of his term of office, the vacancy shall be filled by the appointment of a new member by the Ministers, the Minister of Agriculture and Fisheries, the Minister of Transport or the council of a county or county borough, as the case may be, by whom the vacating member was appointed, and, in a case where the vacating member was appointed by a county council on the nomination of the council of a county district, the new member shall be appointed on the nomination of that

county district and, in a case where the vacating member was appointed to represent the drainage boards in the river board area, the new member shall be appointed after consultation with such of those drainage boards as appear to the Minister of Agriculture and Fisheries to be concerned :

Provided that, where the unexpired portion of the term of office of the vacating member is less than six months, the vacancy need not be filled.

6. A person appointed to fill a casual vacancy shall hold office so long only as the vacating member would have held office.

7. Notwithstanding anything in the preceding provisions of this Schedule—

(*a*) a member may resign his office by notice in writing under his hand given to the chairman of the board ; and

(*b*) if a member becomes bankrupt or makes a composition or arrangement with his creditors he shall vacate his office ; and

(*c*) if a member is absent from meetings of the board for more than six months consecutively he shall, unless his absence is due to illness or some other reason approved by the board, vacate his office on the expiration of the said six months.

8. A person who is an undischarged bankrupt, or who has at any time within the preceding five years made a composition or arrangement with his creditors, shall be disqualified for being appointed or being a member of the board.

9. A vacating member shall, subject to the provisions of this Schedule, be eligible for re-appointment.

10. In the case of a river board for an area which consists of or includes the River Ouse (Yorks) Catchment Area or the River Trent Catchment Area—

(*a*) the appointment of a new member to fill a vacancy arising in consequence of the place of a member appointed by the National Coal Board becoming vacant before the end of his term of office shall be made by the National Coal Board ; and

(*b*) any member appointed by the National Coal Board may authorise another person to attend in his stead at meetings of the river board or any committee thereof and to exercise on his behalf all or any of his rights as a member of the board or committee, and any such authority shall be in writing and may be given in respect of a particular meeting or in respect of all meetings until the authority expires or is revoked.

11.—(1) The Board shall appoint a finance committee for regulating and controlling the finance of the board.

(2) The Board may appoint a committee for any such general or special purpose as in the opinion of the board would be better regulated and managed by means of a committee.

(3) The board may delegate to a committee appointed under this paragraph, with or without restrictions or conditions, as they think fit, any functions exercisable by the board except their powers to issue precepts or borrow money.

(4) The number of members of a committee appointed under this paragraph and their term of office shall be fixed by the board, and any such committee, except the finance committee, may include members who are not members of the board, but at least two-thirds of the members of every such committee shall be members of the board.

(5) Every member of such a committee who at the time of his appointment was a member of the board shall, upon ceasing to be a member of the board, also cease to be member of the committee :

Provided that for the purposes of this provision a member of the board shall not be deemed by reason of retirement to have ceased to be a member of the board if he has been re-appointed a member thereof not later than the day of his retirement.

12. The proceedings of the board or any committee thereof shall not be invalidated by any vacancy in their number or by any defect in the appointment or qualification of any member of the board or committee.

13. Any member of the board or any committee thereof shall, if he is interested in any company with which the board or committee has or proposes to make any contract, disclose to the board or committee the fact and nature of his interest, and

shall take no part in any deliberation or decision of the board or committee relating to such contract, and such disclosure shall be forthwith recorded in the minutes of the board or committee :

Provided that the Ministers may, subject to such conditions as they may think fit to impose, remove any disability imposed by this paragraph in any case in which the number of members of the board so disabled at any one time would in the opinion of the Ministers be so great a proportion of the whole as to impede the transaction of business or in any other case in which in the opinion of the Ministers it is in the interest of the inhabitants of the river board area that the disability shall be removed.

14. The board may, with the approval of the Ministers, make rules for regulating the proceedings, including quorum, place of meeting and notices to be given of meetings, of the board or any committee thereof, and with respect to the appointment of a chairman and a vice-chairman of the board or a committee thereof.

15. The first meeting of the board shall be held on such day and at such time and place as may be appointed by the Ministers, and the Ministers shall cause notice of the meeting to be sent by post to each member of the board not less than fourteen days before the day so appointed.

16. A minute of the proceedings of a meeting of the board or of a committee of the board, purporting to be signed at that or the next ensuing meeting by the chairman of the meeting to the proceedings of which the minute relates or the chairman of the next ensuing meeting shall be evidence of the proceedings and shall be received in evidence without further proof, and until the contrary is proved every meeting in respect of the proceedings of which a minute has been so signed shall be deemed to have been duly convened and held and all the proceedings had at the meeting to have been duly had, and where the proceedings are the proceedings of a committee, the committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minute.

17. The Ministers may, if they think fit, authorise the board to pay to the chairman of the board by way of remuneration such sum as the Ministers think fit.

18. The board shall appoint such officers and servants as they think fit, and shall pay to those officers and servants such salaries or other remuneration as they think fit.

19. A river board may pay any reasonable expenses incurred by members or officers of the board or of any committee thereof in attending a conference or meeting convened by one or more river boards, or by any association of river boards, for the purpose of discussing any matter connected with the discharge of the functions of river boards, and any reasonable expenses incurred in purchasing reports of the proceedings of any such conference or meeting.

20. A river board may pay reasonable subscriptions, whether annually or otherwise, to the funds—

(*a*) of any association of river boards formed for the purpose of consultation as to the common interests of river boards and the discussion of matters connected with the discharge of the functions of river boards ;

(*b*) of such associations of officers of river boards, being associations formed for the purpose aforesaid, as may be approved by the Ministers. [2268]

General note.—This Schedule sets out provisions as to river boards, their members, committees, proceedings, etc., having effect by virtue of s. 2 (9), *ante*.

Issuing of precepts.—See s. 10, *ante*.

Borrowing of money.—See s. 11, *ante*.

Definitions.—For definitions of "drainage board", "functions" and "the Ministers", see s. 36 (1), *ante*.

Section 4

THIRD SCHEDULE

APPLICATION OF ENACTMENTS IN RELATION TO RIVER BOARD AREAS

Enactments relating to land drainage

1. Subject as hereafter in this Schedule provided, all enactments and statutory orders relating to a catchment board or a catchment area, other than the enact-

ments and statutory orders referred to in paragraph 6 of this Schedule, shall have effect subject to the following adaptations :—

(*a*) general references to a catchment board or a catchment area shall be construed as references to a river board or a river board area, as the case may be ;

(*b*) references to a particular catchment board or a particular catchment area shall be construed as references to the river board by whom the functions of the catchment board have become exercisable, or, as the case may be, their river board area ; and

(*c*) reference (except in this Act and the Acquisition of Land (Authorisation Procedure) Act, 1946) to a drainage board or to a drainage board constituted under the Land Drainage Act, 1930, or to a drainage district, except where the reference is to a drainage board or drainage district other than a catchment board or a catchment area, shall be construed as including references to a river board or a river board area, as the case may be, and not references to a catchment board or catchment area.

2. Section one (except subsection (3) thereof), subsections (1) to (3) of section two, and sections three, five, twelve, fifteen, twenty-, twenty-two (so far as it applies to councils or counties and county boroughs), forty-three, forty-five, forty-six, subsections (2) to (7) of section forty-seven, section forty-eight, subsections (1), (2), (3) and (5) of section forty-nine, and sections fifty-six, seventy-one, seventy-two, seventy-three, seventy-five, seventy-eight, seventy-nine and eighty (except subsection (5) thereof) of the Land Drainage Act, 1930, and the First and Sixth Schedules to the said Act, and section one hundred and eighteen of and the Twelfth Schedule to the Transport Act, 1947, shall not apply to a river board or a river board area, but without prejudice to their application (so far as applicable) to drainage boards (other than catchment boards) for drainage districts wholly or partly included in any river board area.

3. Section four of the Land Drainage Act, 1930, shall have effect as if subsection (1) thereof empowered a river board at any time, and required them on the direction of the Minister of Agriculture and Fisheries, to submit to the Minister for confirmation a scheme making provision for any of the matters referred to in sub-paragraphs (i) and (ii) of paragraph (*a*) and sub-paragraphs (i) to (ix) of paragraph (*b*) of subsection (1) of that section, and as if the reference in that subsection to the commencement of that Act were a reference to the date of the submission of the scheme.

4. Section twenty-three of the Land Drainage Act, 1930 shall have effect as if the references to Part IV of that Act were references to this Act, and section seventy-six of that Act shall have effect as if the reference to Part V of that Act were a reference to this Act.

5. Section eighteen of the Agriculture (Miscellaneous War provisions) Act, 1940, shall not apply to a river board.

6. Any enactment in a local Act and any statutory order which confer functions on a catchment board, and any enactment or statutory order which relates to functions so conferred, shall have effect, in relation to so much of the area to which the enactment or statutory order applies as is included in the river board area, as if for references to the catchment board there were substituted references to the river board, and subject to such further modifications, adaptations and exceptions as may be specified by an order made by the Ministers :

Provided that section four of the Doncaster Area Drainage Act, 1933, as amended by article four of the Coal Industry Nationalisation (Doncaster Drainage) Order, 1947, shall not apply to any river board.

Enactments relating to fisheries

7. Subject as hereafter in this Schedule provided, all enactments and statutory orders relating to a fishery board or a fishery district, other than the enactments and statutory orders referred to in paragraph 13 of this Schedule, shall have effect as if for the references to a fishery board or a fishery district there were substituted references to a river board or a river board area, as the case may be.

8. No order shall be made under Part IV of the Salmon and Freshwater Fisheries Act, 1923, setting up any fishery board for a district included in a river board area, but an order may be made under the said Part providing for the regulation of fisheries by a river board in a river board area or any part thereof, and, in relation to any such order, paragraph (*a*) of subsection (1) of section thirty-eight of the said Act shall have effect as if the words " of the fishery district " were omitted and paragraphs (*b*), (*g*) and (*h*) of that subsection and subsection (4) of that section shall not apply, and references in that section, the next following section and the Second Schedule to the fishery board constituted by the order shall be construed as references to the river board, and section forty-one of the said Act shall not apply to a river board.

9. References in section forty-four of the said Act to the fishery boards and districts therein mentioned shall be construed as references to river boards and river board areas.

10. Sections forty-three, forty-five to fifty-three, paragraph (*a*) of subsection (1) and subsection (2) of section fifty-four, subsection (1) of section fifty-five, sections fifty-six, fifty-seven, fifty-eight and sixty, subsection (2) of section sixty-five, sections sixty-six, sixty-eight and eighty-eight of the said Act and the Third Schedule thereto shall not apply to river boards and river board areas.

11. In subsection (1) of section sixty-four of the said Act, references to water bailiffs appointed under the said Act shall be construed as references to water bailiffs appointed under this Act, and references in subsequent provisions of that Act to water bailiffs shall be construed accordingly, and the words in subsection (4) of section sixty-seven of that Act " purporting to be executed in the manner prescribed in this Act " shall not apply to water bailiffs appointed under this Act.

12. Section eighty-one of the said Act shall, so far as it relates to byelaws, not apply to river boards.

13. Any enactment in a local Act and any statutory order which confer functions on a fishery board, and any enactment or statutory order which relates to functions so conferred, and any order made under Part IV of the Salmon and Freshwater Fisheries Act, 1923, restricting or modifying the functions of a fishery board under that Act, shall have effect, in relation to so much of the area to which the enactment or order applies as is included in a river board area, as if for references to the fishery board there were substituted references to the river board, and subject to such further modifications, adaptations and exceptions as may be specified by an order made by the Ministers ; and any functions exercisable under the said Act by a river board by virtue of paragraph 7 of this Schedule shall be subject to any such restriction or modification made by an order under Part IV of that Act as aforesaid, so far as it applies thereto.

Enactments relating to river pollution

14. The reference in section sixty-nine of the Public Health Act, 1875, to any local authority shall be construed as a reference to a river board and the words " either within or without their district " and so much of the section as relates to costs shall not apply to a river board.

15. References in section six of the Rivers Pollution Prevention Act, 1876, to a sanitary authority and to a district of a sanitary authority shall be construed as references to a river board and a river board area, respectively and the words in the said section from " and where," to the end of the section shall not apply, and the first paragraph of section eight of the said Act shall be modified so as to have effect as follows :—

> " Every river board shall, subject to the restrictions in this Act contained, have power to enforce the provisions of this Act in relation to any stream in the river board area, and for that purpose to institute proceedings in respect of any offence against this Act."

16. Section fourteen of the Local Government Act, 1888, shall not apply to any river board area.

17. Any enactment in a local Act and any statutory order which confer functions relating to river pollution on any local authority or any joint board or joint committee of local authorities, and any enactment or statutory order which relates to

any functions so conferred, shall have effect, in relation to so much of the area to which the enactment or statutory order applies as is included in a river board area, as if for references to the local authority, joint board or joint committee there were substituted references to the river board, and subject to such further modifications, adaptations and exceptions as may be specified by an order made by the Ministers :

Provided that this paragraph shall not apply to any enactment or statutory order conferring functions on any such local authority, joint board or joint committee for the purposes of a water undertaking carried on by them.

18. If any enactment or statutory order referred to in the last preceding paragraph (other than the proviso thereto) applies to a part only of a river, an order made under that paragraph may extend the enactment or statutory order to the whole of that river (including any tributaries thereof), so far as it is included in the river board area. [2269]

General note.—This Schedule provides for the application of enactments and statutory orders in relation to river board areas in accordance with s. 4 (1), *ante.*

Acquisition of Land (Authorisation Procedure) Act, 1946.—3 Halsbury's Statutes (2nd Edn.) 1064.

Land Drainage Act, 1930.—23 Halsbury's Statutes 529.

Transport Act, 1947, s. 118, *Sched. XII.*—40 Halsbury's Statutes 1005, 1025.

Agriculture (Miscellaneous War Provisions) Act, 1940, s. 18.—33 Halsbury's Statutes 16.

Doncaster Area Drainage Act, 1933.—23 Geo. 5, c. x.

Coal Industry Nationalisation (Doncaster Drainage) Order, 1947.—S. R. & O., 1947, No. 651.

Salmon and Freshwater Fisheries Act, 1923.—10 Halsbury's Statutes (2nd Edn.) 59.

Public Health Act, 1875, s. 69.—13 Halsbury's Statutes 654.

Rivers Pollution Prevention Act, 1876, s. 6.—20 Halsbury's Statutes 318.

Local Government Act, 1888, s. 14.—10 Halsbury's Statutes 697.

Definitions.—For definitions of "catchment area", "catchment board", "drainage board", "fishery board", "fishery district", "functions", "local Act", "local authority" "river pollution", "statutory order" and "the Ministers", see s. 36 (1), *ante.*

LONDON

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ORDERS, CIRCULARS AND MEMORANDA

CITY OF LONDON TRAFFIC (MISCELLANEOUS PROVISIONS) ORDER, 1948

S.I. 1948 *No.* 1688

July 20, 1948

In exercise of the powers conferred upon him by Regulation 70 of the Defence (General) Regulations, 1939, as having effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945, as extended by the Supplies and Services (Extended Purposes) Act, 1947, and of all other powers him enabling, the Minister of Transport hereby makes the following Order :—

1. In this Order the following expressions have the meanings hereby assigned to them :—

"Street" means a highway and includes part of a highway,

"Restricted Street" means any highway specified in the Schedule to this Order (hereinafter referred to as "a scheduled street") and the first 120 feet of every highway which joins a scheduled street on either side measured from its junction with the scheduled street,

"The prescribed hours" means the period of time between 9 a.m. and 6.30 p.m. on any day other than a Saturday or Sunday,

"Public Service Vehicle" has the meaning assigned to it by the Road Traffic Act, 1930,

"Goods" includes postal packets of any description, and

"Delivering" and "Collecting" in relation to any goods includes checking the goods for the purpose of their delivery or collection. [2270]

2. Subject to the provisions of Article 3 of this Order no person shall cause or permit any vehicle to wait in any restricted street during the prescribed hours except for the purpose of:—

(*a*) enabling any person to board or alight from such vehicle or to load thereon or unload therefrom his personal luggage, or

(*b*) delivering or collecting goods or merchandise or loading or unloading such vehicle at premises situate within such street if it is not reasonably practicable to load or unload the vehicle in any neighbouring street not being a restricted street; or

for any longer period than may be necessary for such purpose.

Provided that no vehicle engaged in delivering or collecting goods or merchandise or being loaded or unloaded shall in any restricted street wait for more than 20 minutes outside the same premises and that the driver of any vehicle waiting for such purpose shall move the vehicle on the instructions of a police officer in uniform whenever such moving may be reasonably necessary for the purpose of preventing obstruction. [2271]

3. Nothing in Article 2 of this Order shall apply:—

(1) so as to restrict the loading or unloading of any vehicle while such vehicle is in actual use in connection with—

(*a*) the removal of furniture from one office or dwelling house to another; or

(*b*) the collection or delivery of goods which cannot reasonably be loaded or unloaded outside the prescribed hours or within the 20 minutes allowed provided that notice is given 48 hours in advance to the police, their consent is obtained and such reasonable conditions as they may impose are complied with;

(2) so as to restrict the use of any vehicle in connection with any building operation, demolition or excavation, the removal of any obstruction to traffic, the maintenance, improvement or reconstruction of any restricted street or the laying, erection, alteration or repair in or near to any restricted street of any sewer or of any main, pipe or apparatus for the supply of gas, water or electricity, or of any telegraph or telephone wires, cables, posts or supports, if the vehicle cannot conveniently be put to such use in any other street not being a restricted street or outside the prescribed hours;

(3) to fire engines, ambulances or any vehicle in the service of a local authority or police force while such vehicle is being used as a matter of urgent necessity in a restricted street;

(4) to any public service vehicle, tram or trolley vehicle whilst waiting at an authorised stopping place or at a turning or terminal point;

(5) to any hackney carriage waiting upon any duly authorised cab rank;

(6) to any vehicle lawfully waiting upon any duly authorised parking place;

(7) to any vehicle waiting in any restricted street while postal packets unloaded from that vehicle and bearing addresses in that street are being delivered at such addresses. [2272]

4. No person in charge of a vehicle delivering or collecting goods or merchandise or person engaged in the course of or in connection with the loading or unloading of any article or goods whatsoever on to or from any vehicle within any restricted street shall, during the prescribed hours, cause or permit :—

(1) any such goods, merchandise or article to be deposited on the carriageway except immediately in rear of the vehicle or allow any goods, merchandise or article so deposited to remain on the carriageway before the arrival or after the departure of the vehicle ;

(2) any such goods, merchandise or article to be deposited on the footway ;

(3) to be used over or across any part of the carriageway or footway any ropes, chains, or other apparatus any part of which or any load suspended therefrom, if over the carriageway, is less than 16 feet in a vertical line from the surface of the carriageway, except when vertically over any vehicle to be loaded or unloaded, or if over the footway is less than 9 feet in a vertical line from the surface of the footway ;

(4) any such goods, merchandise or article to be passed from hand to hand across any part of the carriageway or footway.

Provided :—

(*a*) that nothing in this Article shall apply to any person in charge of, or engaged in the loading or unloading of, any vehicle while such vehicle is in actual use in connection with any of the purposes specified in paragraphs (2) and (3) of Article 3 of this Order ;

(*b*) that nothing in paragraphs (1) (2) and (4) of this Article shall apply to any person engaged in the loading or unloading of any vehicle in connection with the erection or maintenance of signs ; and

(*c*) that this Article shall not apply on Christmas Day, Good Friday, the day preceding Good Friday, Bank Holidays and days appointed by proclamation to be Bank Holidays. [2273]

5. This Order shall come into operation on the 1st day of August, 1948, and may be cited as "The City of London Traffic (Miscellaneous Provisions) Order, 1948." [2274]

* * * * *

SCHEDULE

1. Newgate Street.
2. Cheapside.
3. Poultry.
4. Mansion House Street.
5. Cornhill.
6. Leadenhall Street.
7. Fleet Street between the City Boundary and its junction with Ludgate Circus.
8. Ludgate Circus.
9. Ludgate Hill.
10. So much of St. Paul's Church Yard as lies between its junction with Ludgate Hill and its junction with Cannon Street and to the south of St. Paul's Cathedral.
11. Cannon Street.
12. Queen Victoria Street between its junction with Bread Street and its junction with Sise Lane.

13. Threadneedle Street.
14. Lombard Street between its junction with Mansion House Street and its junction with King William Street.
15. Fenchurch Street.
16. Aldgate.
17. Aldgate High Street.
18. New Bridge Street.
19. Queen Street between its junction with Cheapside and its junction with Cannon Street.
20. Moorgate.
21. Princes Street.
22. King William Street.
23. Bishopsgate between its junction with Cornhill and its junction with Primrose Street.
24. Gracechurch Street. [2275]

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order imposes restrictions on vehicles with regard to waiting, loading and unloading in certain streets in the City of London between 9 a.m. and 6.30 p.m. on every weekday except Saturday. The restrictions do not apply to certain classes of vehicle or to other vehicles whilst being used for specified purposes.

MARKETS AND FAIRS

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Transfer of Functions (Secretary of State and Minister of Health) Order, 1948 - 747

ORDERS, CIRCULARS AND MEMORANDA

TRANSFER OF FUNCTIONS (SECRETARY OF STATE AND MINISTER OF HEALTH) ORDER, 1948

S.I. 1948 *No.* 865

April 27, 1948

Whereas it is provided by the Ministers of the Crown (Transfer of Functions) Act, 1946, that it shall be lawful for His Majesty by Order in Council to transfer to any Minister of the Crown any functions theretofore exercisable by another Minister of the Crown :

And Whereas the Minister of Health exercises and performs the functions mentioned in Article 2 of this Order which functions appear to His Majesty to be more suitable for the Secretary of State :

Now, therefore, His Majesty is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1.—(1) This Order may be cited as the Transfer of Functions (Secretary of State and Minister of Health) Order, 1948, and shall come into operation on the first day of July, 1948.

(2) The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament. [2276]

2. There shall be transferred to the Secretary of State the functions of the Minister of Health—

(*a*) under section forty-six of the Food and Drugs Act, 1938 (which relates to the days on which, and the hours during which, markets are to be held);

(*b*) of confirming byelaws made under section fifty of the said Act (which authorises a market authority to make byelaws declaring the distance from the market within which specified articles may not be sold during market hours except in market or in shops or in certain other places);

(*c*) under any enactment in a local Act or provisional order of consenting to, or approving, any stallages, tolls, rents or other charges for the purposes of markets or fairs. [2277]

3.—(1) In the construction and for the purposes of any enactment (other than an enactment contained in the Ministers of the Crown Act, 1937), regulation, byelaw or other document passed or made before the date of the coming into operation of this Order any reference to, or which is to be construed as a reference to, the Minister of Health shall, so far only as may be necessary for the purpose or in consequence of the transfer of functions effected by this Order, be construed as a reference to the Secretary of State.

(2) This Order shall not prejudice the operation of any confirmation, consent or approval given or other thing done by the Minister of Health before the date of the coming into operation of this Order in relation to functions thereby transferred, but any such matter shall, if then in force, continue in force to the like extent and subject to the like provisions as if it had been duly given or done by the Secretary of State. [2278]

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MEMORIALS, WAR AND OTHER

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STATUTES

LOCAL GOVERNMENT ACT, 1948

(11 & 12 Geo. 6, c. 26)

PRELIMINARY NOTE

Part VII (ss. 120–139) of the Local Government Act, 1948, which came into force on the passing of the Act on March 24, 1948, contains a number of miscellaneous amendments of local government law. S. 133 thereof, which falls within this title, extends the powers of local authorities under the War Memorials (Local Authorities' Powers) Act, 1923 (10 Halsbury's Statutes 875) of maintaining, repairing and protecting war memorials to cover the alteration of a memorial so as to make it serve for any war subsequent to that for which it was erected and also the correction of errors and omissions in the inscription on a memorial.

Other provisions of the Local Government Act, 1948, are to be found under titles ELECTRICITY SUPPLY; FINANCE; and HIGHWAYS, *ante*; and MUNICIPAL HOSPITALITY and RATES AND RATING, *post*. [2279]

ARRANGEMENT OF SECTIONS

* * * * *

PART VII

MISCELLANEOUS

* * * * *

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PART VIII

GENERAL

* * * * *

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* * * * *

An Act to amend the law relating to Exchequer grants to local authorities and other bodies and grants by local authorities to other local authorities or other bodies, and the law relating to rating, valuation for rating and precepts to rating authorities; to provide for payments for the benefit of local authorities by the British Transport Commission, the British Electricity Authority and the North of Scotland Hydro-Electric Board; to amend the Railway Freight Rebates Enactments, 1929 to 1943, section two hundred and eleven of the Local Government (Scotland) Act, 1947, the law relating to the payment of expenses and other allowances to members of local authorities and other bodies and the law relating to the manner in which certain securities of local authorities and other bodies may be transferred; to extend the powers of local authorities in certain respects; and for purposes connected with the matters aforesaid. [2280]

[24th March, 1948.]

* * * * *

PART VII

Miscellaneous

* * * * *

133. War memorials.—(1) In section one of the War Memorials (Local Authorities' Powers) Act, 1923 (which enables local authorities, as defined in that Act, to incur reasonable expenditure in the maintenance, repair and protection of war memorials in their district which are vested in them) for the words "which may be vested in them," there shall be substituted the words "whether vested in them or not." [2281]

(2) The matters on which expenditure may be incurred under the said section one shall include the alteration of any memorial to which that section applies so as to make it serve as a memorial in connection with any war subsequent to that in connection with which it was erected and the correction of any error or omission in the inscription on any such memorial. [2282]

(3) (Application to Scotland.) [2283]

General effect of section.—See the Preliminary Note, *ante*.

War Memorials (Local Authorities' Powers) Act, 1923.—10 Halsbury's Statutes 875.

Local authorities.—"Local authority" is defined in s. 4 of the Act of 1923, *supra*, as meaning "the council of a county, county borough, metropolitan borough or other borough, or of an urban district or parish, and the parish meeting of a rural parish with no parish council."

* * * * *

PART VIII

General

* * * * *

148. Short title and extent.—(1) This Act may be cited as the Local Government Act, 1948. [2284]

(2) This Act shall not extend to Northern Ireland. [2285]

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MIDWIVES

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ORDERS, CIRCULARS AND MEMORANDA

MIDWIVES (AMENDMENT) RULES, INSTRUMENT OF APPROVAL, 1948

S.I. 1948 *No.* 689

April 5, 1948

Whereas the Central Midwives Board have, in pursuance of their powers under section 3 of the Midwives Act, 1902, made amendments to the Rules framed by them under the Midwives Acts 1902 to 1936, and have submitted the amendments to the Minister of Health for his approval :

And Whereas the General Medical Council have decided to make no representations to the Minister with respect thereto :

Now, therefore, the Minister of Health, in exercise of his powers under section 3 of the Midwives Act, 1902 and of all other powers enabling him in that behalf, hereby approves the said amendments in the form set out in the schedule hereto.

This Instrument may be cited as the Midwives (Amendment) Rules, Instrument of Approval, 1948. [2286]

SCHEDULE

CENTRAL MIDWIVES BOARD

The Midwives Acts 1902 *to* 1936

The Central Midwives Board in the exercise of their powers under section 3 of the Midwives Act, 1902, hereby make the following amendments to the Rules framed under the Midwives Acts, 1902 to 1936 :—

In Rule 33 of section B of the aforesaid Rules, the words : " and in the case of the Second Examination the records kept by the pupil in compliance with Rule B.17," and the words : " and records " shall be deleted.

R. J. FENNEY,
Secretary.
8th March, 1948. [2287]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Instrument, but is intended to indicate its general purport.)

Rule B.33 provided that certain records kept by a pupil had to be sent to the Secretary of the Central Midwives Board, before she presented herself for the Second Examination. The Amendment dispenses with this obligation.

MEDICAL PRACTITIONERS (FEES) REGULATIONS, 1948

S.I. 1948 *No.* 695

April 5, 1948

General note.—These regulations were revoked as from July 5, 1948, and replaced by the Medical Practitioners (Fees) (No. 2) Regulations, 1948 (S.I. 1948 No. 1453), *post*, without prejudice, however, to acts, etc., done thereunder.

The Minister of Health, in pursuance of his powers under subsection (1) of section 9 of the Midwives Act, 1936, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

1. These regulations may be cited as the Medical Practitioners (Fees) Regulations, 1948, and shall come into operation on the 18th day of April, 1948. [2288]

2. The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [2289]

3. The scale of fees set out in the First Schedule hereto is fixed as the scale of fees payable to medical practitioners under subsection (1) of section 14 of the Midwives Act, 1918. [2290]

4. The conditions subject to which fees are to be payable to medical practitioners under the said subsection are as follows :—

(*a*) The medical practitioner shall not have agreed to attend the patient under arrangement made by or on behalf of the patient or by any club, medical institute or other association, of which the patient or her husband is a member ;

(*b*) The medical practitioner shall not be under an obligation to give the treatment to the patient under the National Health Insurance Acts, 1936 to 1941, or by virtue of any office held by him under a local authority or under the terms of any agreement made between him and a local authority ;

(*c*) The medical practitioner shall not receive or agree to receive a fee from the patient or her representative ;

(*d*) The fees set out in paragraphs (viii) and (x) of the First Schedule hereto shall not be payable—

(i) in respect of any services performed by the medical practitioner later than the fourteenth day after his first attendance, except where he has reported to the local supervising authority before the expiration of the said fourteenth day that he considers, for reasons stated in writing that his further attendance is necessary ;

(ii) in respect of any services performed by the medical practitioner after the expiration of four weeks from the birth ;

(*e*) The fees set out in paragraphs (i) to (vi) of the First Schedule hereto shall not be payable unless at the conclusion of his attendances a report in the form set out in the Second Schedule to these regulations shall have been furnished by the medical practitioner to the medical officer of health of the local supervising authority. [2291]

5. The Medical Practitioners (Fees) Regulations, 1940, are hereby revoked, but without prejudice to anything duly done or suffered or to any right privilege obligation or liability acquired accrued or incurred thereunder. **[2292]**

6. These regulations shall not extend to Scotland or Northern Ireland. **[2293]**

SCHEDULES

FIRST SCHEDULE

PART I

Scale of Fees for Medical Practitioners called in by Midwives

(i) Fee for all attendances of a medical practitioner during the period from the commencement of labour until the child is born, whether or not operative assistance is involved, including subsequent visits to mother and/or child during the first fourteen days inclusive of the day of birth, and including also a post-natal examination at or about the sixth week after the birth, except where owing to circumstances beyond his control the practitioner cannot undertake such examination, £4 14s. 6d.

(ii) Fee for all or any of the following, namely, version in labour, removal of adherent or retained placenta, exploration of the uterus, treatment of post-partum haemorrhage or any operative emergency arising directly from parturition, including subsequent visits during the first fourteen days inclusive of the day of birth, and including also a post-natal examination at or about the sixth week after the birth, except where owing to circumstances beyond his control the practitioner cannot undertake such examination, £4 14s. 6d. A fee shall not be payable under this paragraph when a fee under paragraph (i) hereof is payable.

(iii) Fee for a single attendance only, either during the period from the commencement of labour until the child is born (whether or not operative assistance is involved) or for any of the purposes mentioned in paragraph (ii) hereof, £2 12s. 6d. A fee shall not be payable under this paragraph when a fee under paragraph (i) or paragraph (ii) hereof is payable.

(iv) Fee for either of the following, namely (*a*) suturing the perineum, (*b*) resuscitation of baby, £3 3s. 0d.: Provided that where only one attendance is made a fee of £2 12s. 6d. shall be payable in lieu of the said fee of £3 3s. 0d. A fee shall not be payable under this paragraph when a fee under paragraphs (i) to (iii) hereof is payable.

(v) Fee for induction of labour whether or not more than one visit is involved, £2 12s. 6d. A fee shall not be payable under this paragraph when a fee under paragraphs (i) to (iv) hereof is payable.

(vi) Fee for attendance at, or in connection with, an abortion, miscarriage, cases of threatened abortion or ante-partum haemorrhage after the 28th week of pregnancy, including all visits in respect of such attendance during the fourteen days from and including the first visit, £4 4s. 0d.: Provided that where only one attendance is made a fee of £2 12s. 6d. shall be paid in lieu of the said fee of £4 4s. 0d.

(vii) Fee for attendance of a second medical practitioner to give an anaesthetic, whether on the occurrence of abortion or miscarriage, at parturition or subsequently, £1 15s. 0d.

(viii) Fee for visits to mother and/or child not included under paragraphs (i) to (vi) hereof:—

Day (9 a.m. to 8 p.m.) First visit 12s. 6d. Subsequent visit 10s. 6d.
Night (8 p.m. to 9 a.m.) £1 1s. 0d.

(ix) The usual mileage fee of the district to be paid for all attendances under paragraphs (i) to (viii) hereof: Provided that one mileage fee only shall be paid in respect of one journey, whether such journey shall have been made for visiting one, or more than one, patient.

(x) Fee for attendance on mother or child at the medical practitioner's residence or surgery, 5s. 0d.

(xi) The appropriate fee as prescribed above shall be increased by the amount of any reasonable expenses necessarily incurred by the practitioner in supplying any of the drugs or preparations specified in Part II of this Schedule where such a drug or preparation is essential for the proper treatment of the mother or her child. [2294]

PART II

List of Drugs and Preparations

Carbon dioxide.
Ergometrine.
Lobeline.
Liver extract and injections of liver.
Methylamphetamine.
Oxygen.
Penicillin preparations.
Pethidine.
Sex hormones.
Sulphonamide preparations.
Vasopressin.
Vitamin B_1 complex.
Vitamin K.

[2295]

SECOND SCHEDULE

Form of Report to be furnished on conclusion of attendances for which a fee will be claimed under paragraphs (i) to (vi) of the First Schedule to the Medical Practitioners (Fees) Regulations, 1948.

.....194...

To the Medical Officer of Health of the.....*

(1) Name and address of patient attended.....
.....

(2) Name of midwife by whom called in.....

(3) Date of first visit .....

†(4) Condition for which attendance was given.....

(5) Nature of assistance given .....

(6) Total number of visits made.....

(7) Date of last visit.....

(8) Condition of patient at last visit (*a*) local .....
(*b*) general .....

‡(9) Date of birth of child.....

‡(10) Whether the practitioner was present at the birth .....

(11) Where the service for which a fee is claimed includes the making of a post-natal examination at or about the sixth week after the birth the following information should be given :—

(*a*) Whether such an examination has been made and if so date on which such an examination was made .....

(*b*) If such an examination has not been made, the circumstances which have prevented the practitioner from making one should be stated.....
.....
.....
.....

Signature of practitioner .....

Address of practitioner.....
.....

* Insert name of the local supervising authority under the Midwives Acts, 1902 to 1936, for the area in which the patient was attended.

† The entry should state the condition found by the practitioner himself whether or not it agrees with the reason given by the midwife for calling in medical aid.

‡ This information is only required when a fee will be claimed under paragraphs (i) to (iii) of the First Schedule to the regulations. [2296]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

The regulations prescribe the fees to be paid by local supervising authorities under the Midwives Acts to medical practitioners called in to the assistance of midwives in cases of emergency and also prescribe the conditions subject to which the fees are to be payable.

MEDICAL PRACTITIONERS (FEES) (NO. 2) REGULATIONS, 1948

S.I. 1948 *No.* 1453

June 28, 1948

General note.—These regulations revoked as from July 5, 1948, and replaced the Medical Practitioners (Fees) Regulations, 1948 (S.I. 1948 No. 695), *ante.*

The Minister of Health in pursuance of his powers under subsection (1) of section 9 of the Midwives Act, 1936, as amended by subsection (3) of section 23 of the National Health Service Act, 1946, and of all other powers enabling him in that behalf hereby makes the following regulations :—

1. These regulations may be cited as the Medical Practitioners (Fees) (No. 2) Regulations, 1948, and shall come into operation on the 5th day of July, 1948. [2297]

2. The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [2298]

3. In these regulations, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them :—

" medical practitioner having obstetric experience " means a registered medical practitioner whose experience in obstetrics is for the time being approved by the Local Obstetric Committee and whose name is included in the separate part of the medical list referred to in Regulation 4 of the National Health Service (General Medical and Pharmaceutical Services) Regulations, 1948 ;

" Local Obstetric Committee " means a committee recognised by the Minister for the purpose of approving the obstetric experience of a medical practitioner ;

" Regional Hospital Board ", " Board of Governors of a teaching hospital ", and " Local Health Authority " have the same meaning as in the National Health Service Act, 1946. [2299]

4. The scale of fees set out in the First Schedule hereto is fixed as the scale of fees payable to medical practitioners under subsection (1) of section 14 of the Midwives Act, 1918. [2300]

5. The conditions subject to which fees are to be payable to medical practitioners under the said subsection are as follows :—

(*a*) The medical practitioner shall be a medical practitioner having obstetric experience :

Provided that this condition shall not apply—

(i) where the services performed by the medical practitioner are in respect of an emergency for which he was first called in before the 5th day of July, 1948 ; or

(ii) until the Local Health Authority have supplied the midwives practising in their area with a list of medical practitioners having obstetric experience who have agreed to answer calls by midwives; or

(iii) where the medical practitioner was called in because a medical practitioner having obstetric experience was not available when the emergency arose.

(*b*) The medical practitioner shall not have arranged to provide the patient with maternity medical services in accordance with the National Health Service (General Medical and Pharmaceutical Services) Regulations, 1948, or be under an obligation to give the treatment to the patient by virtue of any office held by him under a Regional Hospital Board, Board of Governors of a teaching hospital, or Local Health Authority or of any agreement made between him and such Regional Hospital Board, Board of Governors or Local Health Authority.

(*c*) The medical practitioner shall not have agreed to attend the patient under any other arrangements made by or on behalf of the patient or by any club, medical institute or other association, of which the patient or her husband is a member.

(*d*) The medical practitioner shall not receive or agree to receive a fee from the patient or her representative.

(*e*) The fees set out in paragraphs (viii) and (x) of the First Schedule hereto shall not be payable—

(i) in respect of any services performed by the medical practitioner later than the fourteenth day after his first attendance, except where he has reported to the local supervising authority before the expiration of the said fourteenth day that he considers, for reasons stated in writing, that his further attendance is necessary;

(ii) in respect of any services performed by the medical practitioner after the expiration of four weeks from the birth.

(*f*) The fees set out in paragraphs (i) to (vi) of the First Schedule hereto shall not be payable unless at the conclusion of his attendance a report in the form set out in the Second Schedule to these regulations shall have been furnished by the medical practitioner to the medical officer of health of the local supervising authority. [2301]

6. The Medical Practitioners (Fees) Regulations, 1948, are hereby revoked but without prejudice to anything duly done or suffered or to any right privilege obligation or liability acquired accrued or incurred thereunder. [2302]

7. These regulations shall not extend to Scotland or Northern Ireland. [2303]

SCHEDULES

FIRST SCHEDULE

PART I

Scale of Fees for Medical Practitioners called in by Midwives

(i) Fee for all attendances of a medical practitioner during the period from the commencement of labour until the child is born, whether or not operative assistance is involved, including subsequent visits to mother and/or child during the first fourteen days inclusive of the day of birth, and including also a post-natal

examination at or about the sixth week after the birth, except where owing to circumstances beyond his control the practitioner cannot undertake such examination, £4 14s. 6d.

(ii) Fee for all or any of the following, namely, version in labour, removal of adherent or retained placenta, exploration of the uterus, treatment of post-partum haemorrhage or any operative emergency arising directly from parturition, including subsequent visits during the first fourteen days inclusive of the day of birth, and including also a post-natal examination at or about the sixth week after the birth, except where owing to circumstances beyond his control the practitioner cannot undertake such examination, £4 14s. 6d. A fee shall not be payable under this paragraph when a fee under paragraph (i) hereof is payable.

(iii) Fee for a single attendance only, either during the period from the commencement of labour until the child is born (whether or not operative assistance is involved) or for any of the purposes mentioned in paragraph (ii) hereof, £2 12s. 6d. A fee shall not be payable under this paragraph when a fee under paragraph (i) or paragraph (ii) hereof is payable.

(iv) Fee for either of the following, namely (*a*) suturing the perineum, (*b*) resuscitation of baby, £3 3s. 0d.: Provided that where only one attendance is made a fee of £2 12s. 6d. shall be payable in lieu of the said fee of £3 3s. 0d. A fee shall not be payable under this paragraph when a fee under paragraphs (i) to (iii) hereof is payable.

(v) Fee for induction of labour whether or not more than one visit is involved, £2 12s. 6d. A fee shall not be payable under this paragraph when a fee under paragraphs (i) to (iv) hereof is payable.

(vi) Fee for attendance at, or in connection with, an abortion, miscarriage, cases of threatened abortion or ante-partum haemorrhage after the 28th week of pregnancy, including all visits in respect of such attendance during the fourteen days from and including the first visit, £4 4s. 0d.: Provided that where only one attendance is made a fee of £2 12s. 6d. shall be paid in lieu of the said fee of £4 4s. 0d.

(vii) Fee for attendance of a second medical practitioner to give an anaesthetic, whether on the occurrence of abortion or miscarriage, at parturition or subsequently, £1 15s. 0d.

(viii) Fee for visits to mother and/or child not included under paragraphs (i) to (vi) hereof:—

Day (9 a.m. to 8 p.m.) First visit 12s. 6d. Subsequent visit 10s. 6d.
Night (8 p.m. to 9 a.m.) £1 1s. 0d.

(ix) The usual mileage fee of the district to be paid for all attendances under paragraphs (i) to (viii) hereof: Provided that one mileage fee only shall be paid in respect of one journey, whether such journey shall have been made for visiting one, or more than one, patient.

(x) Fee for attendance on mother or child at the medical practitioner's residence or surgery, 5s. 0d.

(xi) The appropriate fee as prescribed above shall be increased by the amount of any reasonable expenses necessarily incurred by the practitioner in supplying any of the drugs or preparations specified in Part II of this Schedule where such a drug or preparation is essential for the proper treatment of the mother or her child. [2804]

PART II

List of Drugs and Preparations

Carbon dioxide.
Ergometrine.
Lobeline.
Liver extract and injections of liver.
Methylamphetamine.
Oxygen.
Penicillin preparations.
Pethidine.
Sex hormones.
Sulphonamide preparations.
Vasopressin.
Vitamin B_1 complex.
Vitamin K.

[2805]

SECOND SCHEDULE

Form of Report to be furnished on conclusion of attendances for which a fee will be claimed under paragraphs (i) to (vi) of the First Schedule to the Medical Practitioners (Fees) (No. 2) Regulations, 1948.

.....194...

To the Medical Officer of Health of the.....*

(1) Name and address of patient attended.....
.....

(2) Name of midwife by whom called in .....

(3) Date of first visit .....

†(4) Condition for which attendance was given.....

(5) Nature of assistance given .....

(6) Total number of visits made.....

(7) Date of last visit.....

(8) Condition of patient at last visit (*a*) local .....
(*b*) general .....

‡(9) Date of birth of child.....

‡(10) Whether the practitioner was present at the birth .....

(11) Where the service for which a fee is claimed includes the making of a post-natal examination at or about the sixth week after the birth the following information should be given :—

(*a*) Whether such an examination has been made and if so date on which such an examination was made .....

(*b*) If such an examination has not been made, the circumstances which have prevented the practitioner from making one should be stated.....
.....
.....
.....

Signature of practitioner.....

Address of practitioner.....
.....

* Insert name of the local supervising authority under the Midwives Acts, 1902 to 1936, for the area in which the patient was attended.

† The entry should state the condition found by the practitioner himself whether or not it agrees with the reason given by the midwife for calling in medical aid.

‡ This information is only required when a fee will be claimed under paragraphs (i) to (iii) of the First Schedule to the regulations. [2306]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Regulations, but is intended to indicate their general purport.*)

The regulations prescribe the fees to be paid by local supervising authorities under the Midwives Acts to medical practitioners called in to the assistance of midwives in cases of emergency and also prescribe the conditions subject to which the fees are to be payable.

The regulations revoke the Medical Practitioners (Fees) Regulations, 1948, *and are necessitated by the coming into operation of the National Health Service on the 5th July*, 1948.

MINES AND MINERALS

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Town and Country Planning (Minerals) Regulations, 1948—*See title* TOWN AND COUNTRY PLANNING.
Town and Country Planning (Modification of Mines Act) Regulations, 1948—*See title* TOWN AND COUNTRY PLANNING.

MUNICIPAL HOSPITALITY

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Local Government Act, 1948, ss. 132, 134, 135, 137, 144 and 148 - - - - 758

STATUTES

LOCAL GOVERNMENT ACT, 1948

(11 & 12 Geo. 6, c. 26)

PRELIMINARY NOTE

Part VII of the Local Government Act, 1948, which came into force on the passing of the Act on March 24, 1948, deals with miscellaneous local government matters, a number of which fall within the present title. S. 132 gives local authorities a general power to provide entertainments and authorises the product of a sixpenny rate to be expended annually for that purpose. S. 134 provides for the setting-up of information centres where information as to public services may be obtainable, and s. 135 enables a local authority, subject to regulations, to provide lectures, cinematograph films, etc., on questions relating to local government. Finally, s. 137 increases the amount which may be spent by a borough or urban district council under the Health Resorts and Watering Places Act, 1936, s. 1 (29 Halsbury's Statutes 308) on advertising their area as a health resort or watering place.

Other provisions of the Local Government Act, 1948, are to be found under titles ELECTRICITY SUPPLY ; FINANCE ; HIGHWAYS ; and MEMORIALS, WAR AND OTHER, *ante* ; and RATES AND RATING, *post*. [2307]

ARRANGEMENT OF SECTIONS

Section Page

* * * * *

PART VII

MISCELLANEOUS

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134. Information centres 761
135. Instruction, lectures, etc., on questions relating to local government .. 762

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137. Amendment of Health Resorts and Watering Places Act, 1936, s. 1 .. 762

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PART VIII

GENERAL

Section Page

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144. Interpretation 762

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148. Short title and extent 763

* * * * *

An Act to amend the law relating to Exchequer grants to local authorities and other bodies and grants by local authorities to other local authorities or other bodies, and the law relating to rating, valuation for rating and precepts to rating authorities; to provide for payments for the benefit of local authorities by the British Transport Commission, the British Electricity Authority and the North of Scotland Hydro-Electric Board; to amend the Railway Freight Rebates Enactments, 1929 *to* 1943, *section two hundred and eleven of the Local Government (Scotland) Act,* 1947, *the law relating to the payment of expenses and other allowances to members of local authorities and other bodies and the law relating to the manner in which certain securities of local authorities and other bodies may be transferred; to extend the powers of local authorities in certain respects; and for purposes connected with the matters aforesaid.* [2308]

[24th March, 1948.]

* * * * *

PART VII

MISCELLANEOUS

* * * * *

132. Provision of entertainments.—(1) A local authority may do, or arrange for the doing of, or contribute towards the expenses of the doing of, anything necessary or expedient for any of the following purposes, that is to say—

(*a*) the provision of an entertainment of any nature or of facilities for dancing;

(*b*) the provision of a theatre, concert hall, dance hall or other premises suitable for the giving of entertainments or the holding of dances;

(*c*) the maintenance of a band or orchestra;

(*d*) any purpose incidental to the matters aforesaid, including the provision, in connection with the giving of any entertainment or the holding of any dance, of refreshments or programmes and the advertising of any such entertainment or dance:

Provided that the powers conferred on a local authority by this subsection shall not be exercised in relation to any entertainment or dance held in any place outside the area of that authority, or in relation to a theatre, concert hall, dance hall or other premises situate in any place outside that area, unless—

(i) that place is convenient for residents in the area of that authority;

(ii) the local authority for the area within which that place is situate consent. [2309]

(2) Without prejudice to the generality of the provisions of the preceding subsection, a local authority—

(*a*) may for the purposes therein specified enclose or set apart any part of a park or pleasure ground belonging to the authority or under

their control not exceeding one acre or one-tenth of the area of the park or pleasure ground whichever is the greater;

(*b*) may permit any theatre, concert hall, dance hall or other premises provided by them for the purposes of the preceding subsection and any part of a park or pleasure ground enclosed or set apart as aforesaid, to be used by any other person, on such terms as to payment or otherwise as the authority think fit, and may authorise that other person to make charges for admission thereto;

(*c*) may themselves make charges for admission to any entertainment or dance held by them and for any refreshment or programmes supplied at any such entertainment or dance:

Provided that nothing in this subsection shall authorise any authority to contravene any covenant or condition subject to which a gift or lease of a public park or pleasure ground has been accepted or made without the consent of the donor, grantor, lessor or other person entitled in law to the benefit of the covenant or condition. [2310]

(3) The expenditure of a local authority under this section (excluding capital expenditure, but including loan charges) shall not in any year exceed the product of a rate of sixpence in the pound, plus the net amount of any receipts of the authority from any such charges or payments as are referred to in the last preceding subsection:

Provided that where a local authority exercise any powers under any statutory provision other than this Act for the provision by them of entertainments or the holding by them of dances, any expenditure incurred by them under those powers (excluding capital expenditure but including loan charges) less the net amount of the receipts, if any, of the authority in respect of the exercise of those powers shall, for the purpose of determining whether any, and if so what, expenditure may be incurred in any year under this subsection, be taken into account as if it was expenditure under this section. [2311]

(4) A local authority who propose to borrow money for any of the purposes authorised under this section shall, before applying to the Minister for his consent to the borrowing, publish in such local newspapers, and in such other ways, if any, as appear to them best suited for bringing the matter to the attention of persons concerned, notice of their proposal, specifying the amount which and the purposes for which they propose to borrow and the time (not being less than twenty-eight days from the publication of the notice) within which any objection to the proposal may be made to the Minister. [2312]

(5) Where any such objection as is mentioned in the last preceding subsection is made to the Minister within the time specified in the notice aforesaid and is not withdrawn, the Minister shall not, unless in his opinion the objection is frivolous, consent to the borrowing of any money for the purposes in question until he has caused a public local inquiry to be held into the proposal, and, in considering whether or not to give his consent to the borrowing of any money for those purposes, he shall consider the report of the person by whom the inquiry was held. [2313]

(6) Nothing in this section shall affect the provisions of any enactment by virtue of which a licence is required for the public performance of a stage play or the public exhibition of cinematograph films, or for boxing or wrestling entertainments or for public music or dancing, or for the sale of intoxicating liquor or tobacco. [2314]

(7) In this section, the expression "local authority" means the council of a county borough, metropolitan borough or county district or the common council of the City of London. [2315]

(8) The following enactments are hereby repealed, that is to say, paragraph (3) of section forty-four of the Burgh Police (Scotland) Act, 1903; paragraphs (*d*), (*e*) and (*h*) of subsection (1) of section seventy-six of the Public Health Acts Amendment Act, 1907; subsections (1) to (4) of section fifty-six and the proviso to subsection (1) of section seventy of the Public Health Act, 1925; the proviso to subsection (1) of section two hundred and twenty-six of the Public Health Act, 1936; the proviso to subsection (1) of section one hundred and seventy-two of the Public Health (London) Act, 1936; in subsection (5) of section ten of the Physical Training and Recreation Act, 1937, the words from "Provided that," to the end of the subsection; and in subsection (5) of section seventy-four of the Local Government (Scotland) Act, 1947, the words from "so however," to the end of the subsection. [2316]

(9) Nothing in this section shall have effect so as to extend the powers of the council of a county or of a parish under section seventy of the Public Health Act, 1925 (which relates to the use of the offices of an authority for entertainments) as applied to those councils by section four of the Physical Training and Recreation Act, 1937, and accordingly the following proviso shall be inserted at the end of subsection (2) of the said section four, that is to say—

"Provided that the following restrictions shall have effect with respect to any concert or other entertainment provided by the council of a county or of a parish by virtue of this section, that is to say—

(i) no stage play shall be performed; and

(ii) the concert or other entertainment shall not include any performance in the nature of a variety entertainment; and

(iii) no cinematograph film other than a film illustrative of questions relating to health or disease shall be shown; and

(iv) no scenery, theatrical costumes or scenic or theatrical accessories shall be used." [2317]

(10), (11) (Application to Scotland.) [2318]

General effect of section.—See Preliminary Note, *ante*.
Product of a rate.—See s. 144 (3), (4), *post*.
The Minister.—The Minister of Health (s. 144 (1), *post*).
Public local inquiry.—For general provisions as to inquiries, see the Local Government Act, 1933, s. 290 (26 Halsbury's Statutes 459), and the London Government Act, 1939, s. 189 (32 Halsbury's Statutes 344).
Public Health Acts Amendment Act, 1907, *s.* 76 (1).—13 Halsbury's Statutes 938.
Public Health Act, 1925, *ss.* 56 (1)–(4), 70.—13 Halsbury's Statutes 1139, 1147.
Public Health Act, 1936, *s.* 226 (1), *proviso*.—29 Halsbury's Statutes 472.
Public Health (London) Act, 1936, *s.* 172 (1), *proviso*.—30 Halsbury's Statutes 539.
Physical Training and Recreation Act, 1937, *ss.* 4, 10 (5).—30 Halsbury's Statutes 714, 716.
Definitions.—For definition of "year" and "statutory provision", see s. 144 (1), *post*; for "local authority", see sub-s. (7), *supra*.

* * * * *

134. Information centres.—A local authority may make, or assist in the making of, arrangements whereby the public may on application readily obtain, either at premises specially maintained for the purpose or otherwise, information concerning the services available within the area of the authority provided either by the authority or by other authorities or by Government departments, and other information as to local government matters affecting the area. [2319]

Other authorities.—It is not quite clear whether or not these "other authorities" are confined to local authorities within the meaning of this Act (as to which see s. 144 (1), *post*). The word "authority" has just been used with the meaning of "local authority" for the purposes of this Act. Nevertheless, the words "other information as to local government matters affecting the area" would apparently indicate that a wider meaning is intended, and that "authorities" here comprehends parish councils, parish meetings, joint committees

and joint boards, and perhaps some other classes of public bodies, which can be regarded as authorities, such as the British Transport Commission and the Area Electricity Board.

Local government matters.—As to instruction, lectures, etc., on questions relating to local government, see s. 135, *post*.

135. Instruction, lectures, etc., on questions relating to local government.—(1) Subject to such conditions and restrictions, if any, as the Minister may by regulations prescribe, a local authority may—

(*a*) arrange for the publication within their area of information on questions relating to local government; and

(*b*) arrange for the delivery of lectures and addresses, and the holding of discussions, on such questions; and

(*c*) arrange for the display of pictures, cinematograph films or models or the holding of exhibitions relating to such questions; and

(*d*) prepare, or join in or contribute to the cost of the preparation of, pictures, films, models or exhibitions to be displayed or held as aforesaid. [2320]

(2) (Application to Scotland.) [2321]

The Minister.—The Minister of Health (s. 144 (1), *post*).

Regulations.—By s. 142 (1) of this Act the power to make regulations conferred by this section is to be exerciseable by statutory instrument, and any such statutory instrument is to be subject to annulment in pursuance of a resolution of either House of Parliament. As to statutory instruments generally, see the Statutory Instruments Act, 1946 (39 Halsbury's Statutes 783), and in particular s. 5 thereof.

No regulations under this section had been made at the date of going to press.

Definition.—For definition of "local authority", see s. 144 (1), *post*.

* * * * *

137. Amendment of Health Resorts and Watering Places Act, 1936, s. 1.—(1) In subsection one of section one of the Health Resorts and Watering Places Act, 1936 (which authorises the expenditure by the council of a borough or urban district on advertising the advantages and amenities of the borough or district as a health resort or watering place of a sum not exceeding the amount which would be produced by a rate of one penny and one-third of a penny in the pound), for the words "one penny and one-third of a penny" there shall be substituted the words "three pence". [2322]

(2) (Application to Scotland.) [2323]

Effect of section.—The maximum amount which a borough or urban district council may expend on advertising the borough or district as a health resort or watering place is increased from the product of a 1½*d.* rate to the product of a 3*d.* rate.

Health Resorts and Watering Places Act, 1936, s. 1 (1).—29 Halsbury's Statutes 308.

* * * * *

PART VIII

GENERAL

* * * * *

144. Interpretation.—(1) In this Act, except so far as the contrary is expressly provided or the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

"Minister" means the Minister of Health;

"local authority" means the council of a county, county borough, metropolitan borough or county district, or the Common Council of the City of London;

"year" means a period of twelve months beginning with the first day of April;

* * * * *

"statutory provision" means a provision, whether of a general or special nature, contained in, or in any document made or issued under, any Act, whether of a general or special nature. [2324]

* * * * *

(3) Any reference in this Act to the product of a rate of a specified sum in the pound for any area shall be construed as a reference to the aggregate of the product of a rate of one penny in the pound for all the rating areas within the area multiplied by the number of pence in the said sum. [2325]

(4) The product of a rate of one penny in the pound for a rating area shall, for the purposes of this Act, be taken to be the product of a penny rate for that area as ascertained or estimated for the purpose of subsection (2) of section nine of the Rating and Valuation Act, 1925:

Provided that—

(*a*) in the case of an area in London, the product of a penny rate for the area shall, as respects years as respects which the said subsection (2) does not extend to London, be taken to be the product of a penny rate for the area as ascertained or estimated by the district auditor in accordance with the principles for the time being applicable outside London to the ascertainment and estimation of the product of a penny rate for the purposes of the said section nine;

(*b*) nothing in this subsection detracts from the provisions of this Act enabling the Minister to make regulations as respects the way in which payments for the benefit of local authorities under Part V of this Act are to be treated. [2326]

* * * * *

(8) Any references in this Act to a local authority in a county shall be construed as including only local authorities whose areas form part of the county. [2327]

* * * * *

(10) Except so far as the context otherwise requires, any reference in this Act to any other enactment shall be construed as a reference to that enactment as amended, extended or applied by or under any other enactment, including this Act. [2328]

Rating and Valuation Act, 1925, s. 9 (2).—14 Halsbury's Statutes 627.

* * * * *

PART VIII

GENERAL

* * * * *

148. Short title and extent.—(1) This Act may be cited as the Local Government Act, 1948. [2329]

(2) This Act shall not extend to Northern Ireland. [2330]

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STATUTES

RADIOACTIVE SUBSTANCES ACT, 1948

(11 & 12 Geo. 6, c. 37)

PRELIMINARY NOTE

The object of this Act, which came into force on receiving the Royal Assent on June 30, 1948, is to enable regulations to be made for controlling, on public health grounds, the use of radioactive substances and irradiating apparatus, such as X-ray lamps. By s. 4 the Minister of Health is empowered to make regulations for England and Wales under which the use of any irradiating apparatus of a prescribed class or description for the medical, surgical or dental treatment of human beings will be confined, as from a day appointed in those regulations, to three classes of persons. These three classes are (i) duly qualified medical practitioners or registered dental practitioners holding licences under the Act; (ii) persons acting under the directions of any such practitioner; and (iii) persons exempted from the section by order of the Minister. The granting of licences will be at the discretion of the Minister, who may impose such conditions, limitations and exceptions as he sees fit. In order to simplify administration of the system in its initial stages any practitioner who applies for a licence within three months of the appointed day is entitled, until his application is dealt with, to act as if the licence had been granted.

The licensing system may be extended by the Minister of Health and the Secretary of State acting jointly, to cover the use of irradiating apparatus for diagnostic purposes.

The Act contains safeguards to secure that adequate consideration is given to the making of regulations and orders. There must be consultation with the Advisory Committee established under the Act before any regulations or orders are made, and they will be subject to annulment by the negative resolution procedure. Proposed regulations are to be publicly advertised in draft, and when objection thereto is made and not withdrawn, a public enquiry must be held or the objector given an opportunity to state his case before a person appointed by the Minister or Ministers for the purpose.

No regulations or orders had been made at the date of going to press. [2331]

ARRANGEMENT OF SECTIONS

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* * * * *

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* * * * *

12. Interpretation 768

* * * * *

15. Short title 768

An Act to make provision with respect to radioactive substances and certain apparatus producing radiation. [2332] [30th June, 1948.]

* * * * *

4. Control of use of irradiating apparatus for therapeutic purposes.—(1) Subject to the provisions of this section, no person shall, as from the appointed day, use for the purposes of the medical, surgical or dental treatment of human beings any irradiating apparatus of a prescribed class or description, unless he is a duly qualified medical practitioner or a registered dental practitioner and is licensed under this section, or is a person acting in accordance with the directions of any such practitioner licensed as aforesaid. [2333]

(2) The following respective Ministers and Ministry, that is to say—

(*a*) as respects England and Wales, the Minister of Health;
(*b*) as respects Scotland, the Secretary of State;
(*c*) as respects Great Britain, the Minister of Health and the Secretary of State acting jointly; and
(*d*) as respects Northern Ireland, the Ministry of Health and Local Government for Northern Ireland;

may by order provide, subject to such conditions, limitations and exceptions as may be specified in the order, for the exemption from this section of such classes or descriptions of persons as may be so specified. [2334]

(3) Any person who contravenes subsection (1) of this section or contravenes or fails to comply with any provision of a licence granted to him under this section, or being exempted by an order made under this section contravenes or fails to comply with any provision of the order, shall be guilty of an offence:

Provided that, where any duly qualified medical practitioner or registered dental practitioner has, within three months from the appointed day, duly applied to the appropriate Minister for a licence under this section in respect of any apparatus, subsection (1) of this section shall, pending the notification to him of the Minister's decision on the application, have effect as if the licence had been granted on the terms of the application. [2335]

(4) Regulations made, as respects Great Britain, by the Minister of Health and the Secretary of State jointly or, as respects Northern Ireland, by the Ministry of Health and Local Government for Northern Ireland may provide for extending the provisions of this section so as to apply to the use for the purposes of medical, surgical or dental diagnosis of any irradiating apparatus of a class or description specified in the regulations, but save as aforesaid this section shall not apply to the use of apparatus for those purposes. [2336]

(5) Subsections (3) and (4) of the last preceding section shall apply in relation to licences under this section as they apply in relation to licences under that section, and the definitions contained in subsection (9) of that section shall apply for the purposes of this section. [2337]

(6) Before making any regulations or order under this section, the Ministers or the Minister or the Ministry concerned shall consult with the Advisory Committee established under this Act. [2338]

General effect of section.—See Preliminary Note, *ante.*
Appointed day.—See note "Applied subsections", *infra.*
Prescribed.—See note "Applied subsections", *infra*
Duly qualified medical practitioner.—This means a person registered under the Medical Acts (see the Medical Act, 1858, s. 34; 11 Halsbury's Statutes 675).
Registered dental practitioner.—For definition of this term, see s. 12, *post.*
Order; regulations.—As to orders and regulations generally, see ss. 9, 10, *post.* No orders or regulations under this section had been made at the date of going to press.
Offence.—By s. 8 (3) of this Act a person guilty of an offence under this section becomes liable, on summary conviction, to a fine not exceeding £100 or, in the case of a second or subsequent offence, to a like fine or up to three months' imprisonment or both such fine and

imprisonment. By s. 8 (4) an offence continued after conviction constitutes a further offence. S. 8 (5) contains the usual provision imposing a *prima facie* liability on directors, etc., where the offence is committed by a body corporate. Under s. 8 (6) the convicting court may order that any apparatus concerned shall be forfeited to the Crown.

Appropriate Minister.—See note "Applied subsections", *infra*.

Advisory Committee.—S. 6 of the Act requires an Advisory Committee to be appointed.

Applied subsections.—The three subsections of s. 3 which are applied by sub-s. (5), *supra*, are as follows:—

(3) An application for a licence under this section shall be made to the appropriate Minister in writing and the applicant shall furnish such information as the Minister may require, and the Minister may grant or refuse the licence as he thinks fit, and, if he grants the licence, may grant it subject to such conditions, limitations and exceptions as may be specified therein.

(4) A licence under this section may at any time be varied or revoked by the appropriate Minister and, if such a licence is granted for a limited period, it may be renewed (with or without variation) at the expiration of that period on the like application as in the case of a grant of a licence.

(9) In this section—

the expression "the appointed day" means such day as may be appointed by regulations made, as respects Great Britain, by the Minister of Health and the Secretary of State jointly and, as respects Northern Ireland, by the Ministry of Health and Local Government for Northern Ireland;

the expression "the appropriate Minister" means—

(*a*) in relation to the grant of a licence to a person resident in England or Wales, or the renewal, variation or revocation of the licence of a person so resident, the Minister of Health;

* * * * *

the expression "prescribed" means prescribed by regulations made as aforesaid.

* * * * *

9. Regulations and orders.—(1) Any power conferred by this Act to make regulations or orders shall be exercisable by statutory instrument and any such instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament. [2339]

(2) Before any regulations are made under this Act, the Minister or Ministers making the regulations shall publish in the Gazette and in such other manner as he or they may think best adapted for informing persons affected notice of the proposal to make the regulations, and of the place where copies of the draft regulations may be obtained, and of the time (not being less than twenty-eight days) and the manner in which objection may be made to the regulations. [2340]

(3) If any objection is duly made and is not withdrawn, the said Minister or Ministers shall, before making the regulations, either cause a public inquiry to be held or afford to any person by whom any objection has been duly made and not withdrawn an opportunity of appearing before and being heard by a person appointed by the said Minister or Ministers for the purpose, and shall consider the objection and the report of the person who held the inquiry or the person appointed as aforesaid before making the regulations. [2341]

(4) Notice of any such inquiry as aforesaid shall be given in such manner as appears to the said Minister or Ministers to be appropriate for the purpose of informing the persons affected, and the provisions of subsections (2), (3) and (5) of section two hundred and ninety of the Local Government Act, 1933 (which relate to evidence and costs) shall apply in relation to any such inquiry as if for any reference therein to the department there were substituted a reference to the said Minister or Ministers. [2342]

Statutory instrument.—As to statutory instruments generally, see the Statutory Instruments Act, 1946 (39 Halsbury's Statutes 783) which was brought fully into force by S.I. 1948 No. 3, on January 1, 1948. S. 5 of that Act deals with instruments which are subject to annulment by resolution of either House of Parliament.

The Gazette.—For definition of this term, see s. 12, *post*.

Local Government Act, 1933, *s.* 290 (2), (3), (5).—26 Halsbury's Statutes 459.

10. Power to revoke or vary Orders in Council and orders.—Any Order in Council or order made under this Act may be revoked or varied by a

subsequent Order in Council or order made in like manner and subject to the like conditions. [2343]

* * * * *

12. Interpretation.—In this Act, the following expressions have the meanings hereby respectively assigned to them, that is to say :—

* * * * *

" the Gazette " means, in relation to regulations which have effect in England and Wales only, the London Gazette, and, in relation to regulations which have effect in Scotland only, the Edinburgh Gazette, and, in relation to regulations which have effect in Great Britain, both those Gazettes ;

* * * * *

" registered dental practitioner " means a person registered in the dentists register under the Dentists Acts, 1878 to 1923 ; [2344]

* * * * *

Dentists Acts, 1878 to 1923.—These are the Dentists Acts, 1878, 1921 and 1923 (11 Halsbury's Statutes 699, 763, 776).

* * * * *

15. Short title.—This Act may be cited as the Radioactive Substances Act, 1948. [2345]

ORDERS, CIRCULARS AND MEMORANDA

NATIONAL HEALTH SERVICE (FUNCTIONS OF REGIONAL HOSPITAL BOARDS, ETC.) REGULATIONS, 1948

S.I. 1948 *No.* 60

January 19, 1948

The Minister of Health, in exercise of his powers under section 12 of the National Health Service Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

PART I

1. These regulations may be cited as the National Health Service (Functions of Regional Hospital Boards, etc.) Regulations, 1948, and shall come into operation on the twenty-first day of January, 1948. [2346]

2.—(1) In these regulations " the Act " means the National Health Service Act, 1946, and " the Minister " means the Minister of Health.

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [2347]

PART II

Regional Hospital Boards

3. A regional hospital board shall, subject to and in accordance with these regulations and any directions which may be given by the Minister, and subject to the exercise of functions by hospital management committees and, in relation to teaching hospitals, by boards of governors in accordance with the following provisions of these regulations, administer on behalf of the Minister the hospital and specialist services provided in their area. [2348]

4. For the purposes of the last foregoing regulation, a regional hospital board shall exercise on behalf of the Minister and subject to and in accordance with any directions which may be given by the Minister, but to the extent provided in the next following regulation through the agency of hospital management committees, the functions of the Minister in so far as they relate to hospitals other than teaching hospitals and to services provided at or in connection with hospitals other than teaching hospitals under the following provisions of the Act, and of any regulations made thereunder, namely :—

(1) Section 3 (1) with respect to the provision of hospital and specialist services ;
(2) Section 3 (2) with respect to the making and recovery of charges for the supply, replacement or repair of appliances ;
(3) Section 3 (3) with respect to the payment of travelling expenses ;
(4) Sections 4 and 5 with respect to the making available of hospital accommodation on part payment and the setting aside of special accommodation for private patients and the recovery of charges, and the making of arrangements with medical practitioners for the treatment of their private patients in hospital :

Provided that—

(*a*) Nothing in these regulations shall authorise a regional hospital board to acquire land for the purposes of providing hospital and specialist services ;
(*b*) A regional hospital board shall not without the consent of the Minister undertake any building or civil engineering works the estimated total cost of which exceeds £10,000 ;
(*c*) In the case of any work of construction, reconstruction or alteration of a mental hospital, a hospital designated by the Minister for the purposes of the Mental Treatment Act, 1930, or an institution for mental defectives, a regional hospital board shall comply with such standards of accommodation as may from time to time be laid down by the Minister ;
(*d*) The amount of the accommodation to be made available under section 4 or to be set aside under section 5 of the Act shall be subject to the approval of the Minister. [2349]

PART III

Hospital Management Committee

5. The hospital management committee of any hospital or group of hospitals shall, subject to and in accordance with any directions which may be given by the regional hospital board concerned or by the Minister, control and manage the same and the services provided in connection therewith on behalf of the board, and for that purpose the committee shall, subject to and in accordance with any directions as aforesaid, exercise on behalf of the board the following functions of the board relating to the hospital or group of hospitals :—

(1) The functions of the board under regulations made under section (3) (2) of the Act and under these regulations with respect to the making and recovery of charges for the supply, replacement or repair of appliances ;
(2) The functions of the board under regulations made under section 3 (3) of the Act and under these regulations with respect to the payment of travelling expenses ;
(3) The functions of the board under section 4 of the Act and any regulations made thereunder and under these regulations with respect to

the admission of patients to and their discharge from hospital accommodation made available on part payment and to the recovery of charges ;

(4) The functions of the board under section 5 of the Act and any regulations made thereunder and under these regulations with respect to the admission of patients to and their discharge from special accommodation set aside for private patients and to the recovery of charges for accommodation and services provided for private patients and to the making of arrangements by medical practitioners for the treatment of their private patients in hospital ;

(5) The functions of the board under section 12 (1) of the Act with respect to the appointment and dismissal of officers employed for the purposes only of the hospital or group of hospitals other than the classes of officers specified in regulations made under section 14 (2) of the Act ;

(6) The functions of the board under section 12 (1) of the Act with respect to the maintenance of premises forming part of or used in connection with the hospital or group of hospitals :

Provided that the committee shall not without the consent of the board undertake any building or civil engineering works the estimated total cost of which exceeds £1,000 ;

(7) Subject to any arrangements which may be made by the Minister or by the board with the consent of the Minister, the functions of the board under section 12 (1) of the Act with respect to the acquisition and maintenance of equipment, furniture and other movable property required for the purposes of the hospital or group of hospitals ;

(8) The functions of the board under section 62 of the Act with respect to the provision of special schools ;

(9) The functions of the board with respect to the receipt of payments under section 36 (2) of the Road Traffic Act, 1930, and section 16 of the Road Traffic Act, 1934, as amended by the Act. [2350]

PART IV

Boards of Governors of Teaching Hospitals

6. The board of governors of a teaching hospital shall, on behalf of the Minister, and subject to and in accordance with these regulations and any directions which may be given by the Minister, manage and control that hospital and the services provided in connection therewith. [2351]

7. For the purposes of the last foregoing regulation, the board of governors of a teaching hospital shall exercise on behalf of the Minister, and subject to and in accordance with any directions which may be given by the Minister, the functions of the Minister in so far as they relate to that hospital under the following provisions of the Act or of any regulations made thereunder, namely :—

(1) Section 3 (1) with respect to the provision of hospital and specialist services ;

(2) Section 3 (2) with respect to the making and recovery of charges for the supply, replacement or repair of appliances ;

(3) Section 3 (3) with respect to the payment of travelling expenses ;

(4) Sections 4 and 5 with respect to the making available of hospital accommodation on part payment and the setting aside of special accommodation for private patients and the recovery of charges, and the making of arrangements with medical practitioners for the treatment of their private patients in hospital :

Provided that—

(*a*) Nothing in these regulations shall authorise a board of governors to acquire land for the purposes of providing hospital and specialist services ;

(*b*) A board of governors shall not without the consent of the Minister undertake any building or civil engineering works the estimated total cost of which exceeds £10,000 ; and

(*c*) The amount of the accommodation to be made available under section 4 or to be set aside under section 5 of the Act shall be subject to the approval of the Minister.

PART V.

General

8. Nothing in these regulations shall affect the power of the Minister to provide or administer hospital and specialist services otherwise than in accordance with the foregoing provisions of these regulations—

(*a*) so far as such services relate to the provision of equipment, furniture and other movable property ; or

(*b*) where in his opinion special circumstances make it desirable to do so. [2352]

9. Notwithstanding anything contained in these regulations a regional hospital board, hospital management committee or board of governors of a teaching hospital shall not without the consent of the Minister carry out any work of a kind specified in Part II of the Sixth Schedule to the Defence (General) Regulations, 1939, if a licence under paragraph (2) of regulation 56A of the last-mentioned regulations would have been required in respect of such work but for the provisions of paragraph (5) of that regulation. [2353]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of these Regulations, but is intended to indicate their general purport.*)

The Regulations prescribe the duties to be performed by Regional Hospital Boards, Hospital Management Committees and Boards of Governors of Teaching Hospitals under the National Health Service Act, 1946, *in the administration of the hospital and specialist services so far as those duties are not specifically imposed by the Act itself.*

NATIONAL HEALTH SERVICE ACT (APPOINTED DAY) ORDER, 1948

S.I. 1948 *No.* 112

January 26, 1948

Whereas it is provided by the National Health Service Act, 1946, that certain provisions of that Act are to come into force on the appointed day, and the expression " appointed day " is defined by subsection (1) of section seventy-nine of that Act to mean such day as His Majesty may by Order in Council appoint, and it is provided by the said subsection (1) that different days may be appointed for the purposes of different provisions of the said Act and for the repeal or amendment of different enactments by the said Act :

And whereas by the National Health Service Act (Appointed Day) Order, 1947, it was provided that sections forty-nine and subsections (1) and (2) of section fifty of the said Act (which provide for the transfer to the Minister of Health of functions of the Board of Control) and certain amendments and repeals connected with the said sections forty-nine and fifty should come into force on the first day of July, nineteen hundred and forty-seven :

Now, therefore, His Majesty, in pursuance of the said subsection (1) of section seventy-nine of the said Act, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. This Order may be cited as the National Health Service Act (Appointed Day) Order, 1948. [2354]

2. Save as provided by the said Order of 1947, the appointed day for the purposes of the National Health Service Act, 1946, shall be the fifth day of July, nineteen hundred and forty-eight. [2355]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

Certain provisions of the National Health Service Act, 1946 *(namely, those transferring to the Minister of Health some of the administrative functions of the Board of Control under the Acts relating to mental treatment and mental deficiency together with consequential amendment of those Acts and a few other enactments, were brought into force on the* 1st *July,* 1947. *This Order fixes July* 5*th,* 1948, *as the " appointed day " for all other provisions of the National Health Service Act.*

NATIONAL HEALTH SERVICE (SUPERINTENDENTS OF MENTAL HOSPITALS, ETC.) REGULATIONS, 1948

S.I. 1948 *No.* 419

February 26, 1948

The Minister of Health in exercise of his powers under sections 12, 14 and 66 of the National Health Service Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

1.—(1) These regulations may be cited as the National Health Service (Superintendents of Mental Hospitals, etc.) Regulations, 1948, and shall come into operation on the 1st day of May, 1948.

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [2356]

2. A Superintendent shall be appointed for each mental hospital or institution for defectives administered by a Regional Hospital Board, and it shall be a term of his appointment that he shall reside at the hospital or institution or within such distance therefrom as the board may approve. [2357]

3. Unless the Minister shall otherwise direct the Superintendent shall be a medical practitioner. [2358]

4. The Superintendent shall be the Chief Officer of the hospital or institution, and he shall be responsible for the general management thereof in accordance with any directions which may be given by the Regional Hospital Board or the Hospital Management Committee. [2359]

5.—(1) The Superintendent may, for any reason which appears to him sufficient, suspend from duty any officer employed for the purposes only of the hospital or institution and shall forthwith report such suspension, together with the cause thereof, to the Hospital Management Committee.

(2) During the period of suspension the whole or any part of the officer's salary may be withheld. If the suspension is removed the amount so withheld shall be paid to the officer. If the officer dies or resigns or is removed from office during the period of suspension the amount so withheld shall not be paid unless the board or committee otherwise determine. [2360]

6. These regulations shall apply in the case of an institution vested in the Minister of Health and designated by him for the purposes of the Mental Treatment Act, 1930, as if the said institution were a mental hospital. [2361]

* * * * *

NATIONAL HEALTH SERVICE (GENERAL DENTAL SERVICES) REGULATIONS, 1948

S.I. 1948 *No.* 505

March 12, 1948

General note.—While this volume was passing through the press these regulations were amended as from April 1, 1949, by the National Health Service (General Dental Services) Amendment Regulations, 1949 (S.I. 1949 No. 564).

The Minister of Health, in exercise of the powers conferred upon him by sections 32, 38, 39, 40, 44, 45 and 74 of the National Health Service Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

PART I

General

1. Short title and commencement.—These regulations may be cited as the National Health Service (General Dental Services) Regulations, 1948, and shall come into operation on the 24th day of March, 1948. [2362]

2. Interpretation.—(1) In these regulations, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them :—

" The Act " means the National Health Service Act, 1946 ;

" the Board " means the Dental Estimates Board constituted under Part IV of these regulations ;

" chemist " means any person on the pharmaceutical list of a Council ;

" Council " means the Executive Council constituted for any area ;

" dental estimates form " means the form set out in Part II of the fourth schedule to these regulations, or a form to the like effect ;

" dental fitness " means such a reasonable standard of dental efficiency and oral health as is necessary to safeguard general health and " dentally fit " has a corresponding meaning ;

" dental officer " means any dental officer appointed by the Minister for a district for the purpose of advising the Minister, the Board, Councils, Local Dental Committees, and dental practitioners on questions arising in connection with estimates submitted or dental treatment given by practitioners, or the conditions under which general dental services are provided by practitioners ;

" dental treatment " means all proper and necessary treatment which a dental practitioner usually undertakes for a patient, including examination and advice, the obtaining of radiographs, scaling, treatment of the gums, fillings, extractions, crowning, provision of artificial

dentures and their repair and remaking, and the administration of anaesthetics in connection with any such treatment, and includes the giving of orders on the appropriate form for drugs or the supply of drugs in accordance with these regulations ;

" drugs " means such drugs and medicines as are specified in the third schedule to these regulations ;

" emergency treatment " means any treatment immediately required for the relief of pain or other urgent symptoms ;

" health centre " means premises provided by a local health authority in accordance with the provisions of section 21 of the Act ;

" practitioner " means a registered dental practitioner ;

" supply " in relation to an appliance includes replacement.

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [2363]

PART II

General Arrangements for Provision of General Dental Services

3. Terms of service for practitioners.—(1) The arrangements which a Council is required by section 40 of the Act to make with practitioners for the provision of general dental services shall incorporate—

(*a*) in the case of a practitioner undertaking to provide general dental services elsewhere than at a health centre the terms of service contained in Part I of the first schedule to these regulations, and

(*b*) in the case of a practitioner undertaking to provide general dental services at a health centre the terms of service contained in Part II of the said schedule.

(2) Where a practitioner provides general dental services both elsewhere than at a health centre and at a health centre, the arrangements shall incorporate the provisions contained in sub-paragraphs (*a*) and (*b*) of the last preceding paragraph and whichever provisions are applicable shall apply. [2364]

4. Dental list.—(1) The Council shall prepare a list, to be called " the dental list ", of the practitioners who, having applied, are entitled to be included in the list.

(2) Application by a practitioner for inclusion in the dental list shall be made by delivering or sending the application by post to the Council in the form set out in Part I of the fourth schedule to these regulations, or in a form to the like effect.

(3) The dental list shall contain, in addition to the names of practitioners—

(*a*) the address of any surgery or health centre at which the practitioner undertakes to provide general dental services ;

(*b*) particulars of the days and hours at which he is or will be normally in attendance ;

(*c*) where two or more practitioners practise in partnership, the names of the partners ; and

(*d*) where the practitioner is acting as an assistant, the name and address of the principal,

and may, if the Council think fit, be so arranged as to show the part of the area in which each practitioner will provide treatment.

(4) Copies of the dental list shall be available for inspection at the office of the Council and at such other places as appear to the Council to be convenient for informing all persons interested and shall be kept revised up-to-date.

(5) The Council shall send a copy of the dental list to the Minister, to the Board and the Local Dental Committee and shall within seven days inform each of them of any alterations which may from time to time be made therein. The Council shall also send a copy of the list to the Local Medical and Local Pharmaceutical Committees, the local health authority, the Regional Hospital Board, the Hospital Management Committees of hospitals serving the area, the Board of Governors of any teaching hospital in the area, and any chemist under contract with the Council to provide pharmaceutical services, and at intervals of not more than three months shall notify them of any alteration made in the dental list. [2365]

5. Arrangements for supply by practitioners of drugs.—(1) Where in the opinion of the Council a practitioner's surgery is so situated that it would be inconvenient for any of the persons for whom he is providing general dental services to obtain drugs from a chemist, the Council may require him to supply the drugs specified in the third schedule to these regulations either (*a*) in respect of those persons or (*b*) in respect of all persons for whom he is providing general dental services :

Provided that notwithstanding such requirement the practitioner may if so requested by any such person instead of supplying such drug give a prescription for the same to be supplied by a chemist.

(2) Notwithstanding anything contained in this regulation—

(*a*) a practitioner shall not be required to undertake the supply of drugs under this regulation if he satisfies the Council, or on appeal the Minister, that he is not in the habit of supplying drugs or that the person to be supplied can with at least equal facility obtain a supply of drugs from a chemist ; and

(*b*) a practitioner shall be entitled to receive reasonable notice from the Council that he is required to undertake the supply of drugs or that such supply is to be discontinued. [2366]

6. Publication of particulars.—The Council shall cause to be published, in such manner as appears to them best calculated to inform all persons interested, particulars of the arrangements made by the Council, including a statement of the places where copies of the terms of service for practitioners and copies of the dental list may be seen, the places at which any necessary forms of application are available, and any other particulars which the Council think proper. [2367]

PART III

Method of Obtaining General Dental Services

7. Elsewhere than at a health centre.—A person requiring general dental services may apply to a practitioner practising elsewhere than at a health centre whose name appears on any dental list. [2368]

8. At a health centre.—A person requiring general dental services may apply to a practitioner practising at a health centre whose name appears on the dental list of the area in which the centre is situated. [2369]

9. Exercise of choice of practitioner in certain cases.—The right to choose the person by whom general dental services are to be provided shall be exercised—

(*a*) on behalf of any person under the age of sixteen by the mother or in her absence, the father, or in the absence of both parents, the guardian or other person who has the care of the child ; and

(*b*) on behalf of any other person who on account of old age, sickness or other infirmity is incapable of choosing a person to provide any of the services by a relative or any person who has the care of such person. [2370]

10. Examination by dental officer.—It shall be a condition of obtaining general dental services that a person shall, if required by the Board, submit himself for examination by a dental officer. [2371]

PART IV

Dental Estimates Board

11. Constitution.—(1) There shall be constituted a Board, to be called the Dental Estimates Board, for the purpose of the approval of estimates for dental treatment and of carrying out the duties imposed on them by these regulations.

(2) The Board shall consist of a chairman who shall be a practitioner and eight other members of whom six shall be practitioners.

(3) The chairman and other members shall be appointed by the Minister after consultation with such organisations as the Minister may recognise as representative of practitioners.

(4) The Board shall be a body corporate with perpetual succession and a common seal and a power to hold land without licence in mortmain :

Provided that the Board shall not acquire land except with the consent of the Minister. [2372]

12. Term of office.—The chairman and members of the Board shall hold office during the Minister's pleasure. [2373]

13. Resignation or removal of members.—(1) A member of the Board who desires to resign his membership shall give notice in writing to the Minister.

(2) A member shall, unless the Minister otherwise directs, cease to hold office—

(*a*) if he has not attended a meeting of the Board for six months ;

(*b*) if he is adjudged bankrupt, or makes a composition, or arrangement, with his creditors ; or

(*c*) if he is convicted of a criminal offence.

(3) A member, being either—

(*a*) a person who holds any paid appointment or office, or other place of profit, in the disposal of a Regional Hospital Board, Hospital Management Committee, Board of Governors of a teaching hospital, or local health authority and who is dismissed from such appointment, office or place of profit ; or

(*b*) a person whose name is removed under the provisions of section 42 of the Act from any list prepared under Part IV of the Act ;

shall forthwith cease to be a member. [2374]

14. Officers.—(1) The Board shall appoint a person approved by the Minister to act as clerk and shall also appoint such other officers as may be necessary. The resolution appointing the clerk shall embody the terms on which the appointment is made.

(2) The Board shall pay to the clerk and to their other officers such remuneration as the Minister may authorise. [2375]

15. Chairman.—(1) At every meeting of the Board the chairman, if present, shall preside.

(2) If the chairman is absent from any such meeting, the members present at the meeting shall elect from amongst themselves a person to act as chairman for the meeting. [2376]

16. Proceedings.—The proceedings of the Board shall not be invalidated by any vacancy in the membership of the Board, or by any defect in the appointment or qualification of any member thereof. [2377]

17. Standing orders.—The Board may make, vary and revoke standing orders for the regulation of the proceedings and business of the Board, and in particular—

(*a*) for providing that such number of members of the Board, not being less than four, as the standing order may specify shall form a quorum; and

(*b*) for providing that, subject to such exceptions and qualifications as may be specified in the standing orders, if a member of the Board has any pecuniary interest, direct or indirect, in any estimate or other matter relating to general dental services, he shall, as soon as practicable, disclose the fact to the chairman and shall not take part in the consideration or discussion of any question with respect to the estimate or other matter. [2378]

18. Voting.—Every question at a meeting of the Board shall be determined by a majority of the votes of the members present and voting on the question, and in case of an equal division of votes the chairman shall have a second or casting vote. [2379]

19. Minutes.—Minutes of the proceedings at every meeting of the Board and a record of the attendance of members at such meeting shall be kept by the clerk or other officer appointed for the purpose [2380]

20. Reports.—The Board shall submit to the Minister as soon as may be after the 31st day of March in each year a report of the Board's proceedings for the year ending on that day and shall also furnish the Minister from time to time with such information in regard to their work as the Minister may require. [2381]

PART V

Special treatment and treatment necessitated by lack of care

21. Expensive dental appliances and special dental treatment.—(1) Where a practitioner agrees at a person's request either—

(*a*) to supply, as part of general dental services, any denture which is of a more expensive type than the corresponding type made of plastic or vulcanite, or

(*b*) to repair such a denture at a cost in excess of the cost of repair of the said corresponding type, or

(*c*) to provide, as part of such services, special dental treatment consisting of gold fillings, inlays or crowns,

he shall submit to the Board an estimate of the normal charge on a dental estimate form and a further estimate of the additional or special charge on the form set out in Part III of the fourth schedule to these regulations or on a form to the like effect. Before submitting the forms the practitioner shall obtain the signature of the person concerned to the further estimate and shall not proceed with any treatment other than emergency treatment until approval is given.

(2) In approving an estimate under the last preceding paragraph the Board shall indicate in Part 3 of the dental estimate form the amount determined in accordance with a scale set out in regulations made under the Act to be paid by the person supplied or treated and shall inform that person of the amount.

(3) The Council shall be liable for such part only of the cost of services to which this regulation applies as is not by this regulation made the responsibility of the person supplied or treated.

(4) Any denture or special treatment supplied or provided under paragraph (1) of this regulation which, in the opinion of the Board, is required by the person concerned owing solely to his clinical condition or any repair

of a denture so supplied shall be supplied or provided free of charge to that person and the Council shall be liable for the whole of the cost thereof. [2382]

22. Replacements necessitated by lack of care.—(1) Where on the receipt of an estimate for the replacement of a dental appliance to any person (in this regulation called " the patient ") as part of general dental services, the Board consider that there are grounds for believing that the replacement may be necessitated by lack of care on the part of the patient, they shall refer the matter to the Council for investigation.

(2) On receipt of such reference the Council shall make such inquiry into the matter as they think fit and if in their opinion the circumstances so require, or if the patient so demands, the inquiry shall take the form of an oral hearing by a committee of the Council constituted for this purpose.

(3) After the completion of such inquiry the Council shall determine whether the replacement is necessitated by lack of care on the part of the patient and whether the whole or a proportion of the cost of the replacement shall be borne by the patient and shall communicate their decision to the patient, the practitioner and the Board, and the Council shall be responsible for the payment of such part only of the cost as is not determined to be payable by the patient:

Provided that if subsequently it appears to the Council that the payment of the sum so determined to be payable by the patient would involve undue hardship they may make such contribution thereto as they think fit. [2383]

23. Provisions applicable to services at health centres.—In their application to general dental services provided at a health centre the provisions of this Part of the regulations shall be subject to the following modifications :—

(*a*) Where at the request of a person a practitioner agrees to supply or repair a denture or to provide treatment of a kind specified in regulation 21, the practitioner shall not be required to submit an estimate to the Dental Estimates Board, but, in lieu thereof, he shall give notice to the dental officer on a form to be supplied by the Council and shall not proceed with the treatment other than emergency treatment until the approval of the dental officer is received. The notice to be given shall specify the sum to be paid by the person which shall be determined in accordance with the appropriate scale of fees and shall be subject to the approval of the dental officer.

(*b*) Any service provided under the last preceding paragraph which in the opinion of the dental officer is required by the person concerned owing solely to his clinical condition shall be provided free of charge to that person.

(*c*) Where in connection with the replacement of a dental appliance supplied to any person as part of general dental services it appears to the practitioner that there is reason to suppose that such replacement is necessitated by lack of care on the part of the person supplied, he shall, unless such person admits in writing that the replacement is so necessitated, report the matter to the Council. The Council shall thereupon investigate the case in the manner provided by paragraph (2) of regulation 22. If on such investigation the Council are satisfied that the replacement is not necessitated by such lack of care as aforesaid they shall so inform the person supplied and the practitioner. If such lack of care is admitted or determined as aforesaid, the practitioner shall be entitled to recover from such person the appropriate fees payable in respect of such replacement or such part of such fees as the Council may determine. [2384]

24. Payment of charge by person supplied.—The practitioner shall be entitled to recover from any person who receives services under this part of these regulations the appropriate fees payable by the person in accordance with these regulations, and the practitioner may decline to commence or proceed with treatment until he has received payment thereof. [2385]

PART VI

Transitional Provisions

25.—(1) Where before the appointed day a practitioner has undertaken in accordance with an approved estimate to give dental treatment in pursuance of the provisions of the National Health Insurance (Dental Benefit) Regulations, 1938, as amended, or has under such regulations commenced to give treatment which did not require prior approval of an estimate, the practitioner shall, on completing such treatment on or after that date return the estimate to the Board and shall be entitled to receive from the Council payment for such treatment in accordance with—

(*a*) the above-mentioned regulations, including the scale of fees then in force under them, in respect of such part of the treatment as has been carried out before the appointed day;

(*b*) these regulations, including the scale of fees in force on the appointed day, in respect of the remainder of the treatment.

(2) If payment has already been made by any person in respect of such treatment the Council may require as a condition of any payment by them that the practitioner shall refund to the person any excess over the amount payable by the patient in accordance with the National Health Insurance (Dental Benefit) Regulations, 1938, as amended.

(3) The Board shall determine any question arising under the foregoing paragraphs of this regulation as to whether treatment has been carried out on or after the appointed day.

(4) Nothing in this regulation shall be construed as affecting any liability to which the National Insurance Fund is subject by virtue of section 66 of the National Insurance Act, 1946 (which relates to the transfer of assets and liabilities) in respect of such part of any treatment as has been carried out before the appointed day. [2386]

SCHEDULES

FIRST SCHEDULE

PART I

TERMS OF SERVICE FOR DENTAL PRACTITIONERS PRACTISING ELSEWHERE THAN AT A HEALTH CENTRE

1. Interpretation.—In these terms of service, except so far as the context otherwise requires, the expression " the regulations " means the National Health Service (General Dental Services) Regulations, 1948, and other words and expressions have the same meaning as in the regulations.

2. Incorporation of provisions of regulations, etc.—Any provisions of the regulations and Part II of the National Health Service (Service Committees and Tribunal) Regulations, 1948, affecting the rights and obligations of practitioners shall be deemed to form part of these terms of service.

3. Standard of service.—(1) In providing general dental services under the regulations a practitioner shall employ a proper degree of skill and attention and shall subject to the provisions of paragraph 8 hereof, provide the treatment necessary to secure dental fitness that the person concerned is willing to undergo, and shall satisfactorily complete that treatment.

(2) A practitioner shall provide proper and sufficient surgery and waiting-room accommodation for persons to whom he is providing general dental services.

(3) A practitioner's surgery shall be furnished with suitable equipment and a practitioner shall provide treatment with suitable instruments.

(4) **Inspection of surgery and waiting room accommodation.**—A practitioner on receipt of reasonable notice in writing shall admit a dental officer at all reasonable times to any surgery or waiting room under the practitioner's control for the purpose of inspecting the same.

(5) **Visiting.**—A practitioner shall visit and treat a person for whom he has undertaken to provide general dental services whose condition so requires at any place where that person may be at the time, within five miles of his surgery.

(6) **Anaesthetics.**—A practitioner shall be responsible for providing the services of a medical or dental practitioner when necessary for the administration of an anaesthetic in connection with any operation undertaken by him under these terms of service.

4. Reference to another practitioner or hospital or specialist services.—If the condition of a person requiring general dental services is such as to require treatment which the practitioner is unable to carry out, but such treatment to the knowledge of the practitioner can be provided by another practitioner whose name appears on any dental list, or is available as part of the hospital and specialist services provided under Part II of the Act, the practitioner shall inform the said person of the fact that if the person so wishes, the practitioner shall take all necessary steps to enable him to receive such treatment. When referring a person to another practitioner or to the hospital and specialist services, the practitioner shall give adequate particulars in writing either beforehand or as soon as possible afterwards.

5. Records.—In each case in which a practitioner provides treatment under the regulations, he shall keep a record in the form set out in Part IV of the fourth schedule thereto, to be provided by the Council or in a form substantially to the like effect, and shall if required to do so produce such records to the Board, the Council, or a dental officer.

6. Fees.—(1) A practitioner shall be entitled to be paid such fees and other remuneration in respect of any treatment which he is required to give under these terms of service as the Minister may from time to time determine by regulations made under section 40 of the Act.

(2) Except as otherwise provided in the regulations, a practitioner shall not suggest, demand or accept from any person for whom he is providing general dental services or from any other person the payment of any fee or remuneration in respect of any treatment which he is required to give under these terms of service :

Provided that nothing in this sub-paragraph shall deprive the practitioner of any right to recover a reasonable charge from any person in respect of loss of remunerative time resulting from the failure of that person without sufficient excuse to keep an appointment.

7. Preparation and submission of estimates.—(1) In accepting an application for treatment, the practitioner shall—

(*a*) complete Part 6 of the dental estimate form and after detaching it, give it to the applicant ;

(*b*) examine the applicant and complete Part 7 of the form ;

(*c*) set out in column 1 of Part 8 of the form the whole of the treatment necessary in his opinion to render the person dentally fit and, if the person is not willing to undergo the whole of such treatment, in column II of that Part particulars of such part of that treatment as the person is willing to undergo.

(2) Where the extent of the treatment which the person is willing to undergo is not beyond that specified in column A of the second schedule to the regulations, the practitioner may proceed with and complete the treatment before sending the dental estimate form to the Board for approval.

(3) Where the treatment which the person is willing to undergo includes treatment in column B of the second schedule, the practitioner shall as soon as may be, and in any case within ten days after making his examination, send the dental estimate form to the Board for approval, and shall not proceed with any treatment other than treatment specified in column A of the said schedule or such emergency

treatment as is referred to in the footnote to the schedule, until such approval is received.

(4) (*a*) If during the course of treatment in respect of which prior approval of an estimate is not required any variation or addition such as would have made the treatment subject to prior approval is found to be necessary, the practitioner shall immediately notify the Board in writing of the circumstances and shall as soon as reasonably practicable submit an estimate of the whole of the treatment necessary (including that which has been begun) and thereafter the provisions of the last preceding sub-paragraph shall apply to such part of the treatment as has not been commenced.

(*b*) If during the course of treatment in respect of which prior approval of an estimate is required any variation or addition is found to be necessary, the practitioner shall without delay submit an additional estimate and any such estimate shall be subject to the provisions of sub-paragraph (3) of this paragraph.

(5) A practitioner shall complete treatment with reasonable expedition and shall—

(*a*) in the case of treatment to which sub-paragraph (2) of this paragraph applies, not take longer than six months from the date upon which the person is accepted by him for treatment ;

(*b*) in other cases not take longer than six months, or in the case of treatment including extractions and the provision of dentures twelve months, from the date on which the approval of an estimate is received by him :

Provided that these time limits shall not apply when any delay is due to failure on the part of the person concerned to attend for treatment or where the Board is satisfied that there is other sufficient reason.

(6) Upon completing treatment for a person a practitioner shall give a certificate to that effect in Part 5 of the dental estimate form and shall obtain in Part 4 of that form a certificate from the person concerned that treatment has been completed to the best of his belief. Treatment in so far as it relates to dentures shall not be regarded as complete unless the dentures have been delivered to and remain in the possession of the person concerned. The practitioner shall within one month of the completion of the treatment send to the Board the dental estimate form.

8. Inability or unwillingness of practitioner to complete treatment.—(1) If owing to any cause beyond the control of the practitioner, a practitioner is unable to complete any treatment which has been commenced, he shall forthwith notify the Board in writing of the amount of treatment completed, and of the reason for his inability to complete the remainder, and shall be entitled to such payment as may be approved by the Board in respect of such treatment as has already been provided.

(2) The Council may, on the application of a practitioner, authorise him on such terms as they think just to discontinue any treatment which he has commenced, but before doing so they shall consider any representations which the patient may wish to make with respect to the application. If the application is granted the patient and the Board shall be so informed and the practitioner shall be entitled to such payment as may be approved by the Board in respect of such treatment as has already been provided.

9. Supply of drugs.—(1) A practitioner may supply to a person for whom he is providing general dental services such drugs (being drugs specified in the third schedule to the regulations) as are required for immediate administration or application or for use before a supply can be obtained under the next following paragraph ;

(2) A practitioner may supply any other drug which is administered by him in person ;

(3) A practitioner shall supply all requisite drugs which under regulation 5 of the regulations he is required by the Council to supply.

10. Duty to prescribe.—A practitioner shall order, on a form to be provided by the Council for the purpose, such drugs specified in the third schedule to the regulations (other than those supplied under the preceding paragraph) as are requisite for the treatment of any person for whom he is providing general dental services. The order shall be signed by the practitioner or by his deputy or assistant with his own hand and shall not be written in such a manner as to necessitate reference on the part of the person supplying the drugs to a previous order.

The form shall not be used for persons other than those for whom the practitioner is providing general dental services and a separate form shall be used for each person.

11. Deputies, assistants and partners.—(1) If a practitioner intends to absent himself from his practice for more than twenty-one consecutive days, he shall notify either the Council or the persons for whom he is providing general dental services of his intended absence and of the practitioner or practitioners, if any, responsible for conducting his practice. If a practitioner intends to absent himself from his practice for more than two months, he shall inform the Council.

(2) A practitioner shall not employ an assistant practitioner for the purpose of the provision of general dental services for a continuous period of three months or more without notifying the Council.

(3) A practitioner shall not without the consent of the Minister employ as a deputy or assistant for the purpose of the provision of general dental services any practitioner who is disqualified for inclusion in the dental list of a Council under section 42 of the Act.

(4) A practitioner acting as deputy shall be entitled to provide treatment at places or at times other than those arranged by the practitioner for whom he is acting, due regard being had to the convenience of the persons for whom the treatment is provided.

(5) A practitioner shall be responsible for all acts and omissions of any practitioner acting as his deputy or assistant.

(6) A deputy or assistant (other than a partner or assistant whose name is included in the dental list) shall, in addition to signing with his own name any dental estimate form or prescription, insert therein the name of the practitioner for whom he is acting as deputy or assistant.

(7) In the case of two or more practitioners practising in partnership or as principal and assistant, treatment may at any time be given by a partner or assistant of the practitioner to whom a person has applied for general dental services, instead of by the practitioner in person, but the practitioner shall take reasonable steps to secure continuity of treatment.

12. Revision of terms of service.—(1) The Council may, subject to the approval of the Minister, alter the terms of service as from such date as the Minister may approve by giving notice of the proposed alteration to each practitioner.

(2) Except in the case of an alteration which results from the coming into operation of any Act of Parliament or from an amendment of any regulation, the Council shall before making an alteration consult with the Local Dental Committee and the alteration shall not come into operation within a period of three months from the date of the issue of the notice.

13. Withdrawal from dental list.—A practitioner shall be entitled at any time to give notice in writing to the Council that he desires to withdraw his name from the dental list and his name shall be removed therefrom at the expiration of three months from the date of such notice or of such shorter period as the Council may agree :

Provided that—

(*a*) If representations are made to the Tribunal under section 42 of the Act that the continued inclusion of a practitioner in the dental list would be prejudicial to the efficiency of the general dental services, he shall not, except with the consent of the Minister and subject to such conditions, if any, as the Minister may impose, be entitled to have his name removed from the list pending the termination of the proceedings on such representations, and

(*b*) Where any treatment has been commenced the practitioner shall make satisfactory arrangements for the treatment to be completed.

14. Disputes, appeals, etc.—The terms of service relating to the following matters are contained in Part II of the National Health (Service Committees and Tribunal) Regulations, 1948 :—

(*a*) the investigation of questions arising between practitioners and persons for whom they are providing general dental services, and the action which may be taken by the Council as a result of such investigations including the withholding of remuneration from a practitioner where there has been a breach of the terms of service.

(*b*) appeals to the Minister from decisions of the Council and the Board.

(*c*) the investigation of record keeping.

15. Issue of notices to practitioners.—Any notice which a Council is required or authorised by these terms of service to give to a practitioner shall be sufficiently given if it has been delivered to the practitioner or sent by post to him at the address which the practitioner last notified the Council as being his address. [2387]

PART II

TERMS OF SERVICE FOR DENTAL PRACTITIONERS UNDERTAKING TO PROVIDE GENERAL DENTAL SERVICES AT A HEALTH CENTRE

1. Interpretation.—In these terms of service, except so far as the context otherwise requires, the expression " the regulations " means the National Health Service (General Dental Services) Regulations, 1948, and other words and expressions have the same meaning as in the regulations.

2. Incorporation of provisions of regulations, etc.—Any provisions of the regulations and Part II of the National Health Service (Service Committees and Tribunal) Regulations, 1948, affecting the rights and obligations of practitioners shall so far as they are applicable be deemed to form part of these terms of service.

3. Attendance.—(1) A practitioner shall attend at the health centre on such days and at such hours as may be agreed between the Council and the practitioner.

(2) The practitioner shall not, without the permission of the Council, be entitled to provide at the health centre any dental treatment other than general dental services provided under the regulations.

4. Standard of service.—In providing general dental services a practitioner shall employ a proper degree of skill and attention and shall provide the treatment necessary to secure dental fitness which the person concerned is willing to undergo and shall, subject to the provisions of paragraph 13 hereof, satisfactorily complete that treatment.

5. Acceptance of applicant for treatment.—On accepting an application for treatment the practitioner shall request the applicant to sign such form as may be provided by the Council for the purpose.

6. Admission of dental officers.—A practitioner shall admit a dental officer at all reasonable times to any surgery or waiting room used by the practitioner at the health centre for the purpose of examining the services provided.

7. Visiting.—A practitioner who has undertaken to provide general dental services for any person shall if that person's condition so requires visit and treat him at any place where he may be at the time : Provided that such place is not more distant than five miles, or such other distance as may be agreed by the Council and the practitioner, from the health centre.

8. Anaesthetics.—A practitioner shall be responsible for providing the services of either a medical or dental practitioner when necessary for the administration of an anaesthetic in connection with any operation undertaken by him under these terms of service.

9. Reference to another practitioner or hospital or specialist services.—If the condition of a person requiring general dental services is such as to require treatment which the practitioner is unable to carry out but such treatment to the knowledge of the practitioner can be provided by another practitioner whose name appears on any dental list, or is available as part of the hospital and specialist services provided under Part II of the Act, the practitioner shall inform the said person of the fact and if the person so wishes the practitioner shall take all necessary steps to enable him to receive such treatment. When referring a person to another practitioner or to the hospital and specialist services the practitioner shall give adequate particulars in writing either beforehand or as soon as possible afterwards.

10. Records.—In each case in which a practitioner provides treatment under the regulations, he shall keep a record in a form to be provided by the Council for the purpose. The record shall be the property of the Council and shall be made available for inspection to the dental officer at all reasonable times. The practitioner shall also supply to the dental officer such information with regard to the treatment of patients as he may request.

11. Fees.—(1) A practitioner shall be entitled to be paid such remuneration in respect of his obligations under these terms of service as the Minister may from time to time determine by regulations made under section 40 of the Act.

(2) Except as otherwise provided in the regulations a practitioner shall not suggest, demand or accept from any person for whom he is providing general dental services or from any other person the payment of any fee or remuneration in respect of any dental treatment which he is required to give under these terms of service. The practitioner shall account for and pay over to the Council, in such manner as they may require, any fees received by him in respect of dental treatment falling within the provisions of Part V of the regulations.

12. Consultation with dental officer.—Where a practitioner proposes to provide a service of a kind specified in regulation 21 of the regulations solely on account of the clinical condition of the person concerned and not at his request the practitioner shall give notice of the proposal to the dental officer on a form to be provided by the Council and shall not proceed with any such treatment other than emergency treatment until the dental officer's approval has been received.

13. Treatment not completed.—If owing to any cause beyond the control of the practitioner he is unable to complete any treatment, he shall forthwith notify the dental officer in writing of the amount of treatment completed, and of the reason for his inability to complete the remainder, and if the treatment is given under Part V of the regulations, he shall be entitled to claim from the person concerned such fees based on the appropriate scale as may be approved by the dental officer in respect of such treatment as has already been provided.

14. Completion of treatment.—A practitioner shall complete treatment with reasonable expedition and shall—

(*a*) in the case of treatment which is referred to in column A of the second schedule to the regulations, not take longer than six months from the date upon which the person is accepted by him for treatment;

(*b*) in other cases not take longer than six months or in the case of treatment including extractions and the provision of dentures twelve months from the date on which the person is accepted by him for treatment:

Provided that these time limits shall not apply when any delay is due to failure on the part of the person concerned to attend for treatment or where the dental officer is satisfied that there is other sufficient reason for the delay.

15. Supply of drugs.—(1) A practitioner may supply to a person for whom he is providing general dental services such drugs (being drugs specified in the third schedule to the regulations) as are required for immediate administration or application or for use before a supply can be obtained otherwise under the regulations.

(2) A practitioner may supply any other drug which is administered by him in person.

(3) Any drug supplied under this paragraph shall be obtained by the practitioner in such manner as the Council may require.

16. Duty to prescribe.—A practitioner shall order, on a form to be provided by the Council for the purpose, such drugs specified in the third schedule to the regulations (other than those supplied under the last preceding paragraph), as are requisite for the treatment of any person for whom he is providing general dental services. The order shall be signed by the practitioner with his own hand and shall not be written in such a manner as to necessitate reference on the part of the person supplying the drugs to a previous order. A separate form shall be used for each person.

17. Termination of service.—(1) Any arrangement between a Council and a practitioner for the provision of general dental services at a health centre may be terminated by either party giving to the other 3 months notice in writing:

Provided that if the practitioner shall fail to comply with any of these terms of service the Council may terminate the arrangement by giving him one month's notice in writing.

(2) The Council may at any time suspend a practitioner from the discharge of his duties, but such suspension shall not affect the right of the practitioner to receive remuneration during the continuance thereof.

18. Revision of terms of service.—The Council may, with the approval of the Minister, by notice given to each practitioner at a health centre, alter the terms of service as from such date as may be specified in the notice :

Provided that such date shall not, except in the case of an alteration which results from the coming into operation of an Act of Parliament or from an amendment of any regulation, be less than 3 months from the giving of such notice.

19. Withdrawal or removal from dental list.—A practitioner shall be entitled at any time to give notice in writing to the Council that he desires to withdraw his name from the dental list and his name shall be removed therefrom at the expiration of three months from the date of such notice or of such shorter period as the Council may agree :

Provided that if representations are made to the Tribunal under section 42 of the Act that the continued inclusion of a practitioner in the dental list would be prejudicial to the efficiency of the general dental services, he shall not, except with the consent of the Minister and subject to such conditions if any as the Minister may impose, be entitled to have his name removed from the list pending the termination of the proceedings on such representations.

20. Disputes, appeals, etc.—The terms of service relating to the following matters are contained in Part II of the National Health Service (Service Committees and Tribunal) Regulations, 1948 :—

(*a*) the investigation of questions arising between practitioners and persons for whom they are providing general dental services, and the action which may be taken by the Council as the result of such investigations including the withholding of remuneration from a practitioner where there has been a breach of the terms of service.

(*b*) appeals to the Minister from decisions of the Council.

21. Issue of notices to practitioners.—Any notice which a Council is required or authorised by these terms of service to give to a practitioner shall be sufficiently given if it has been delivered to the practitioner or sent by post to him at the address which he has last notified the Council as being his address. [2388]

SECOND SCHEDULE

Treatment	A. Treatment which may be completed without obtaining the prior approval of the Dental Estimates Board	B. Treatment for which the prior approval of the Dental Estimates Board is required
I. Diagnosis ..	1. Clinical examination and report. 2. Tentative treatment, dressings, etc. 3. Radiological examination at a cost not exceeding £2 2*s*. 0*d*. 4. Pathological and bacteriological examinations.	Radiological examination at a cost exceeding £2 2*s*. 0*d*.
II. Prophylaxis ..	Normal scaling and gum treatment.	1. Extensive or prolonged gum treatment including scaling. 2. Gingivectomy.

Treatment	A. Treatment which may be completed without obtaining the prior approval of the Dental Estimates Board	B. Treatment for which the prior approval of the Dental Estimates Board is required
III. Conservative Treatment.	1. Fillings. 2. Root treatment.	1. Gold fillings.* 2. Inlays.* 3. Crowns.* 4. Apicectomy.
IV. Extractions ..	Extractions not necessitating the supply of dentures.	1. Extractions necessitating the supply of dentures.† 2. Alveolectomy.
V. General Anaesthesia.	All forms.	—
VI. Emergency Treatment.	Treatment for the immediate relief of pain or other urgent symptoms.	—
VII. Repair of Dentures.	Normal repairs.	Repairs under regulation 21 of the regulations.
VIII. Prosthetic Treatment.	—	1. Dentures of plastic. 2. Dentures of vulcanite. 3. Dentures of gold or other metal.* 4. Backing and tagging. 5. Obturators. 6. Special appliances, radium applicators, splints, etc.
IX. Orthodontic Treatment.	—	All forms.
X. Oral Surgery ..	—	1. Removal of impacted teeth, buried roots, cysts, etc.† 2. Treatment of fractured jaws.†

* This service only to be provided free of cost to a person when it is, in the opinion of the Dental Estimate Board, required owing to the clinical condition of the person concerned.

† This service, if emergency treatment, may be commenced without prior approval. [2889]

THIRD SCHEDULE

LIST OF PRESCRIBED DRUGS

Drugs

Acidum Acetylsalicylicum
,, Benzoicum
,, Boricum
,, Tannici
Alumen
Aqua Chloroformi
,, Menthae Piperitae
Borax
Caffeina
Calcii Lactas
Emulsio Chloroformi
,, Olei Menthae Piperitae
Glycerinum Acidi Tannici
,, Thymolis Compositum
Hydrargyri Subchloridum
Liquor Azorubri
,, Formaldehydi
,, Hydrogenii Peroxidi
,, Iodi Mitis
,, Sodae Chlorinatae Chirurgicalis
Magnesii Sulphas
Mistura Magnesii Hydroxidi
Oleum Caryophylli
Phenacetinum
Phenol
Potassii Chloras
,, Permanganas
Quininae Sulphas
Sodii Bicarbonas
,, Chloridum
,, Perboras
,, Sulphis
Tinctura Pyrethri
Zinci Chloridum
,, Sulphas

Compounded drugs

Cataplasma—Poultice

Cataplasma Kaolini B.P.

Collutoria—Mouthwashes

Collutorium Acidi Tannici, N. [W.]F.
,, Formaldehydi, N. [W.]F.
,, Phenolis Alkalinum, N.[W.]F.
,, Sodii Chloridi Compositum, N.[W.]F.
,, Thymolis Compositum. N.[W.]F.
,, Zinci Sulphatis et Chloridi, N.[W.]F.

Pigmentum—Paint

Pigmentum Arsenicale et Ipecacuanhae, N.[W.]F.

Solvellae—Solution Tablets

Solvella Antisceptica Effervescens, B.P.C.
,, Boracis et Benzaminae Composita, B.P.C.

Tabellae—Tablets

Tabella Acidi Acetylsalicylici, B.P.
,, Acidi Acetylsalicylici Composita, B.P.C.
,, Acidi Acetylsalicylici et Quininae Composita, N.[W.]F.
,, Acidi Ascorbici, B.P. 50 mg.
,, Acidi Nicotinici, B.P. 50 mg.
,, Butobarbitoni, 1½ gr. N.[W.]F.
.. Calciferolis Composita, B.P.C.
,, Calcii Lactatis, B.P.

Tabella Codeinae Composita, B.P.C.
,, Nicotinamidae, B.P.
,, Phenobarbitoni, B.P. 1/4, 1/2, 1 and 2 gr.
,, Sulphathiazolis

Trochisci—Lozenges

Trochiscus Formaldehydi, (Tabella Formaldehydi, B.P.C.)
,, Penicillini, B.P. [2390]

FOURTH SCHEDULE

FORMS

PART I

FORM OF APPLICATION FOR INCLUSION IN DENTAL LIST

To the Executive Council for.....

I,..... of ..... a registered dental practitioner undertake to provide general dental services under the National Health Service Act, 1946, on the terms in operation in the area of the Council and apply to have my name included in the dental list.

Particulars of my usual surgery hours are given below.

Address of Surgery and/or Health Centre	*Days and hours of attendance*	
	Days	*Hours*
(Surgery).....	.....	.....
.....	.....	.....
.....	.....	.....
(Health Centre)	.....	.....
.....	.....	.....
.....	.....	.....

To be completed where appropriate.

I am practising in partnership with.....
of .....
I am acting as an assistant to.....
of .....

Signed .....

Date .....

[2391]

PART II

Front of Form

NATIONAL HEALTH SERVICE—DENTAL ESTIMATE FORM

A	PATIENT'S SURNAME (Mr., Mrs., Miss) (Block Letters)	B	DENTIST'S NAME & ADDRESS AT WHICH TREATMENT IS TO BE GIVEN (Rubber Stamp or Block Letters)
CHRISTIAN NAMES			
ADDRESS			
NAT. REG. IDENTITY No.	YEAR OF BIRTH	DENTIST'S E.C. LIST No.	

PART 1
To be completed by THE PATIENT

I desire treatment under the National Health Service.

Signed*..... Date.....

PART 2
To THE DENTAL ESTIMATES BOARD

I have examined this patient and have entered in Part 7 the clinical conditions and in Part 8 details of the treatment which I consider necessary to secure dental fitness.

Signed..... Date.....

PART 3 To THE DENTIST

Dental treatment as detailed in Part 8 is authorised.....
.....
.....

For Official Use

PART 4 To be completed by THE PATIENT

I certify that to the best of my belief treatment has been completed

Signed*..... Date.....

PART 5 To be completed by THE DENTIST

I certify that treatment as shown in Part 8 has been completed and I claim fees amounting to £ : : .

Signed..... Date.....

* In the case of a child or an invalid, the parent, guardian or other authorised person should sign for the patient.

PART 6 To be signed by the Dentist and RETAINED BY THE PATIENT

DENTIST'S E.C. LIST No.	

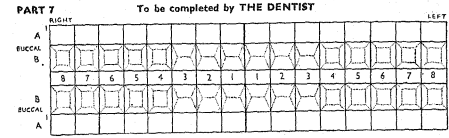
I am prepared to accept Mr./Mrs./Miss.....as a patient under the National Health Service for treatment as detailed by me on.....19.....

Signed.....

PART II—*continued*

Back of Form

PART 7 **To be completed by THE DENTIST**



PART 8

Details of Treatment and Fees

Column I	£	s.	d.	Column II	£	s.	d.
Examination and Report							
X-Ray and Report							
Scaling and Treatment of Gums							
Fillings							
Root Treatment							
Extractions							
General Anaesthetic							
Crowns							
Dentures							
Denture Repairs:							
Other forms of Treatment:							

PART 9

Observations

The Patient is/is not in possession of dentures

PART 10

Date of Examination.....

Date Treatment completed.....

No. and Nature of enclosures.....

Signed..... Date..... DENTIST'S E.C. LIST No.....

[2392]

PART III

NATIONAL HEALTH SERVICE

SPECIAL TREATMENT AND APPLIANCES INVOLVING PAYMENT BY THE PATIENT

This form is to be completed in addition to and submitted with the Dental Estimate Form in respect of any more expensive form of treatment or appliance to be provided at the request of the patient.

In the appropriate space below ENTER ONLY THE AMOUNT PRESCRIBED TO BE PAID BY THE PATIENT.

Patient's Name	Dentist's Name
Nat. Reg. Identity No.	Dentist's E.C. List No.

DETAILS OF TREATMENT AND ADDITIONAL CHARGES

	£	s.	d.
Fillings			
Dentures			
Other Treatment			
.....			

TO BE SIGNED BY THE PATIENT*

I desire the treatment as detailed above and understand that I am responsible for payment to the dentist of the charges set out above or such other charges as may be approved by the Dental Estimate Board.

Signed..... Date.....

* In the case of a child or invalid, the parent, guardian or other authorised person should sign for the patient. [2393]

PART IV

DENTAL RECORD—NATIONAL HEALTH SERVICE

SURNAME.....

CHRISTIAN NAME.....

ADDRESS.....

.....

Telephone No.....

NATIONAL REGISTRATION IDENTITY NUMBER.....

YEAR OF BIRTH.....

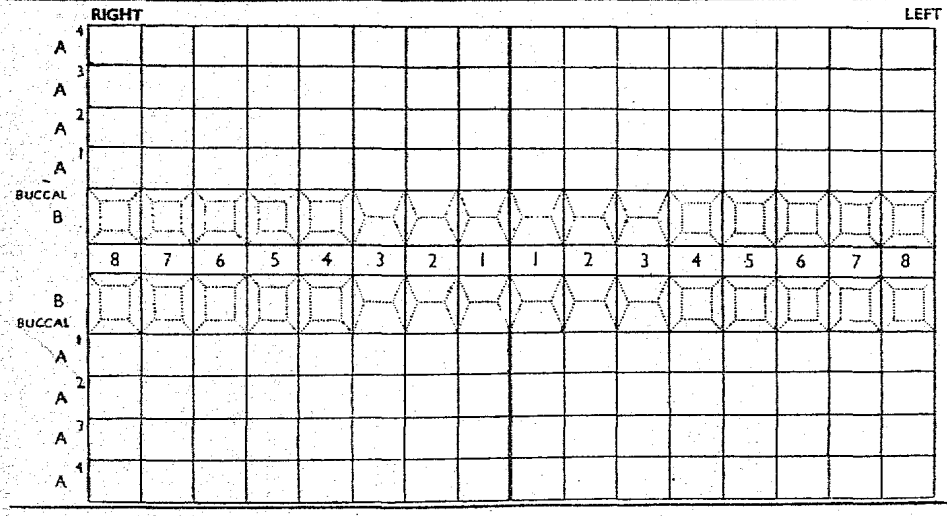
DATE	TREATMENT	DATE	TREATMENT	DATE	TREATMENT

(To be used if desired)

DENTIST'S NAME.....

DENTIST'S EXECUTIVE COUNCIL NO.....

PART IV. *(continued)*.



SYMBOLS

Tooth present and sound	•
Tooth missing	—
Tooth recently extracted	×
Root present	+
Cavity	O
Filling present	●
Artificial tooth	A
Crown	C

Indicating direction and extent of movement of tooth ⟶

Line A. should show treatment required.

CLINICAL NOTES.

Summary of Estimates, 19..... to 19..... (For use if desired)

	Date of Examination	Date Sent for Approval	Date Approved	Date Completed	Ex. and Report	Scale and Polish	Fillings	Root Treatment	Extractions	General Anaes	Crowns	Dentures	Repairs	Other Forms of Treatment	£	s.	d.	Date Paid
A^1																		
A^2																		
A^3																		
A^4																		

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

The regulations provide for the arrangements which Executive Councils are required to make under Part IV of the National Health Service Act, 1946, for the provision of general dental services. The regulations also provide for the constitution of the Dental Estimates Board for the purpose of approving dental estimates.

NATIONAL HEALTH SERVICE (GENERAL MEDICAL AND PHARMACEUTICAL SERVICES) REGULATIONS, 1948

S.I. 1948 *No.* 506

March 12, 1948

General note.—Various provisions of these regulations have been amended as from July 5 1948, by S.I. 1948 No. 1448, *post.*

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The Minister of Health, in exercise of the powers conferred on him by sections 32, 33, 34, 35, 38, 39, 45 and 74 of, and the Fifth and Sixth Schedules to the National Health Service Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

PART I

General

1. Short title and commencement.—These regulations may be cited as the National Health Service (General Medical and Pharmaceutical Services) Regulations, 1948, and shall come into operation on the twenty-fourth day of March, 1948. [2395]

2. Interpretation.—(1) In these regulations, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them :—

" the Act " means the National Health Service Act, 1946 ;

" assistant " means a medical practitioner who acts as an assistant to a medical practitioner ;

" Council " means the Executive Council constituted for any area ;

" drugs " includes medicines and such chemical reagents as are or may be prescribed ;

" Local Obstetric Committee " means a committee recognised by the Minister for the purpose of approving the obstetric experience of a medical practitioner ;

" maternity medical services " means the provision of personal medical services in respect of a confinement by a medical practitioner having obstetric experience ;

" medical card " means a card issued to a person, in a form approved by the Minister, for the purpose of enabling him to obtain or establishing his title to receive general medical services other than maternity medical services from a medical practitioner, and shall include any similar card provided for the same purpose under the National Health Insurance (Medical Benefit) Regulations, 1936 ;

" medical officer " means any medical officer appointed by the Minister for a district in which general medical services are provided ;

" practitioner " means a registered medical practitioner and includes a medical practitioner having obstetric experience ;

" medical practitioner having obstetric experience " means a practitioner whose experience in obstetrics is for the time being approved by the Local Obstetric Committee ;

" treatment " means medical attendance and treatment and includes the issue of medical certificates under, or for the purposes of, any enactment, and the keeping and furnishing of any records, and the preparation and transmission of any reports, in accordance with the terms of service set out in Part I of the first schedule to these regulations : Provided that the expression shall not include maternity medical services unless a practitioner has by arrangement undertaken to provide the person concerned with such services.

(2) In these regulations the expression " chemist " means a registered pharmacist or authorised seller of poisons within the meaning of the Pharmacy and Poisons Act, 1933, who provides pharmaceutical services. The regulations shall also apply (except so far as the context may otherwise require) to any other person, firm or body corporate (other than a medical or dental practitioner) providing pharmaceutical services as if that person, firm or body were a chemist as so defined.

(3) The Interpretation Act, 1889 applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [2396]

General note.—Para. (1), *supra*, has been amended by S.I. 1948 No. 1448, *post*.

PART II

Medical Practitioners

3. Terms of service for medical practitioners.—The arrangements which a Council is required by section 33 of the Act to make with practitioners for the provision of personal medical services shall incorporate the terms of service contained or referred to in Part I of the first schedule to these regulations. [2397]

4. Medical list.—(1) The Council shall prepare a list to be called " the medical list " of the practitioners who are entitled to be included in the list.

(2) The medical list shall include in a separate part the names of practitioners having obstetric experience who have undertaken to provide maternity medical services and shall show by a distinguishing mark or otherwise which of them are included in the list for the purpose of providing maternity medical services only.

(3) The medical list shall contain in addition to the names of medical practitioners :—

(*a*) the private address and the address of any surgery, health centre or other place, at which the medical practitioner undertakes to attend for the purpose of treating persons receiving general medical services ;

(*b*) particulars of the days and hours at which he undertakes to be in attendance at each place ;

(*c*) where two or more medical practitioners practise in partnership, the names of the partners ;

(*d*) where the practitioner is acting as an assistant, the name and address of the principal ;

(*e*) any conditions as to the area of practice attached to the granting of an application by the Medical Practices Committee or, on appeal, by the Minister,

and may, if the Council think fit, be so arranged as to show the part of the area in which each medical practitioner will provide treatment.

(4) Copies of the medical list shall be available for inspection at the office of the Council and at such other places as appear to the Council to be convenient for informing all persons interested and shall be kept revised up to date.

(5) The Council shall send a copy of the medical list to the Minister, the Medical Practices Committee, the Local Medical Committee, the Local Obstetric Committee and the Local Pharmaceutical Committee, and shall within seven days inform each of them of any alteration which may from time to time be made therein. The Council shall also send a copy of the list to the local health authority, the Regional Hospital Board, the Hospital Management Committees of hospitals serving the area, the Board of Governors of any teaching hospital in the area, and to any person under contract with the Council to provide pharmaceutical services and at intervals of not more than three months shall notify them of any alteration made in the medical list: Provided that in the case of persons providing pharmaceutical services, Boards of Governors and Hospital Management Committees the Council may send to them the portions of the list which appear to the Council to concern them. [2398]

5. Applications for inclusion in a medical list.—(1) Application by a practitioner for inclusion in a medical list shall be made by delivering or sending the application by post to the Council in the form set out in Part III of the first schedule to these regulations, or in a form to the like effect.

(2) On receipt of an application from a practitioner, other than a practitioner entitled to inclusion by virtue of sub-section (1) of section 34 of the Act, for inclusion in the medical list, the Council shall transmit the application to the Medical Practices Committee, together with a report on a form approved by the Committee. [2399]

6. Reports by Council to Medical Practices Committee.—(1) Every Council not later than the 31st December, 1948, and thereafter once in every year or at such more frequent intervals as the Medical Practices Committee may require shall furnish the Committee with such information as may be required by the Committee to enable them to judge the adequacy of the medical services in the area of the Council or any part thereof.

(2) On receipt of notice of death or on the withdrawal or removal of the name of a practitioner from the medical list the Council shall forthwith inform the Medical Practices Committee and shall furnish to that Committee a report as to the need for filling the vacancy. [2400]

7. Advertisement of vacancies.—A Council may give public notice of any vacancy for a medical practitioner in their area by advertisement in the press or otherwise. [2401]

PART III

Medical Practices Committee

8. Appointment of members and tenure and vacation of office.—(1) The following provisions shall apply to the members of the Medical Practices Committee (in this part of these regulations referred to as "the Committee").

(2)—(*a*) The first chairman of the Committee shall be appointed for a period ending on the 31st day of March, 1950.

(*b*) Of the eight original members, other than the chairman, two shall be appointed for a period ending on the 31st day of March, 1950, three for a

period ending on the 31st day of March, 1951, and the remainder for a period ending on the 31st day of March, 1952.

(*c*) Subject as herein provided members shall be appointed for a period of three years expiring on the 31st day of March in any year.

(*d*) A member may be re-appointed to the Committee on the expiration of his term of office.

(*e*) A member may resign from the Committee by giving notice in writing to the Minister: Provided that a member who is appointed as being a person actively engaged in medical practice shall be deemed to have resigned if he ceases to be so engaged.

(*f*) A person appointed to fill a casual vacancy shall hold office for the remainder of the period for which his predecessor was appointed. [2402]

9. Procedure for the determination of applications.—(1) Subject to the next following paragraph a decision of the Committee to grant an application for inclusion in the list on the ground that the number of practitioners undertaking to provide general medical services in the area or part of an area is not already adequate shall be given in such manner as the Committee may determine.

(2) Subject to paragraph (4) of this regulation any decision of the Committee involving the refusal of an application or the granting of an application subject to conditions, shall be the decision of the majority of members present and voting at a meeting of the Committee and the Committee shall inform the applicant of his right of appeal to the Minister.

(3) If the Committee are of opinion that one or more practitioners are required for the area or part of the area concerned and the number of applicants exceeds the number of practitioners required, they shall :—

(*a*) consider the views expressed by the Council with respect to the applications ;

(*b*) if they think fit, give to the applicants or any of them the opportunity to attend before them and make representations in person or to make written representations ;

(*c*) select the applicant or applicants whose applications are to be granted and forthwith inform them, the Council and the Minister of their decision, and

(*d*) inform any practitioner whose application is refused or granted subject to conditions of his right of appeal to the Minister.

(4) Four members shall form a quorum and in the case of equality of votes the chairman shall have a second or casting vote. [2403]

10. Appeal to the Minister.—(1) A practitioner may appeal to the Minister against the refusal of an application for inclusion in the medical list or the granting of such application subject to conditions by sending to the Minister notice of appeal within seven days, or such longer period as the Minister may allow, from the date on which the notice of the decision of the Committee is given to him.

(2) The notice of appeal shall contain a concise statement of the facts and contentions upon which the appellant intends to rely.

(3) If it appears to the Minister that the appeal is of such a nature that it can properly be determined without an oral hearing he may dispense with an oral hearing, and determine the appeal summarily and shall communicate his decision to the appellant, the Committee, and the Council.

(4) If the Minister is of opinion that an oral hearing is required, he shall appoint one or more persons to hear the appeal.

(5) An oral hearing shall take place at such time and place as the Minister may direct and notice of the hearing shall be sent by post to the appellant, the Committee, the Council and any practitioner whose application for

appointment to the vacancy to which the application relates was granted, not less than seven days before the date fixed for the hearing.

(6) The appellant and any of the parties to whom notice of the hearing is required to be given may attend and be heard in person or by counsel or solicitor or other representative. The Committee and the Council may be represented at the hearing by any duly authorised officer or member or by counsel or solicitor.

(7) Subject as aforesaid the procedure at the oral hearing shall be such as the person or persons hearing the appeal may determine.

(8) The person or persons hearing the appeal shall as soon as may be after the hearing draw up a report, stating the relevant facts and his or their conclusions, and the Minister after taking such report into consideration shall give his decision and communicate it to the appellant, the Committee, the Council and such practitioners as have under the foregoing provisions of this regulation been served with notice of the hearing. [2404]

11. Certificate that transaction does not involve sale of goodwill.—A certificate issued by the Medical Practices Committee under section 35 (9) of the Act, shall be in the form set out in the second schedule to these regulations or in a form to the like effect. [2405]

PART IV

Method of obtaining general medical services other than maternity medical services

12. Selection of practitioner.—Application by a person for acceptance by a practitioner for inclusion in his list shall be made by delivering to the practitioner either a medical card or a signed form of application for acceptance on his list:

Provided that:—

(1) any person, entitled immediately before the appointed day to medical benefit under the National Health Insurance Acts, 1936 to 1941, and then included in the list of a practitioner who, as from the appointed day, provides general medical services other than maternity medical services, shall be deemed to be included in the list of that practitioner under these regulations unless and until he has chosen another practitioner or given notice in writing to the Council of his desire not to be so included;

(2) any person entitled immediately before the appointed day to receive medical benefit under the National Health Insurance Acts, 1936 to 1941, through an institution approved for the purpose of section 38 of the National Health Insurance Act, 1936, shall,

(*a*) if the institution immediately before the appointed day employs a single practitioner who as from that day provides general medical services other than maternity medical services, be deemed to be included in the list of that practitioner,

(*b*) if the institution immediately before the appointed day employs two or more practitioners who as from that day provide general medical services other than maternity medical services, be deemed to be included in the list of such one of those practitioners as he may be assigned to by the institution,

unless and until the person concerned has chosen another practitioner or given notice in writing to the Council of his desire not to be so included. [2406]

13. Allocation scheme.—(1) The Council after consultation with the Local Medical Committee shall prepare a scheme (hereinafter referred to as "the allocation scheme") which shall provide for the following matters:—

(*a*) the constitution of a committee of the Council (hereinafter referred to as " the allocation committee ") consisting of equal numbers of persons appointed by the Council and the Local Medical Committee respectively and of a chairman, and the assignment to such committee of such powers and duties relating to the administration of the scheme as may be specified therein ;

(*b*) the steps to be taken by a practitioner to enable a person, who has applied for and been refused acceptance by him, to be accepted by or assigned to a practitioner ;

(*c*) the provision of any treatment required by the person pending such acceptance or assignment ;

(*d*) the period within which notice of acceptance of a person is to be given to the Council by any practitioner ;

(*e*) the assignment to a practitioner of any person who applies for assignment ;

(*f*) the provision by a practitioner of emergency treatment in cases where neither the practitioner normally responsible for providing treatment nor his deputy is available and where such treatment is immediately necessary owing to an accident or other emergency ;

(*g*) the restrictions, if any, to be imposed on the right of a practitioner to require the removal of a person from his list where the removal would be likely to involve hardship owing to the state of that person's health ;

(*h*) such incidental or consequential provisions as may be deemed necessary.

(2) The allocation scheme shall also provide for a limit to be placed on the number of persons who may be placed on the list of a practitioner and, except in cases in which owing to special circumstances the Council with the approval of the Minister otherwise permit, the scheme shall not permit the following maximum numbers to be exceeded, namely :—

(*a*) in the case of a practitioner carrying on practice otherwise than as an assistant or in partnership 4,000 ;

(*b*) in the case of two or more practitioners carrying on practice in partnership 5,000 on the list of any partner and an average of 4,000 on the list of both or all the partners.

(3) Where a practitioner or a partnership of practitioners employs one or more permanent assistants, the number of persons for whose treatment the practitioner or practitioners may be responsible may be increased to an extent allowed by the scheme not exceeding 2,400 in respect of each assistant.

(4) The allocation scheme shall also provide for enabling a practitioner, the number of persons on whose list exceeds the limit, to make arrangements within a specified period for bringing the number within the limit, either by reducing the number of persons on his list or by employing an assistant or otherwise, and may include provision for securing the necessary consultation and co-ordination in this respect between the Council and Councils in adjoining areas.

(5) The allocation scheme may also provide for the application with the necessary modifications of the provisions of regulation 14 (2) of these regulations to the case of :—

(*a*) a practitioner whose name is included in the medical list in respect of more than one address and who ceases to practise at one of such addresses ;

(*b*) a practitioner who on ceasing to employ a permanent assistant reduces the number of persons on his list ; and

(*c*) a practitioner who on entering into partnership with another practitioner reduces the number of persons on his list.

(6) In the event of the Council and Local Medical Committee failing to agree on any provision of the allocation scheme the matter shall be referred to the Minister, whose determination shall be final.

(7) The provisions of the allocation scheme shall be subject to the approval of the Minister.

(8) The Council, after consultation with the Local Medical Committee, may from time to time amend the allocation scheme subject to the approval of the Minister. If the Local Medical Committee require any amendment, the allocation scheme may, in default of agreement between the Council and the Committee, be amended by the Minister.

(9) If the Council fail to submit an allocation scheme to the Minister within such time as he may direct, the Minister may make a scheme and such scheme shall have effect within the area of the Council as though it had been prepared by the Council and approved by the Minister. [2407]

14. Change of practitioner.—(1) A person may at any time make application for acceptance by a practitioner notwithstanding that he is at the date of application included in the list of another practitioner, and if accepted he shall forthwith be entitled to obtain treatment from the practitioner to whom application has been made.

(2) On the death or on the removal or withdrawal from the medical list of a practitioner, the Council shall give to the persons on the list of such practitioner notice of their right to apply to another practitioner for acceptance: Provided that if the Council and Local Medical Committee are of opinion that one or more practitioners should be regarded as succeeding in whole or in part to the practice of a practitioner whose name has ceased to be included in the medical list, the Council shall inform any person concerned on the list of the last mentioned practitioner of the name and address of the successor in whose list it is considered he may wish to be included. The notice shall state that the successor is willing to accept such person for treatment and the person shall be deemed to be included in the list of that practitioner as from the date of the notice unless and until he has chosen another practitioner, or given notice in writing to the Council of his desire not to be so included. [2408]

15. Temporary arrangements for practice on retirement, death, etc.—(1) For the purpose of securing the treatment of persons on the list of a practitioner whose name has ceased to be included in the medical list pending their selection or transfer to the list of another practitioner, the Council may, after consultation with the Local Medical Committee, appoint one or more practitioners to undertake the treatment of such persons and may make such arrangements as they think fit for the accommodation and other needs of a practitioner so appointed: Provided that where the name of a deceased practitioner ceases to be included in the medical list, and any person within seven days of the date of death makes application to the Council on behalf of the estate of the deceased practitioner and the Council are satisfied that he is acting in the interests of the estate, they may, instead of making an appointment under this paragraph, authorise such person to appoint one or more practitioners to undertake as the deputy or deputies of the deceased practitioner the treatment of persons who were on the list of the deceased practitioner immediately before his death.

(2) An appointment of any practitioner under this regulation shall be for such period as the Council think fit not exceeding, except in special circumstances, two months and shall be subject to the condition that the practitioner agrees in writing to be bound by the terms of service which were applicable to the practitioner whose name has ceased to be included in the medical list. During the period of any such appointment the name of any person who has not been transferred to another practitioner shall be deemed

to remain on the list of the practitioner whose name has ceased to be included in the medical list. [2409]

16. Removal of person from practitioner's list.—A person who no longer wishes to avail himself of general medical services, may at any time give notice to the Council that he wishes his name to be removed from a practitioner's list, and at the expiration of fourteen days from the date of the receipt of the notice the Council shall remove the name and inform the person and practitioner. [2410]

17. Cases of temporary residence.—(1) A person who is residing temporarily in any district and is not on the list of a practitioner providing general medical services in that district may apply to any practitioner to be accepted by him as a temporary resident. In such a case his name shall not be removed from the list of any practitioner in which it is already included.

(2) A person moving from place to place who is for the time being not resident in any place may apply to any practitioner to be accepted by him as a temporary resident.

(3) For the purpose of this regulation the residence of a person shall be deemed to be temporary if at the time of his arrival in a district he intends to remain there for a period of not more than three months: Provided that if his stay in such district extends to more than three months his residence shall at the end of that period cease to be regarded as temporary. [2411]

18. Practitioners' lists.—(1) The Council shall prepare and keep revised up to date a list of persons for whose treatment each practitioner is for the time being responsible and shall from time to time furnish the practitioner with information in such form as the Minister may determine with regard to persons included in or removed from that list.

(2) Any deletion, otherwise than by reason of death, shall take effect as from the date on which notice of the deletion is sent by the Council to the practitioner or from such other date, not being earlier than that date, as may be specified in the notice. Any deletion by reason of death shall take effect as from the date on which that person died. [2412]

PART V

Method of obtaining maternity medical services

19. Application for services.—A person who after diagnosis of pregnancy by a medical practitioner requires the provision of maternity medical services, may arrange for the provision of such services either—

(*a*) with the practitioner in whose list her name is included being a practitioner having obstetric experience or

(*b*) with any other practitioner on the medical list having obstetric experience. [2413]

General note.—For this regulation a new regulation has been substituted by S.I. 1948 No. 1448, *post.*

20. Change of practitioner.—(1) If a practitioner ceases to provide maternity medical services he shall give to any person for whom he has arranged to provide maternity medical services notice of the fact and of her right to make fresh arrangements with a practitioner having obstetric experience.

(2) A practitioner who has arranged to provide maternity medical services for any person may agree with that person to terminate the arrangement. Such person may then make fresh arrangements with another practitioner having obstetric experience.

(3) If for any reason a practitioner who has arranged to provide maternity medical services for any person or the person concerned desires to terminate

the arrangements, either of them may, in default of agreement, apply to the Council for permission to terminate the arrangements. After hearing such representations as the practitioner and the person concerned may make, the Council may terminate the arrangements and give notice to such person of her right to make fresh arrangements. [2414]

General note.—Paras. (1) and (2), *supra*, have been amended by S.I. 1948 No. 1448, *post*.

21. Cases of temporary residence.—If a person requires maternity medical services and is a temporary resident, she may arrange for the provision of such services as she may require during her period of temporary residence with any practitioner having obstetric experience who is on the medical list for the area. Arrangements made under this regulation shall not terminate any arrangements made under regulation 19 of these regulations. [2415]

PART VI

Remuneration of Practitioners

22. Remuneration under distribution scheme.—(1) The sum credited in respect of any year to a Council under regulations made by the Minister for such payments by way of remuneration and allowances to practitioners as are referred to in paragraph 1 of Part II of the first schedule to these regulations shall be distributed by the Council in accordance with a scheme made by them (hereinafter referred to as a " distribution scheme "), which shall deal also with the other matters referred to in paragraph 2 of the said Part.

(2) The distribution scheme shall be prepared by the Council after consultation with the Local Medical Committee, and in the event of the Council and the Committee failing to agree on any provision of the scheme the matter shall be referred to the Minister whose determination shall be final.

(3) The provisions of the distribution scheme shall be subject to the approval of the Minister.

(4) The Council, after consultation with the Local Medical Committee, may from time to time amend the distribution scheme subject to the approval of the Minister. If the Local Medical Committee require any amendment, the distribution scheme may, in default of agreement between the Council and the Committee, be amended by the Minister.

(5) If the Council fail to submit a distribution scheme to the Minister within such time as he may direct, the Minister may make a scheme and such scheme shall have effect within the area of the Council as though it had been prepared by the Council and approved by the Minister. [2416]

23. Other remuneration.—Practitioners providing general medical services shall be entitled, in addition to any payments made under the distribution scheme, to receive from the Council payments in respect of the matters specified in paragraph 3 of Part II of the first schedule to these regulations at such rates and subject to such conditions as the Minister may determine after consultation with such organisations as he may recognise as representative of the medical profession. [2417]

PART VII

Chemists

24. Terms of service for chemists.—The arrangements which a Council is required by section 38 of the Act to make for the supply of drugs and medicines and prescribed appliances to persons receiving general medical services, and of prescribed drugs and medicines to persons receiving general dental services,

shall incorporate the terms of service contained or referred to in Part I of the fourth schedule to these regulations. [2418]

25. Preparation of pharmaceutical list.—(1) The Council shall prepare a list, to be called "the pharmaceutical list", of the names and places of business of the chemists who are entitled to be included in the list, and the list shall indicate whether they have undertaken to supply drugs or appliances or both and shall distinguish those who are entitled to dispense medicines and shall also indicate the days and hours during which the several places of business are open.

(2) Application by a chemist for inclusion in a pharmaceutical list shall be made by delivering or sending the application by post to the Council in the form set out in Part II or Part III of the fourth schedule to these regulations, or in a form to the like effect.

(3) Copies of the pharmaceutical list shall be available for inspection at the office of the Council and at such other places as appear to the Council to be convenient for informing all persons interested and shall be kept revised up to date.

(4) The Council shall send a copy of the pharmaceutical list to the Minister, the Local Medical, Pharmaceutical and Dental Committees, and shall within seven days inform each of them of any alteration which may from time to time be made therein. The Council shall also send a copy of the list to each practitioner providing general medical or general dental services, or if the list is arranged by reference to districts, that portion of the list which relates to the district in which such practitioner carries on a general medical or general dental practice, and at intervals of not more than three months shall notify each such practitioner of any alterations made in the list or the relevant portion of the list. [2419]

26. Schemes for securing proper pharmaceutical service.—(1) The Council after consultation with the Local Pharmaceutical Committee shall prepare schemes for testing the quality and amount of the drugs and appliances supplied and for securing that one or more places of business on the pharmaceutical list in each district shall at all reasonable times be open and the latter scheme shall specify the days and hours during which such places shall be open.

(2) In the event of the Council and the Committee failing to agree on any provision of the schemes, the matter shall be referred to the Minister whose determination shall be final.

(3) The provisions of any such scheme shall be subject to the approval of the Minister.

(4) The Council after consultation with the Local Pharmaceutical Committee may from time to time amend any such scheme subject to the approval of the Minister. If the Local Pharmaceutical Committee require any amendment, such scheme may, in default of agreement between the Council and the Committee, be amended by the Minister.

(5) The number of tests to be taken annually in pursuance of a scheme for testing the quality and amount of drugs and appliances supplied shall be such as the Minister, after consultation with the Council and the Local Pharmaceutical Committee, may from time to time determine. [2420]

27. Prescribed appliances and reagents.—(1) The appliances to be supplied to persons receiving general medical services shall be the appliances specified in Part I of the third schedule to these regulations.

(2) The chemical reagents to be supplied to persons receiving general medical services shall be those specified in Part II of the third schedule to these regulations. [2421]

28. Prices and standards of drugs and appliances.—For the purpose of enabling arrangements to be made for the supply of drugs and appliances of proper quality, the Minister shall cause to be prepared a statement (in these regulations referred to as " the Drug Tariff ") which shall include :—

(*a*) the prices on the basis of which the payment for drugs and appliances ordinarily supplied is to be calculated ;
(*b*) the method of calculating the payment for drugs not mentioned in the Drug Tariff ;
(*c*) the method of calculating the payment for containers ;
(*d*) the dispensing or other fees payable in respect of the supply of drugs and appliances ;
(*e*) the standards of quality for drugs and appliances.

The prices referred to in paragraph (*a*) of this regulation may be fixed prices or may be subject to monthly or other periodical variations to be determined by reference to fluctuations in the cost price of drugs and appliances. [2422]

PART VIII

Medical Practitioners and Chemists

29. Arrangements for supply by practitioners of drugs and appliances.—(1) A person who—

(*a*) satisfies the Council that he would have serious difficulty in obtaining any necessary drugs or appliances from a chemist by reason of distance or inadequacy of means of communication, or
(*b*) is resident in an area which in the Council's opinion is rural in character, at a distance of more than one mile from the premises of any registered pharmacist or authorised seller of poisons within the meaning of the Pharmacy and Poisons Act, 1933,

may request the practitioner on whose list he is included to supply him with drugs and appliances, and if the practitioner indicates his willingness to supply them the Council shall arrange with him to do so.

Where, in the case of a person to whom sub-paragraph (*b*) applies, the practitioner has not indicated his willingness to supply drugs and appliances and the person does not, after enquiry by the Council, indicate within seven days whether he desires to be supplied by the practitioner or by a chemist, the Council shall decide themselves how the supply shall be given.

A person to whom sub-paragraph (*b*) applies, who is supplied with drugs and appliances by a chemist, may at any time give to the Council notice of his desire that the supply should in future be provided by the practitioner and the Council may thereupon take such action as is appropriate under this regulation.

(2) The Council may require a practitioner who has not indicated his willingness to supply drugs and appliances to any person to whom this regulation applies to undertake such supply :

Provided that the practitioner shall not be required to supply such drugs and appliances if he satisfies the Council or, on appeal, the Minister, that he is not in the habit of supplying drugs for his patients, or in the case of a person to whom sub-paragraph (*b*) of paragraph (1) applies, that the person can with reasonable facility obtain drugs and appliances from a chemist.

A practitioner shall be entitled to receive reasonable notice from the Council that he is required to undertake the supply of drugs and appliances, or that such supply is to be discontinued.

(3) Notwithstanding anything contained in this regulation where a drug or appliance is one for which a practitioner is entitled to receive extra payment if he supplies it, he may, with the patient's consent, instead of supplying it himself, issue a prescription for that purpose.

(4) (*a*) The Council may, if they think fit, and shall, if requested to do so by the Local Medical or Local Pharmaceutical Committee, constitute a committee (in these regulations referred to as " the dispensing committee ") and shall delegate to that committee, subject to such conditions as they may impose, the powers conferred on the Council by this regulation.

(*b*) The Council may make, vary or revoke standing orders with regard to the term of office of members of the dispensing committee, the procedure of that committee and the making of reports of their proceedings to the Council. [2423]

30. Publication of particulars of arrangements.—The Council shall cause to be published, in such manner as appears to them best calculated to inform all persons interested, particulars of the arrangements made by the Council, including a statement of the places where copies of the terms of service for practitioners and chemists and copies of the medical list and of the pharmaceutical list may be seen and where any forms of application are available and any other particulars which the Council think proper. [2424]

31. Exercise of choice of practitioner in certain cases.—The right to choose the person by whom general medical services or pharmaceutical services under Part IV of the Act are to be provided shall be exercised—

(*a*) on behalf of any person under the age of sixteen by the mother, or in her absence, the father, or in the absence of both parents the guardian or other person who has the care of the child ; and

(*b*) on behalf of any other person who on account of old age, sickness or other infirmity is incapable of choosing a person to provide any of the services by a relative or any person who has the care of such person. [2425]

PART IX

The Isles of Scilly

32. Application of regulations.—These regulations shall extend to the Isles of Scilly subject to the following exceptions, adaptations and modifications :—

(i) Any provision in the regulations requiring consultation with, or the agreement or opinion of, the Local Medical or Pharmaceutical Committee in respect of any matter shall not apply to the Executive Council of the Isles of Scilly unless a Local Medical or Pharmaceutical Committee has been formed for the Isles and recognised by the Minister under Section 32 of the Act ;

(ii) For sub-paragraph (*a*) of paragraph (1) of regulation 13 there shall be substituted the following provision :—

" (*a*) the constitution of a committee of the Council (hereinafter referred to as " the allocation committee ") consisting of such members of the Council and such members appointed by the Local Medical Committee (if a Local Medical Committee is formed for the Isles and recognised by the Minister) as the Council think fit and the assignment to such committee of such powers and duties relating to the administration of the scheme as may be specified therein." [2426]

SCHEDULES

FIRST SCHEDULE

PART I

TERMS OF SERVICE FOR MEDICAL PRACTITIONERS

Interpretation

1. In these terms of service, unless as the context otherwise requires, "patient" means a person for whose treatment a practitioner is responsible under paragraph 3 of these terms of service and "the regulations" means the National Health Service (General Medical and Pharmaceutical Services) Regulations, 1948, and other words and expressions have the same meaning as in the regulations.

Incorporation of provisions of Regulations, etc.

2. Any provisions of the regulations and Part II of the National Health Service (Service Committees and Tribunal) Regulations, 1948, affecting the rights and obligations of medical practitioners and the provisions of any allocation or distribution scheme made under the regulations and in force in the area, shall be deemed to form part of these terms of service.

Persons for whose treatment the practitioner is responsible

3.—(1) The persons for whose treatment a practitioner is responsible are :—

(*a*) all persons whom he has accepted or agreed to accept for inclusion in his list and who have not been notified to him by the Council as having ceased to be on his list.

(*b*) all persons whom he has accepted or agreed to accept as temporary residents.

(*c*) all persons who have been assigned to him in accordance with the allocation scheme and who have not been notified to him by the Council as having ceased to be on his list.

(*d*) all persons for whom he may be required under the terms of the allocation scheme, to provide treatment pending their acceptance by or assignment to a practitioner or to provide treatment in case of accident or other emergency.

(*e*) all persons for whose treatment the practitioner is responsible under paragraph 5 of these terms of service.

(2) A practitioner having obstetric experience shall be responsible for the provision of maternity medical services for all persons for whom he has undertaken to provide such services.

(3) A practitioner who is appointed under regulation 15 of the regulations to undertake the treatment of persons on the list of a practitioner whose name ceases to be included in the medical list shall, for the period of his appointment, be responsible for the treatment of any person on that list who has not been transferred to the list of another practitioner.

(4) Notwithstanding anything contained in this paragraph, a practitioner shall not be responsible under these terms of service for the treatment in hospital of a person admitted thereto for treatment unless he is a member of the staff of that hospital.

(5) The acceptance of an applicant shall be signified by the signing of his medical card, or a form of application for acceptance on a practitioner's list, by the practitioner or his partner, assistant or deputy duly authorised in that behalf and the sending of the card or form to the Council within such period as may be specified in the allocation scheme :

Provided that a partner, assistant or deputy signing such card or form on behalf of the practitioner shall also add the practitioner's name.

General note.—Sub-para. (2), *supra* has been amended by S.I. 1948 No. 1448, *post.*

Right of practitioner to have patient removed from his list

4. Subject to such restrictions, if any, as may be imposed by the allocation scheme, a practitioner is entitled to have the name of any person on his list removed therefrom by giving notice at any time to the Council and at the expiration of seven

days from the receipt of such notice by the Council the name of the person shall be removed from the practitioner's list.

Evidence of person's title to obtain treatment

5.—(1) A practitioner is entitled to require a person claiming to be on his list and applying for treatment regarding whose identity he has reasonable doubts to produce his medical card.

(2) (*a*) If such person fails on request to produce his medical card, the practitioner is required to give any necessary treatment (including the supply of any drugs or appliances which he would be required himself to supply to a person on his list), but the practitioner may demand and accept from the applicant a reasonable fee for any treatment given, including any drugs or appliances supplied, provided that he renders the applicant an account or, if no account is rendered, gives him a receipt. The practitioner may order any drug or prescribed appliance so as to enable the person to obtain the drug or appliance free of cost.

(*b*) If the applicant applies to the Council for a refund within fourteen days after the payment of the fee (or such longer period not exceeding one month as may be allowed by the Council if they are satisfied that the failure to make application within the period of fourteen days was occasioned by some reasonable cause), and the Council are satisfied that he was on the practitioner's list, the Council may recover the fee from the practitioner by deduction from his remuneration or otherwise and shall repay to the applicant the amount of the fee. If the practitioner has supplied any drug or appliance for which, in the case of a person on his list, he would have been entitled to payment from the Council, the Council shall credit him with the payment to which he would have been so entitled.

Range of service

6.—(1) A practitioner is required to render to his patients all proper and necessary treatment. Such treatment includes the administration of anaesthetics or the rendering of any other assistance at an operation performed by and of the kind usually performed by a general medical practitioner if the administration of the anaesthetic or the rendering of such other assistance does not involve the application of special skill or experience of a degree or kind which general practitioners as a class cannot reasonably be expected to possess. Subject to sub-paragraph (3) of this paragraph the treatment to be so provided does not include—

(*a*) services which involve the application of such special skill or experience as aforesaid ;

(*b*) the administration of an anaesthetic at an operation performed by a practitioner providing maternity medical services ;

(*c*) maternity medical services, unless the practitioner having obstetric experience has, by arrangement with his patient, undertaken to provide her with such services.

(2) In the case of maternity medical services all proper and necessary treatment shall include advice in regard to ante-natal supervision ; ante-natal care including an initial medical and obstetric examination and an examination at the thirty-sixth week of pregnancy or at any other time the practitioner thinks necessary ; attendance at an abortion or other emergency in connection with a pregnancy if the practitioner is summoned on behalf of the patient ; attendance at the confinement after the twenty-eighth week of pregnancy, if in the opinion of the practitioner it is required or if he is summoned to the confinement by the midwife in attendance ; medical supervision of the mother and child for a period of fourteen days after confinement, and post-natal care, including a medical and pelvic examination of the mother at or about six weeks after confinement. The practitioner having obstetric experience shall also comply with any request made by the general practitioner on whose list the name of the person receiving maternity medical services is included, to examine or give any other assistance to that person and her child if, in the opinion of the practitioner having obstetric experience, it is necessary :

Provided that nothing in this sub-paragraph shall affect the responsibility of the practitioner on whose list the name of the person is included for treatment of a kind usually provided by general medical practitioners which is necessary for her general health.

(3) In the case of emergency the practitioner is required to render whatever services are, having regard to the circumstances, in the best interests of the patient.

(4) In determining whether a particular service is a service involving the application of such special skill and experience as aforesaid, regard is to be had to the question whether services of the kind are or are not usually undertaken by general practitioners practising in the area in which the question arose.

General note.—Sub-para. (1), *supra*, has been amended by S.I. 1948 No. 1448, *post*, and a new sub-paragraph has been substituted for sub-para. (2), *supra*.

Duties of practitioner

7. Reference to hospital and specialist services, local health authority services or maternity medical services.—(1) If the condition of the patient is such as to require treatment which is not within the scope of the practitioner's obligations under these terms of service, but such treatment is to the knowledge of the practitioner, available as part of the hospital and specialist services, the practitioner shall inform the patient of the fact and if the patient so wishes the practitioner shall take all necessary steps to enable him to receive such treatment. When referring a patient to the hospital and specialist services the practitioner shall give adequate particulars in writing either beforehand or as soon as possible afterwards. The practitioner shall also give his patients such advice or assistance as he may consider appropriate to enable them to take advantage of the local health authority services and maternity medical services.

(2) **Supplementary ophthalmic services.**—If the condition of the patient is such as to require supplementary ophthalmic services, the practitioner shall if so desired furnish him with a recommendation for such services on a form provided by the Council for the purpose.

(3) **Surgery hours.**—A practitioner is required to attend and treat at the places, on the days and at the hours to be arranged to the satisfaction of the Council, any patient who attends there for that purpose but he may, with the consent of the Council or, on appeal, of the Minister, alter the places, days or hours of his attendance and shall in that event take such steps as the Council consider necessary to bring the alteration to the notice of his patients.

(4) **Surgery accommodation.**—A practitioner is required to provide proper and sufficient surgery and waiting room accommodation for his patients, having regard to the circumstances of his practice.

(5) **Inspection of surgery and waiting-room accommodation.**—The practitioner on receipt of a written request shall at all reasonable times admit any member or officer of the Council or the Local Medical Committee authorised for the purpose by the Council to any surgery of waiting-room of the practitioner for the purposes of inspecting the said surgery or waiting-room.

(6) **Visiting.**—A practitioner is required to visit and treat a patient whose condition so requires at any place where under the terms of his application for inclusion in the medical list he is under an obligation to visit such patient.

(7) **Medical Certificates.**—A practitioner is required to issue to his patients free of charge any certificates reasonably required by them under or for the purposes of any enactment and any certificate which a practitioner is required to issue for the purposes of the National Insurance Acts, 1946, shall be issued in accordance with any regulations made under those Acts.

(8) **Anaesthetics.**—(i) A practitioner, except when providing maternity medical services, is responsible for providing the services of another practitioner for the administration of an anaesthetic, when necessary, in connection with any operation on his patient undertaken by him under these terms of service, whenever such administration does not involve the application of special skill or experience of a degree or kind which general practitioners as a class cannot reasonably be expected to possess.

(ii) A practitioner providing maternity medical services is responsible for providing the services of another practitioner for the administration of an anaesthetic when necessary in connection with any operation performed by him on his patient and undertaken by him under these terms of service.

(9) **Duty to supply drugs and appliances.**—(i) A practitioner is required to supply to a patient such drugs and appliances as are required for immediate administration or application or for use before a supply can be obtained otherwise under the regulations.

(ii) A practitioner may supply any other drug which is administered by him in person.

(iii) A practitioner shall supply all requisite drugs and prescribed appliances which, under the regulations, he is required by the Council to supply to a patient.

(iv) A drug supplied by a practitioner unless administered in person shall be supplied in a suitable container.

(10) **Duty to prescribe. Prohibition of "Rep. Mist."**—A practitioner is required to order, on a form provided by the Council for the purpose, such drugs and prescribed appliances (other than those supplied under the preceding sub-paragraph) as are requisite for the treatment of any patient. The order shall be signed by the practitioner with his own hand and shall not be written in such a manner as to necessitate reference on the part of the person supplying the drugs or appliances to a previous order. The forms so provided shall not be used for persons other than the patients who are under treatment by him and a separate form shall be used for each patient.

(11) **Prescriptions for tests.**—A practitioner shall comply with any reasonable request by the Council to furnish orders on a form provided by the Council for drugs and prescribed appliances for the purposes of any scheme for testing drugs and appliances made under the regulations.

(12) **Records.**—A practitioner is required :—

(*a*) to keep records of the illnesses of his patients and of his treatment of them in such form as the Minister may from time to time determine after consultation with an organisation which is in his opinion representative of the general body of medical practitioners.

(*b*) to forward such records to the Council when called for, with reasonable promptness ; and

(*c*) upon knowledge of the death of a person on his list, to forward such record to the Council within seven days.

(13) **Consultation, etc. with medical officer.**—A practitioner is required :—

(*a*) to furnish in writing to the medical officer within such reasonable period as the latter may specify any clinical information which he may require with regard to the case of any patient to whom the practitioner has issued or declined to issue a medical certificate ;

(*b*) to meet the medical officer, at his request, for the purpose of examining in consultation any patient in respect of whom the practitioner has sought the advice of the medical officer ;

(*c*) upon notice being given, to afford to the medical officer access at all reasonable times to the practitioner's surgery or other place where the records required by these terms of service are kept for the purpose of the inspection of such records, and to furnish to the medical officer such records or necessary information with regard to any entry therein, as he may request ; and

(*d*) to answer any inquiries of the medical officer with regard to any prescription or certificate issued by the practitioner or to any statement made in any report furnished by him under these terms of service.

General note.—Sub-para. (7), *supra*, has been amended by S.I. 1948 No. 1448.

Deputies, assistants and partners

8.—(1) Save as provided in this paragraph in the case of partners and assistants, all treatment shall be given by a practitioner personally, except where he is prevented by reason of other professional duties, temporary absence from home or other reasonable cause.

(2) A practitioner shall make all necessary arrangements for securing the treatment of his patients where he is unable for any of the causes mentioned above to give treatment personally and shall inform the Council of any standing arrangements for that purpose. He shall not absent himself from his practice for more than one week without first informing the Council of his proposed absence and of the person or persons responsible for conducting his practice during such absence.

(3) (*a*) A practitioner shall not, except for a period of less than three months, employ an assistant to attend his patients without the consent of the Council.

(*b*) The name of any assistant shall be notified by the practitioner to the Council.

(4) A practitioner shall not, without the consent of the Minister, employ as a deputy or assistant any practitioner who is disqualified for inclusion in the medical list of the Council concerned under section 42 of the Act.

(5) A practitioner shall not employ for the purposes of providing maternity medical services a deputy or assistant who is not a medical practitioner having obstetric experience.

(6) A practitioner acting as deputy shall be entitled to treat patients at places and at times other than those arranged by the practitioner for whom he is acting, due regard being had to the convenience of the patients.

(7) A deputy or assistant (other than a partner or assistant whose name is included in the medical list) shall, in addition to signing with his own name, any certificate, prescription form or other document issued by him under these terms of service, insert therein if it does not already appear the name of the practitioner for whom he is acting as deputy or assistant.

(8) A practitioner is responsible for all acts and omissions of any practitioner acting as his deputy or assistant in relation to his obligations under these terms of service.

(9) In the case of two or more practitioners practising in partnership or as a principal and assistant, treatment may at any time be given by a partner or assistant of the practitioner in whose list the patient is included, instead of by the practitioner in person, if reasonable steps are taken to secure continuity of treatment: Provided that the patient will be entitled to require the personal services of the principal instead of the assistant except when the principal is prevented from attending for any of the reasons referred to in sub-paragraph (1) of this paragraph.

Arrangements for practice

9. A practitioner shall not carry on practice elsewhere than at his place of residence, or at a health centre, except upon conditions which appear to the Council or on appeal, to the Minister, to be such as to enable his obligations under these terms of service, and in particular his obligation to visit his patients, to be adequately carried out. Any conditions so imposed may include a requirement that the patients of the practitioner are to be notified at the practitioner's expense of any special arrangements under which his practice is carried on.

Acceptance of Fees

10.—(1) A practitioner shall not demand or accept any fee or other remuneration in respect of any medical treatment, whether under these terms of service or not, rendered to his patients or the patients of his partner or assistant: Provided that nothing in this paragraph shall debar a practitioner from demanding and accepting a fee or other remuneration:—

(*a*) under paragraph 5 of these terms of service,

(*b*) from any statutory body in respect of services rendered for the purpose of that body's statutory functions,

(*c*) from any school, employer or body for the medical examination of persons for whose welfare that school, employer or body is responsible, such examination being either a routine medical examination or for the purpose of advising the school, employer or body as to any administrative action they might take,

(*d*) for treatment not included within the range of service defined in paragraph 6 given—

(i) in special accommodation in a hospital set aside for private patients in accordance with section 5 of the Act, or

(ii) in a registered nursing home, not being a hospital providing hospital and specialist services under the Act,

if in either case the practitioner is serving on the staff of a hospital providing hospital and specialist services as a specialist providing treatment of the kind required by the patient: Provided that within seven days after the date on which treatment is given the practitioner furnishes the Council, on a form to be supplied by them for the purpose, with such particulars relating to the service rendered as they may require,

(*e*) under Section 16 of the Road Traffic Act, 1934.

(2) A practitioner shall take all practicable steps to ensure that any partner of his, whether or not such partner is providing general medical services, shall not demand or accept any fee or other remuneration in respect of medical treatment

rendered to the practitioner's patients unless the partner would have been entitled to charge if the patient had been on his own list.

General note.—Sub-para. (1), *supra*, has been amended by S.I. 1948 No. 1448, *post*.

Method of altering terms of service ; withdrawals from the medical list

11. Revision of terms of service.—(1) The Council may, with the approval of the Minister, alter the terms of service as from such date as he may approve by giving notice of the proposed alteration. Such notice shall be given to each practitioner, save as is provided in sub-paragraph (3) of this paragraph.

(2) Except in the case of an alteration which results from the coming into operation of any Act of Parliament or which has been approved by the Minister after consultation with an organisation which is in his opinion representative of the general body of medical practitioners, the Council shall, before making an alteration, consult with the Local Medical Committee and the alteration shall not come into operation within a period of three months from the date of the issue of the notice.

(3) If in any case of alteration the Minister after consultation with such an organisation as aforesaid directs that notice of the proposed alteration shall be given to the Local Medical Committee only, the Council shall give notice to the Local Medical Committee, and the notice shall in that case be deemed to have been given to each practitioner.

12. Withdrawal from medical list.—A practitioner is entitled at any time to give notice to the Council that he desires to withdraw his name from the medical list and his name shall be removed therefrom at the expiration of three months from the date of such notice or of such shorter period as the Council may agree :

Provided that if representations are made to the Tribunal under the provisions of section 42 of the Act that the continued inclusion of a practitioner in the medical list would be prejudicial to the efficiency of the general medical services, he shall not, except with the consent of the Minister and subject to such conditions as the Minister may impose, be entitled to have his name removed from the list pending the termination of the proceedings on such representations.

13. Continued absence or disability of practitioner.—Where the Council after consultation with the Local Medical Committee, are satisfied that owing to the continued absence or bodily or mental disability of a practitioner his obligations under the terms of service are not being adequately carried out, they may with the consent of the Minister give notice to the persons on his list that the practitioner is for the time being in their opinion not in a position to carry out his obligations under the terms of service.

Disputes, appeals, etc.

14. The terms of service relating to the following matters are contained in Part II of the National Health Service (Service Committees and Tribunal) Regulations, 1948 :

(*a*) the investigation of questions arising between practitioners and their patients and other investigations to be made by the medical service committee and the joint services committee and the action which may be taken by the Council as a result of such investigations, including the withholding of remuneration from the practitioner where there has been a breach of the terms of service.
(*b*) appeals to the Minister from decisions of the Council.
(*c*) the investigation of cases of alleged excessive prescribing.
(*d*) the investigation of certification.
(*e*) the investigation of record keeping.
(*f*) decisions as to treatment for which fees may be charged.
(*g*) the determination of the question whether a substance is a drug.

Issue of notices to practitioners

15. Any notice which a Council is required or authorised by these terms of service to give to a practitioner shall be sufficiently given if it has been delivered to him or sent by post to him at the address which he has last notified the Council as being his place of residence. [2427]

PART II

REMUNERATION OF PRACTITIONERS

1. *Payments by way of remuneration and allowances to be distributed in accordance with the distribution scheme :—*

(i) a fixed annual payment of £300 as part of the remuneration : Provided that after such period as the scheme specifies a practitioner shall be entitled to the fixed annual payment only if he has the minimum number of patients on his list specified by the scheme, unless the approval of the Minister has been obtained to its continuance in view of special circumstances ;
(ii) a capitation payment, that is to say, a payment by reference to the number of persons included in the practitioner's list ;
(iii) payment in respect of temporary residents ;
(iv) payment for treatment given by a practitioner in an emergency to a person not included in his list ;
(v) payment in respect of mileage ;
(vi) payment in cases in which the practitioner is required to provide the services of a second practitioner for the purpose of administering an anaesthetic.

General note.—A new sub-paragraph has been substituted for sub-para. (i), *supra*, by S.I. 1948 No. 1448, *post.*

2. *Other matters to be dealt with in the distribution scheme :—*

(i) the calculation of practitioners' lists ;
(ii) adjustment of payment in the case of a practitioner who is exempted from the liability of having persons assigned to him or is relieved of obligations for emergency night calls in respect of persons not on his list ;
(iii) the method of payment to practitioners practising in partnership ;
(iv) the method by which, and the time within which, the moneys are to be paid by the Council ;
(v) any deductions from remuneration in respect of superannuation ;
(vi) the issue at the end of each year by the Council to each practitioner of a statement, in a form approved by the Minister, showing the total amount payable to the practitioners in the Council's area for the year, and the method by which the money payable to the practitioner has been calculated ;
(vii) such other matters, if any, as may be required ;

3. *Other payments :—*

(i) an inducement payment, that is to say, an addition to the fixed annual payment or capitation payment, in areas which are in the opinion of the Minister, after consultation with the Medical Practices Committee, sparsely populated or for any other reason unattractive to medical practitioners ;
(ii) a supervision fee for the training of an assistant under an arrangement approved by the Minister ;
(iii) payment in respect of the provision of maternity medical services by practitioners having obstetric experience ;
(iv) payment to practitioners in respect of the supply of drugs and appliances.

[2428]

General note.—Sub-para. (iii), *supra*, has been amended by S.I. 1948 No. 1448, *post.*

PART III

FORM OF APPLICATION FOR INCLUSION IN MEDICAL LIST

To the Executive Council for.....

I .....

residing at .....

(*private address*)

a registered medical practitioner included in the medical register in that name and having the following medical qualifications, namely, ...
.....
apply to be included in the list of medical practitioners undertaking to provide

*general medical services $\frac{\text{*including}}{\text{*excluding}}$ maternity medical services

*general medical services, such services being limited to maternity medical services.

for persons in the Council's area, and † [if my application is granted] I accept service under, and agree to be bound by, the terms of service for the time being in operation in that area.

*I intend to practise in partnership with.....

*I intend to act as an assistant to.....

$\frac{\text{* I have applied}}{\text{* I intend to apply}}$ to the Local Obstetric Committee for approval of my obstetric experience.

The district or districts within which †[if my application is granted] I undertake to visit patients and particulars of my surgery hours are given below :

I also undertake to visit any patients who at the date on which they are placed on my list reside outside the said district or districts at the place at which they are residing at the date.

District	*Surgery*	*Days and hours of attendance*

Signed .....

Date .....

[2429]

*Delete if inappropriate.

†Practitioners (other than paid assistants) already practising in an area who apply before 5th July, 1948, are entitled to be included in the list of the area and these words should be deleted when application is made by such a practitioner.

SECOND SCHEDULE

Form of Certificate to be issued by Medical Practices Committee under Section 35 (9) of the National Health Service Act, 1946

WHEREAS has applied to the Medical Practices Committee under section 35 (9) of the National Health Service Act, 1946, for their opinion as to whether the proposed transaction or series of transactions described in the schedule hereto, which sets out all material circumstances disclosed to the Committee, involves the sale of the goodwill or any part of the goodwill of a medical practice which it is unlawful to sell by virtue of that section : AND WHEREAS the Committee have considered the application : NOW THEREFORE the Medical Practices Committee hereby certify that they are satisfied that the said transaction or series of transactions does not involve such a sale as aforesaid.

SCHEDULE

Dated this day of 19 .

Signature of the chairman or other member authorised by the Committee for the purpose.

[2430]

THIRD SCHEDULE

PART I

List of Appliances

Animal wool
Atomisers, hand operated

Bandages :
- calico
- crepe
- domette
- elastic adhesive
- elastic web
- flannel
- indiarubber
- many-tailed
- muslin
- open wove
- plaster of Paris
- *suspensory, cotton*
- triangular
- zinc paste

Breast relievers
Brushes, when required for the proper administration of any drug forming part of general medical services.

Catheters :
- Urethral : gum-elastic, soft rubber } and lubricant for use therewith
- Suprapubic : rubber, and shields for use therewith

Cellulose tissue
Cellulose wadding
Chiropody felt
Corn and bunion plasters and rings.
Cotton wool :
- absorbent
- grey
- medicated

Douches, with rectal and vaginal fittings
Dressings :
- standard dressing B.P.C.
- wound dressing, boil dressing } as described in the Drug Tariff.

Droppers, when required for the proper administration of any drug forming part of general medical services.

Elastic stockings
Elastic kneecaps
Elastic anklets
Elastic thigh pieces
Eye baths
Eye ointment rods
Eye shades
Finger stalls
Gauzes :
- surgical
- medicated
- unmedicated

Gauze and cotton wool tissue :
- medicated
- unmedicated

Hypodermic needles : when required for self-administration of Insulin or Adrenaline.
Hypodermic syringes : when required for self-administration of Insulin or Adrenaline.
Ice bags :
- check sheeting
- indiarubber

Inhalers
Irrigators :
- eye (undine)
- nasal

Lints :
- surgical
- medicated
- unmedicated

Pessaries :
- ring
- Hodge's

Plaster :
- adhesive, spread or on spool
- elastic adhesive

Protectives :
- battiste
- gutta percha tissue
- jaconet
- oiled cambric
- oiled silk, including oiled artificial silk

Rubber tubing
Splints : including Gooch and Kramer splinting and poroplastic but excluding walking caliper splints, surgical boots and foot supports worn with boots and shoes.
Sputum flasks
Syringes :
- glass
- rubber

Tampons
Test tubes
Tows :
- carbolised
- unmedicated

Trusses
Vaccination shields and pads
Vaporisers [2431]

PART II

Chemical Reagents

Fehling's Solution and Benedict's Solution (Qualitative) when required for the proper regulation of the treatment of diabetes. [2432]

FOURTH SCHEDULE

PART I

Terms of Service for Chemists

Interpretation

1. In these terms of service, unless as the context otherwise requires,

"the regulations" means the National Health Service (General Medical and Pharmaceutical Services) Regulations, 1948;

"chemist" means a registered pharmacist or authorised seller or poisons within the meaning of the Pharmacy and Poisons Act, 1933, who provides pharmaceutical services. The terms of service shall also apply to any other person, firm or body corporate (other than a medical practitioner) providing pharmaceutical services as if that person, firm or body were a chemist as so defined;

"appliances" in relation to appliances order by a medical practitioner means appliances specified in Part I of the third Schedule to the regulations; and

"drugs" in relation to drugs ordered by a dental practitioner means the drugs specified in the third schedule to the National Health Service (General Dental Services) Regulations, 1948.

Incorporation of Provisions of Regulations, etc.

2. Any provisions of the regulations and Part II of the National Health Service (Service Committees and Tribunal) Regulation, 1948, or any scheme made thereunder affecting the rights and obligations of chemists shall be deemed to form part of these terms of service.

Provision of pharmaceutical services

3.—(1) (*a*) A chemist shall supply with reasonable promptness to any person who presents an order for drugs or appliances on a prescription form provided for the purpose by a Council and signed by a practitioner on the medical list of a Council or by his deputy or assistant such drugs or appliances as may be so ordered and shall so far as practicable, keep in stock for that purpose all those drugs and appliances mentioned in the Drug Tariff for the time being in force as drugs or appliances which a chemist is required to keep.

(*b*) A chemist shall supply with reasonable promptness to any person who presents an order for a drug on a prescription form provided for the purpose by a Council and signed by a dental practitioner on the dental list of a Council or by his deputy or assistant such drug as may be so ordered.

(*c*) A chemist shall supply in a suitable container any drug which he is required to supply under this paragraph.

(2) All drugs and appliances so supplied which are included in the Drug Tariff shall be of a grade or quality not lower than the grade or quality specified therein. Drugs and appliances so supplied which are not included in the Drug Tariff shall be of a grade or quality not lower than the grade or quality ordinarily used for medical purposes.

(3) A chemist shall not give, promise or offer to any person any gift or reward (whether by way of a share of or dividend on the profits of the business or by way of discount or rebate or otherwise) as an inducement to or in consideration of his presenting an order for drugs or appliances on a prescription form provided by the Council.

Place and hours of business

4.—(1) Pharmaceutical services shall be provided at the place or places of business specified in the application made by the chemist for inclusion in the Council's list and the place or places shall be open for the supply of pharmaceutical services during the hours specified in the scheme to be made by the Council for that purpose under the regulations.

(2) At each place of business at which a chemist provides pharmaceutical services he is required (i) to exhibit a notice to be provided by the Council in the form prescribed in Part IV or Part V of this schedule and (ii) in the case of a registered pharmacist or authorised seller of poisons within the meaning of the Pharmacy and Poisons Act, 1933, to exhibit, at times when his place of business is not open and in such a manner as to be visible at such times, a notice to be provided by the Council in the form prescribed in Part VI of this schedule indicating the

addresses of other registered pharmacists and authorised sellers or poisons, where, and the times at which medicines and appliances may be obtained in the neighbourhood.

Dispensing of medicines

5.—(1) The dispensing of medicines shall be performed either by or under the direct supervision of a registered pharmacist or by a person who for three years immediately prior to the sixteenth day of December, 1911 acted as a dispenser to a medical practitioner or a public institution.

(2) A chemist shall not dispense a prescription requiring the manufacture by him of a substance scheduled under the Therapeutic Substances Act, 1925, unless he holds a licence for the purpose.

Names of registered pharmacists

6. A chemist shall, if so required by the Council, furnish to the Council the name or names of registered pharmacists employed by him in dispensing medicines for persons receiving general medical or general dental services.

Drugs, etc., to be supplied without charge

7. All drugs, containers and appliances supplied under these terms of service shall be supplied free of charge.

Method of payment

8.—(1) A chemist is required to furnish to the Council or to such other person or body as they may direct, on dates to be appointed by the Minister, the forms upon which the orders for drugs and appliances supplied by him were given, arranged in such manner as the Council may direct, together with a statement of accounts containing such particulars relating to the provision by him of pharmaceutical services as the Council, with the approval of the Minister, may from time to time require.

(2) The Council shall, if any chemist so requires, afford him reasonable facilities for examining all or any of the forms on which the drugs or appliances supplied by him were ordered together with particulars of the amounts calculated to be payable in respect of such drugs and appliances and if he takes objection thereto, the Council shall take such objection into consideration.

(3) The Council shall, if so required by the Local Pharmaceutical Committee or any organisation which is, in the Minister's opinion, representative of the general body of chemists, afford the Local Pharmaceutical Committee or the said organisation similar facilities for examining such forms and particulars relating to all or any of the chemists and shall take into consideration any objection made thereto by the Local Pharmaceutical Committee or the said organisation.

(4) Payment will be made for drugs and appliances mentioned in the Drug Tariff at the prices specified therein and for drugs or appliances not mentioned in the Tariff in the manner set forth therein. The payment to be made for containers and in respect of dispensing fees shall be calculated in the manner set forth in the Tariff.

General note.—A new para. 8A has been added after para. 8, *supra*, by S.I. 1948 No. 1448, *post*.

Revision of terms of service

9.—(1) The Council may, subject to the approval of the Minister, alter the terms of service as from such date as he may approve by giving notice of the proposed alteration. Such notice shall be given to each chemist, save as is provided in sub-paragraph (3) of this paragraph.

(2) Except in the case of an alteration which results from the coming into operation of any Act of Parliament or which has been approved by the Minister after consultation with an organisation which is in his opinion representative of the general body of chemists, the Council shall, before making an alteration consult with the Local Pharmaceutical Committee, and the alteration shall not come into operation within a period of three months from the date of the issue of the notice.

(3) If in any case of alteration the Minister after consultation with such an organisation as aforesaid directs that notice shall be given to the Local Pharmaceutical Committee only, the Council shall give notice to the Local Pharmaceutical Committee, and notice shall thereby be deemed to have been given to each chemist.

Withdrawal from pharmaceutical list

10.—(1) A chemist is entitled at any time to give notice to the Council that he desires to withdraw his name from the list and his name shall be removed therefrom at the expiration of three months from the date of such notice or of such shorter period as the Council may agree: Provided that if representations are made to the Tribunal under the provisions of Section 42 of the Act that the continued inclusion of a chemist in the list would be prejudical to the efficiency of the service, he shall not, except with the consent of the Minister and subject to such conditions as the Minister may impose, be entitled to have his name removed from the list pending the termination of the proceedings on such representations.

(2) The name of any chemist whose business is carried on by representatives in accordance with the provisions of the Pharmacy and Poisons Acts, 1852 to 1933, shall not be removed from the list so long as the business is carried on by them in accordance with the provisions of those Acts, and the representatives agree to be bound by the terms of service of the chemist.

Disputes, appeals, etc.

11. The terms of service relating to the following matters are contained in Part II of the National Health Service (Service Committees and Tribunal) Regulations, 1948.

(*a*) the investigation of complaints made by or on behalf of persons receiving general medical and general dental services against chemists and other investigations to be made by the pharmaceutical service committee and the joint services committee and the action which may be taken by the Council as a result of such investigations, including the withholding of remuneration from chemists where there has been a breach of the terms of service;

(*b*) appeals to the Minister from decisions of the Council. [2433]

PART II

FORM OF APPLICATION FOR INCLUSION IN PHARMACEUTICAL LIST FOR USE BY REGISTERED PHARMACISTS AND AUTHORISED SELLERS OF POISONS

National Health Service

To the Executive Council for.....

I (We)..... of.....

..... hereby undertake to dispense medicines and supply drugs and appliances under the terms for the time being in operation in the area of the Council, and apply to have my (our) name(s) included in the Council's pharmaceutical list. My (our) place(s) of business for this purpose will be.....

.....

The registered pharmacist(s) in charge at this (these) place(s) of business is (are) .....

Registration Number(s).....

Signed .....

Date ..... [2434]

PART III

FORM OF APPLICATION FOR INCLUSION IN PHARMACEUTICAL LIST FOR USE BY PERSONS OTHER THAN REGISTERED PHARMACISTS AND AUTHORISED SELLERS OF POISONS

National Health Service

To the Executive Council for .....

I (We) ..... of.....

..... hereby undertake

*(*a*) to supply drugs (except poisons in Part I of the Poisons List);

*(*b*) to supply appliances;

* Delete (*a*), or (*b*) as necessary.

under the terms for the time being in operation in the area of the Council, and apply to have my (our) name(s) included in the Council's pharmaceutical list. My (our) place(s) of business for this purpose will be .....

Signed.....

Date .....

[2435]

PART IV

FORM OF NOTICE TO BE EXHIBITED BY REGISTERED PHARMACISTS AND AUTHORISED SELLERS OF POISONS

National Health Service

(Name of person, firm or company contracting)

Under contract with the Executive Council for..... ..... to dispense medicines and supply drugs and appliances.

These premises are open at the following times :—

[2436]

PART V

FORM OF NOTICE TO BE EXHIBITED BY PERSONS OTHER THAN REGISTERED PHARMACISTS AND AUTHORISED SELLERS OF POISONS

National Health Service

(Name of person, firm or company contracting)

Under contract with the Executive Council for.....

*(*a*) to supply drugs (except poisons in Part I of the Poisons List) ;

*(*b*) to supply appliances.

* Delete (*a*) or (*b*) as necessary.

These premises are open at the following times :—

[2437]

PART VI

FORM OF NOTICE TO BE EXHIBITED BY REGISTERED PHARMACISTS AND AUTHORISED SELLERS OF POISONS AT TIMES WHEN THE PREMISES ARE CLOSED

National Health Service

When these premises are closed, medicines and appliances may be obtained at the addresses and times shown below :—

[2438]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations but is intended to indicate their general purport.)

The Regulations provide for the arrangements to be made by Executive Councils under Part IV of the National Health Service Act, 1946, with medical practitioners and chemists for the provision of a general medical practitioner service (including a maternity medical service) and the supply of drugs, medicines and appliances. The terms of service for general medical practitioners and chemists are included as schedules to the Regulations.

The Regulations further provide for the setting up of the Medical Practices Committee, its constitution and its procedure for determining applications from medical practitioners for inclusion in a medical list and prescribe the form of certificate to be issued to medical practitioners under section 35 (9) of the Act that a transaction does not involve the sale of goodwill.

NATIONAL HEALTH SERVICE (SERVICE COMMITTEES AND TRIBUNAL) REGULATIONS, 1948

S.I. 1948 *No.* 507

March 12, 1948

ARRANGEMENT OF REGULATIONS

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The Minister of Health, in exercise of his powers under sections 32, 33, 38, 40, 42 and 74 of, and the Fifth and Seventh Schedules to, the National Health Service Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

PART I

General

1. Short title and commencement.—These regulations may be cited as the National Health Service (Service Committees and Tribunal) Regulations, 1948, and shall come into operation on the twenty-fourth day of March, 1948. [2439]

2. Interpretation.—(1) In these regulations, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them :—

" the Act " means the National Health Service Act, 1946 ;

" Council " means the Executive Council constituted for any area ;

" dental officer " means any dental officer appointed by the Minister for a district in which general dental services are provided ;

" drugs " includes in the case of persons receiving general medical services medicines and any prescribed chemical reagents and in the case of persons receiving general dental services means any prescribed drug ;

" Drug Tariff " means the statement prepared by the Minister under regulation 28 of the General Service Regulations hereinafter defined specifying the prices and standards of drugs and appliances to be provided under those regulations ;

" General Dental Regulations " means the National Health Service (General Dental Services) Regulations, 1948 ;

" General Service Regulations " means the National Health Service (General Medical and Pharmaceutical Services) Regulations, 1948 ;

" health centre " means premises provided by a local health authority in accordance with the provisions of section 21 of the Act ;

" medical officer " means any medical officer appointed by the Minister for a district in which general medical services are provided ;

" practitioner " means either a registered medical or registered dental practitioner as the context may require ;

" treatment " in relation to general medical services has the same meaning as in the General Service Regulations and in relation to general dental services has the same meaning as in the General Dental Regulations ;

" the terms of service " means the terms of service for medical practitioners contained in Part I of the first schedule to the General

Service Regulations, the terms of service for chemists contained in Part I of the fourth schedule to the General Service Regulations and the terms of service for dental practitioners contained in Parts I and II of the first schedule to the General Dental Regulations, as the case may be;

"the Tribunal" means the Tribunal constituted under section 42 of the Act.

(2) In these regulations the expression "chemist" means a registered pharmacist or authorised seller of poisons within the meaning of the Pharmacy and Poisons Act, 1933, who provides pharmaceutical services. The regulations shall also apply (except so far as the context may otherwise require) to any other person, firm or body corporate (other than a practitioner) providing pharmaceutical services, as if that person, firm or body were a chemist as so defined.

(3) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [2440]

PART II

Provisions relating to investigations, disputes, appeals, etc.

3. Constitution of service committee.—(1) Every Council shall establish a medical service committee, a pharmaceutical service committee, a dental service committee, and a joint services committee.

(2) (*a*) The medical service committee shall consist of a chairman and six other persons of whom three shall be appointed by and from the lay members of the Council, and three shall be appointed by the Local Medical Committee.

(*b*) The pharmaceutical service committee shall consist of a chairman and six other persons of whom three shall be appointed by and from the lay members of the Council and three shall be appointed by the Local Pharmaceutical Committee.

(*c*) The dental service committee shall consist of a chairman and six other persons of whom three shall be appointed by and from the lay members of the Council and three shall be appointed by the Local Dental Committee.

(*d*) The joint services committee shall consist of a chairman and eight other persons of whom two shall be appointed by and from the lay members of the Council, two shall be appointed by the medical service committee from their members or deputies who are medical practitioners, two shall be appointed by the dental service committee from their members or deputies who are dental practitioners, and two shall be appointed by the pharmaceutical service committee from their members or deputies who are registered pharmacists.

(*e*) A corresponding number of persons shall be appointed in the same manner to act as deputies for the members (other than the chairman) of the medical, pharmaceutical and dental services committees and joint services committee and in the absence of a member a deputy having the same qualifications shall be entitled to act in his place.

(*f*) When any matter stands referred under paragraph (7) of regulation 4 of these regulations to the joint services committee, the members of that committee appointed by the medical service committee shall not take part in the hearing unless the matter involves a question relating to a medical practitioner, the members appointed by the dental service committee shall not take part in the hearing unless the matter involves a question relating to a dental practitioner, and the members appointed by the pharmaceutical service committee shall not take part unless the matter involves a question relating to a chemist.

(3) The following provisions shall have effect with regard to the appointment of the chairman of each of the said committees :—

(*a*) The chairman shall be appointed at a meeting of the members of the committee to be specially summoned for the purpose. The chairman of the Council or, if he is a member of the committee or is unable to attend, the vice-chairman or some other member of the Council (not being a member of the committee) to be nominated by the chairman shall preside at the meeting but shall not be entitled to vote. The appointment shall be made by a majority of the votes cast at the meeting.

(*b*) The persons eligible for appointment shall be the lay members of the Council or a person appointed as chairman by the Council or the Minister under the following provisions of this regulation whose term of office has expired.

(*c*) If no appointment is made at the said meeting, or if within seven days after the meeting a statement signed by the lay members of the committee, or by the members appointed by the Local Medical, Pharmaceutical or Dental Committees, or in the case of the joint services committee by the members appointed by the medical, pharmaceutical or dental service committees, is sent to the Council asserting that the chairman appointed at the meeting is not acceptable, the Council shall appoint a person to be chairman and the chairman, if any, appointed by the committee shall thereupon cease to hold office as chairman and member of the committee.

(*d*) If a chairman has been appointed by the Council and within seven days after the meeting at which the appointment is made a statement signed by the lay members of the committee or by those members appointed by the Local Medical, Pharmaceutical or Dental Committees, or in the case of the joint services committee by the lay members of the committee or by the members appointed by either the medical, pharmaceutical or dental services committee is sent to the Council, asserting that the chairman appointed by the Council is not acceptable, the Council shall within two months refer the appointment to the Minister, and the Minister may after consultation with the Council and the Local Medical, Pharmaceutical or Dental Committees, as the case may be, appoint a chairman in place of the existing chairman who shall thereupon cease to hold office as chairman and member of the committee.

(*e*) Where an appointment of the chairman of the committee falls to be made by the Council or by the Minister, a person who is not a member of the Council shall be eligible for appointment provided that he is not a practitioner or registered pharmacist, and any person not being a member of the Council who is appointed chairman shall be entitled to attend and take part in the proceedings of the meetings of the Council but not to vote.

(*f*) The foregoing provisions with respect to the appointment of a chairman shall apply to the appointment of a deputy chairman.

(*g*) If the person appointed as chairman or deputy chairman of a committee is already a member of the committee, he shall thereupon cease to be a member other than as chairman or deputy chairman, and a new member shall be appointed to take his place.

In this regulation the expression " lay members " in relation to the Council means members appointed by the local health authority or the Minister, and in relation to a committee means members of the committee appointed by the lay members of the Council.

(4) If in the opinion of the chairman any member of a committee is interested, or is partner, principal, assistant or manager to a practitioner or chemist, who is interested in a question referred to them, that member shall take no part in the hearing thereof but a deputy having the same qualifications shall act in his place.

(5) The deputy chairman if the chairman is absent shall exercise and perform the powers and duties of the chairman, and shall otherwise be entitled to be present at, and take part in, the proceedings of the committee, but not to vote.

(6) The Council may make standing orders with respect to the term of office of the chairman, deputy chairman, members and deputy members of the committee: Provided that the term of office of the chairman shall not exceed one year unless he is re-appointed. [2441]

4. Investigations by service committee.—(1) Subject as hereinafter provided any complaint made by a person against a medical practitioner in respect of an alleged failure to comply with the terms of service shall be investigated by the medical service committee.

(2) Subject as hereinafter provided any complaint made by a person against a chemist in respect of an alleged failure to comply with the terms of service shall be investigated by the pharmaceutical service committee.

(3) Subject as hereinafter provided any complaint made by a person against a dental practitioner in respect of an alleged failure to comply with the terms of service shall be investigated by the dental service committee.

(4) (*a*) The person desiring to make a complaint under this regulation against a medical practitioner or a chemist shall within six weeks after the event which gave rise to the complaint give written notice to the clerk of the Council stating the substance of the matter which it is desired to have investigated.

(*b*) The person desiring to make a complaint under this regulation against a dental practitioner shall within six months after completion of the treatment or within six weeks after the matter which gave rise to the complaint came to the complainant's notice, whichever is the sooner, give written notice to the clerk of the Council stating the substance of the matter which it is desired to have investigated.

(*c*) Notwithstanding failure to give notice within the periods specified in the two preceding sub-paragraphs, the committee may investigate the matter if they are satisfied that such failure was occasioned by illness or other reasonable cause and—

(i) in the case of a complaint against a medical practitioner or chemist the complaint is made within two months after the said event, or

(ii) in the case of a complaint against a dental practitioner the complaint is made within six months after the completion of the treatment or within two months after the matter came to the complainant's notice, whichever is the sooner, or

(iii) the practitioner or chemist, as the case may be, consents to the investigation taking place notwithstanding the failure to give notice in time, or

(iv) the Minister's consent to the investigation has been obtained. In applying for such consent the committee shall furnish the Minister and the practitioner or chemist, with a copy of the said notice, a statement of the reasons for the failure to give notice in time and with any further information which the Minister may require, and the practitioner or chemist shall be entitled within seven days after the receipt by him of such statement or further information to forward to the Minister a statement of the grounds on which he contends that the investigation should not take place.

(5) Subject as hereinafter provided the medical service committee shall in relation to medical practitioners, the pharmaceutical service committee shall in relation to chemists, and the dental service committee shall in relation to dental practitioners, investigate any matters referred to them by the Council, or any committee of the Council duly authorised in that behalf by the Council, or the Dental Estimates Board relating to the administration of general medical services, pharmaceutical services or general dental services, whether or not any such matter has been raised on complaint under the foregoing provisions of this regulation :

Provided that no question which involves an allegation against a practitioner of a breach of the terms of service shall, without the consent of the Minister, or of the practitioner concerned, be referred for investigation under this paragraph, except within the period specified in sub-paragraphs (*a*) and (*b*) of the last preceding paragraph, and the provisions of sub-paragraph (*c*) of that paragraph with reference to the procedure to be adopted on application for the Minister's consent shall *mutatis mutandis* apply to any application for his consent under this paragraph.

(6) The pharmaceutical service committee shall perform such duties in connection with the testing of drugs and appliances as may be imposed on them by the scheme made for that purpose under regulation 26 of the General Service Regulations.

(7) If in the opinion of the medical service committee any matter referred to that committee involves a question relating to a dental practitioner or a chemist, or if in the opinion of the dental service committee any matter referred to that committee involves a question relating to a medical practitioner or a chemist, or if in the opinion of the pharmaceutical service committee any matter referred to that committee involves a question relating to a practitioner, the committee shall, in lieu of dealing with the matter themselves, refer it to the joint services committee.

(8) Any matter which would otherwise be referred by the Council or any committee duly authorised in that behalf by the Council to the medical service committee or pharmaceutical service committee or the dental service committee for investigation may, if the Council or committee are satisfied that it is appropriate to the joint services committee, be referred by them to that committee. [2442]

5. Procedure of service committees.—(1) A service committee shall permit a party to an investigation to be assisted in the presentation of his case by some other person : Provided that no person shall be entitled in the capacity of counsel, solicitor or other paid advocate to conduct the case for any party by addressing the committee or examining or cross-examining witnesses.

(2) The proceedings at the hearing before the committee shall be private and no person shall be admitted to those proceedings except—

(*a*) the parties to the investigation and the persons, if any, permitted to appear for the purpose of assisting them ;

(*b*) the secretary or other officer of the Local Medical, Pharmaceutical or Dental Committee whichever is concerned ;

(*c*) persons whose attendance is required for the purpose of giving evidence and who shall, unless the committee otherwise direct, be excluded from the hearing except when they are actually giving evidence ; and

(*d*) such officers of the Council as they may appoint for the purpose.

(3) The first schedule to these regulations shall apply with respect to the investigation of complaints, and the procedure of the committee.

(4) The committee shall draw up a report stating such relevant facts as appear to them to be established by the evidence placed before them and

the inferences which in their opinion may properly be drawn from the facts, together with a recommendation as to the action, if any, which should be taken and shall present the report to the Council, and the Council shall accept as conclusive any finding of fact contained in the report. In presenting such report to the Council the committee may, if they think fit, draw the attention of the Council to any previous reports made by that committee in connection with the practitioner or chemist and to any action taken by the Minister on such reports and may recommend that account should be taken thereof by the Council in reaching their decision. [2443]

6. Action by Council.—The Council shall furnish the Minister with a copy of the report of the service committee and a statement of the Council's decision thereon, which may include action in any one or more of the following ways :—

(*a*) If the investigation relates to the conduct of a medical practitioner and the Council are satisfied, after consultation with the Local Medical Committee, that owing to the number of persons included in his list the practitioner is unable to give adequate treatment to all those persons they may impose a special limit on the number of persons for whom the practitioner may undertake to provide treatment and in that event any number in excess of that limit shall be dealt with as though the list of the practitioner was by that number in excess of the general limit fixed for the list of practitioners in the area.

(*b*) The Council may recover from the practitioner or chemist as the case may be, by a deduction from his remuneration or otherwise, any expenses (other than expenses incurred in connection with an investigation by the appropriate committee) which have been reasonably and necessarily incurred by any person owing to the failure of the practitioner or chemist to comply with the terms of service, and any sum so recovered shall be paid to that person : Provided that in the case of a dental practitioner, the maximum amount which may be deducted shall not exceed the cost of the treatment provided by another dental practitioner to the person concerned calculated in accordance with regulations made under the Act.

(*c*) The Council may make representations to the Minister that, owing to the failure of the practitioner or chemist to comply with the terms of service, an amount should be withheld from his remuneration.

(*d*) If the Council are of the opinion that the continued inclusion of the medical practitioner on the medical list or of the chemist on the pharmaceutical list or of the dental practitioner on the dental list, would be prejudicial to the efficiency of the services in question, they may make representations to that effect to the Tribunal.

(*e*) In the case of a dental practitioner the Council may until further notice require the practitioner, in respect of any treatment other than an examination or emergency treatment, to submit for prior approval to the Dental Estimates Board estimates in respect thereof. [2444]

7. Appeal to Minister from decision of Council.—(1) The Council shall furnish the parties to an investigation with a copy of the service committee's report and of their decision and shall inform them of their right of appeal to the Minister against any decision other than a decision to take action under paragraph (*d*) of the last preceding regulation and of the Minister's power on such an appeal to award costs.

(2) Subject to the next following regulation any party aggrieved by such decision shall be entitled to appeal to the Minister by sending to the Minister notice of appeal within one month from the date on which notification of the decision was received.

(3) The notice of appeal shall contain a concise statement of the facts and contentions upon which the appellant intends to rely.

(4) The Minister may, on the application of any person desiring to appeal, extend the time for giving notice of appeal and may do so although the application is not made until after the expiration of one month from the date on which notice of the Council's decision was received.

(5) An application for the extension of the time for giving notice of appeal must be made in writing to the Minister, stating the grounds for the application. [2445]

8. Representation by Council to Tribunal.—No appeal shall lie against a decision of a Council to make representations with regard to the continued inclusion in any list of the name of any practitioner or chemist and if a Council decides to make such representations and an appeal to the Minister is made against their decision on other matters, the Minister may treat as conclusive for the purpose of the appeal any relevant findings of the Tribunal. [2446]

9. Procedure on appeal.—(1) If the Minister, after considering the notice of appeal and any further particulars furnished by the appellant, is of opinion that the said notice and particulars disclose no reasonable grounds of appeal or that the appeal is otherwise vexatious or frivolous, he may dismiss the appeal forthwith: Provided that an appeal against a decision of the Council to take action under paragraphs (*a*), (*b*), (*c*) or (*e*) of regulation 6 of these regulations shall not be dismissed without an oral hearing unless the appellant does not desire such a hearing.

(2) The Minister shall, unless he dismisses the appeal for the aforementioned ground, send a copy of the notice of appeal and of any further particulars furnished by the appellant to the Council and to the person or persons, if any, who were parties to the proceedings before the service committee or who appear to him to be interested in the appeal.

(3) Subject to the proviso to paragraph (1) of this regulation, the Minister may, if he is of opinion that the case is of such a nature that it can properly be determined without an oral hearing, dispense with an oral hearing and determine the appeal summarily.

(4) In the event of an oral hearing the Council or any person who has received notice of appeal may appear and take such part in the proceedings as the persons holding the inquiry think proper.

(5) For the purpose of an oral hearing the Minister may appoint an officer or officers of the Ministry of Health or some other person or persons, not exceeding three in number, to hold an inquiry and to draw up a report. The Minister, after taking such report into consideration, shall give his decision, which shall be final and conclusive:

Provided that—

(*a*) where one of the parties to an appeal is a medical practitioner and the decision of the Council involves a finding that the practitioner has been guilty of any breach of the terms of service referred to in regulation 11 (3) (*b*) of these regulations the persons appointed to hear the appeal shall include a medical practitioner selected by the Minister from the panel of medical practitioners referred to in that regulation;

(*b*) where one of the parties to an appeal is a dental practitioner and the decision of the Council involves a finding that the dental practitioner has failed to complete satisfactorily dental treatment,

or has failed to exercise reasonable care and skill, the persons appointed to hear the appeal shall include a dental practitioner selected by the Minister from the panel of dental practitioners referred to in regulation 11 of these regulations.

(6) (*a*) A party to an appeal when an oral hearing takes place shall be entitled to appear and be heard in person, or by counsel or solicitor, or by any officer or member of any organisation of which he is a member, or by any member of his family, or by any friend.

(*b*) A Council or other body being a party to any appeal shall be entitled to appear by a member or by their clerk or other officer duly appointed for the purpose or by counsel or solicitor.

(7) A party to an appeal shall not, except with the consent of the Minister or, in the case of an oral hearing, of the person or persons before whom the hearing takes place, be entitled to rely upon any facts or contentions which do not appear to the Minister or to the person or persons holding the inquiry to have been raised before the committee in the course of the proceedings in respect of which the appeal is brought: Provided that this paragraph shall not apply in the case of a hearing if at least seven days before the hearing notice is given in writing to the Minister or to the person or persons holding the inquiry of any new facts or contentions upon which the party intends to rely.

(8) The Council may, with the consent of the Minister, make such contribution as they think fit and if directed by the Minister shall make such contribution as he may determine towards the cost of the appeal incurred by the complainant or by the practitioner or chemist. [2447]

10. Provisions of Local Government Act, 1933, to apply.—The provisions of sub-sections (2), (3) and (5) of section 290 of the Local Government Act, 1933, which relate to the summoning of witnesses, the awarding of costs and other matters, shall apply to any inquiry held by the Minister under the last foregoing regulation as if in sub-section (5) the word "Minister" were substituted for the word "Department". [2448]

11. Procedure on withholding money.—(1) If the Minister is satisfied :—

(*a*) after considering any report made by a service committee under paragraph (4) of regulation 5 of these regulations and the decision of the Council thereon or the report of the person or persons hearing an appeal against such decision under paragraph (5) of regulation 9 of these regulations or any report of the Tribunal after an inquiry under Part III of these regulations that a practitioner or chemist has failed or neglected to comply with the terms of service applicable to him ; or

(*b*) after considering the report of a medical officer or where a matter has been referred to a Local Medical Committee for consideration under regulation 14 of these regulations the report of the Local Medical Committee or of any other person or persons determining any matter under that regulation that a medical practitioner has failed to comply with sub-paragraphs (12) and (13) of paragraph 7 of the terms of service applicable to him ; or

(*c*) after considering the report of a dental officer or, where a matter has been referred to a Local Dental Committee for consideration under regulation 14 of these regulations, the report of the Local Dental Committee or any other person or persons determining any matter under that regulation that any dental practitioner practising elsewhere than at a health centre has failed to comply with paragraph 5 of the terms of service applicable to him ;

he may direct the Council to recover such amount as he thinks fit either by deduction from the remuneration of the practitioner or chemist or otherwise, and such sum shall be a debt owing by the practitioner or chemist to the Council:

Provided that, except in cases in which the facts have already been the subject of an investigation in the course of an appeal made to the Minister, the Minister shall, before directing that any such amount shall be withheld, afford the practitioner or chemist concerned a reasonable opportunity of making representations to him on the matter and if he decides to make representations orally the Minister shall appoint a person or persons to hear the case. The Council and the Local Medical, Pharmaceutical or Dental Committee as the case may be, shall be entitled to be represented at such hearing and to take such part in the proceedings as the persons appointed to hear the case may think fit.

(2) The persons appointed to hear the oral representations of a practitioner under this regulation shall include a practitioner selected for the purpose by the Minister from the panel of medical or dental practitioners as the case may be hereinafter referred to in this regulation.

(3) (*a*) An advisory committee (hereinafter referred to as "the medical advisory committee") shall be constituted for the purpose of assisting the Minister in the discharge of his duties under this regulation in relation to medical practitioners. Before directing the Council to withhold money in respect of an alleged breach of the terms of service applicable to medical practitioners the Minister shall, where such breach is of a kind specified in the following sub-paragraph, and in any other case may, refer the case to such committee and consider any report which they may make to him thereon.

(*b*) Breaches of the terms of service to which the last preceding sub-paragraph of this regulation relates are failure to exercise reasonable skill and care in the treatment of a patient, failure to visit or treat a patient whose condition so requires, failure to order or supply any necessary drugs or appliances for the use of a patient or failure to discharge the obligations imposed on a medical practitioner to give a patient the requisite assistance to enable him to obtain any treatment which is not within the scope of the practitioner's obligations under the terms of service.

(4) The medical advisory committee shall consist of the Chief Medical Officer of the Ministry of Health or his deputy and of two other medical practitioners in the service of the Ministry of Health and of three medical practitioners selected so far as may be in rotation by the Minister from a panel of practitioners who are, or have been, practitioners engaged in the provision of general medical services nominated by a body which is, in the Minister's opinion, representative of practitioners engaged in the provision of general medical services. The Chief Medical Officer, or in his absence his deputy, shall act as chairman.

(5) An advisory committee (hereinafter referred to as "the dental advisory committee") shall be constituted for the purpose of assisting the Minister in the discharge of his duties under this regulation in relation to dental practitioners. Before directing the Council to withhold money in respect of an alleged breach of the terms of service applicable to dental practitioners the Minister shall, where such breach consists of failure to complete satisfactorily dental treatment, or failure to exercise reasonable care and skill, and in any other case may, refer the case to such committee and consider any report which they may make to him thereon.

(6) The dental advisory committee shall consist of the Principal Dental Officer of the Ministry of Health or his deputy and two other dental practitioners in the service of the Ministry of Health and of three dental practitioners selected by the Minister from a panel of dental practitioners who are

or have been engaged in the provision of general dental services nominated by organisations which are, in the Minister's opinion, representative of the dental profession. The Principal Dental Officer, or in his absence, his deputy, shall act as chairman. [2449]

12. Investigation of excessive prescribing.—(1) Where it appears to the Minister after an investigation of the orders for drugs and appliances given by a medical practitioner to persons on his list and of the accounts furnished by the practitioner for drugs and appliances supplied to those persons that there is a *prima facie* case for considering that by reason of the character or quantity of the drugs or appliances so ordered or supplied the cost is in excess of what was reasonably necessary for the proper treatment of those persons, the Minister may refer the matter to the Local Medical Committee for their consideration.

(2) Where a case has been referred to the Local Medical Committee under the preceding paragraph, the Committee shall furnish the practitioner concerned with a statement indicating the matters on which an explanation is required and shall afford him reasonable opportunity of appearing before and being heard by them, or, if he thinks fit, of submitting to them any statement in writing, and a representative or representatives of the Minister shall be entitled in case of a hearing to be heard by the Local Medical Committee.

(3) After considering the case the Local Medical Committee shall decide whether any cost has been incurred in excess of what may reasonably be necessary by reason of the character or quantity of the drugs or appliances ordered or supplied by the practitioner as aforesaid and, if so, what is the amount of the excess cost.

(4) Where the Local Medical Committee have decided that excessive cost has been so incurred by reason of the drugs or appliances ordered or supplied by the practitioner, they shall inform the Council, the practitioner and the Minister of their decision and may add a statement of any considerations to which in their opinion the Council and the Minister should have regard in making any recommendation or decision with reference to the withholding of money from the practitioner.

(5) The practitioner shall be entitled to appeal against the decision of the Local Medical Committee by sending to the Minister notice of appeal within one month from the date on which notice of the Committee's decision was received. The Minister shall appoint a person or persons (not exceeding three in number and not being officers of the Ministry of Health) of whom at least one shall be a medical practitioner who shall hear and determine the appeal.

(6) If the Minister is dissatisfied with the decision of the Local Medical Committee in any case referred by him to that Committee under paragraph (1) of this regulation he may appoint a person or persons to hear and determine the matter in the manner provided in the last preceding paragraph and the provisions of that paragraph including those relating to the person or persons to be appointed shall apply accordingly.

(7) After consideration of the decision of the Local Medical Committee or, if an appeal has been made or the matter has been referred for hearing and determination under the last foregoing paragraph, after consideration of the decision of the person or persons determining the appeal or matter, the Council shall, if such decision is that excessive cost has been incurred, make a recommendation to the Minister with regard to the withholding of money from the practitioner and the Minister may direct the Council to withhold such sum as he thinks fit and the provisions of regulation 11 of these regulations, including the right of the practitioner to make representations to the Minister, shall apply accordingly. [2450]

13. Investigation of certification.—(1) Where it appears to the Minister, after an investigation of the medical certificates issued under and for the purposes of the National Insurance Acts, 1946, by a medical practitioner to persons for whose treatment he is responsible under the terms of service applicable to him, that there is a *prima facie* case for considering that the practitioner has failed to exercise reasonable care in the issue of such certificates, the Minister may refer the matter for consideration to the Local Medical Committee or to a joint committee of two or more Local Medical Committees constituted in such manner as he may approve and any reference in this regulation to the Local Medical Committee shall be construed as including any such joint committee.

(2) Any reference to the Committee under the last preceding paragraph shall be accompanied by a statement indicating the matters on which it appears to the Minister that an explanation is required.

(3) (*a*) The Committee shall furnish the practitioner concerned with a copy of the said statement and shall afford him reasonable opportunity of submitting to them a statement in writing and of appearing before and being heard by them.

(*b*) A copy of any such statement by the practitioner shall be forwarded to the Minister by the Committee for his observations and a representative or representatives of the Minister shall be entitled, in case of a hearing, to attend and be heard by the Committee.

(4) (*a*) After considering the case the Committee shall draw up a report of their findings on the question whether there has been a failure on the part of the practitioner to exercise reasonable care in certification, and, if so, what is the extent and gravity of the failure, together with a recommendation as to the action, if any, which should be taken by the Minister.

(*b*) The Committee shall forward the report to the Minister and shall furnish the practitioner with a copy of the report.

(5) (*a*) The practitioner shall be entitled to appeal against any findings of the Committee contained in the report by sending to the Minister notice of appeal within one month from the date on which a copy of the report was received by him and the provisions of paragraph (5) of regulation 12 of these regulations relating to the determination of appeals shall apply accordingly.

(*b*) If the Minister is dissatisfied with any findings of the Committee he may appoint a person or persons to hear and determine the matter in the manner provided in paragraph (5) of regulation 12 of these regulations and the provisions of that paragraph including those relating to the person or persons to be appointed shall apply accordingly.

(6) After consideration of the findings and recommendation of the Committee or, if an appeal has been made or the matter has been referred for hearing and determination under the last preceding paragraph, after consideration of the findings of the person or persons determining the appeal or matter, the Minister may, if he is satisfied that there has been a failure on the part of the practitioner to exercise reasonable care in certification, direct the Council to withhold such amount as he thinks fit from the remuneration of the practitioner and the provisions of regulation 11 of these regulations, including the practitioner's right to make representations to the Minister, shall apply accordingly. [2451]

14. Investigation of record keeping.—(1) Where it appears to the Minister, after an examination by the medical officer or the dental officer of any record cards held by a medical practitioner, or a dental practitioner practising elsewhere than at a health centre, that there is a *prima facie* case for considering that the medical practitioner has failed to carry out his obligations under sub-paragraph (12) of paragraph 7 of the terms of service, so far as such obligations involve the recording of clinical data regarding his patients, or

that the dental practitioner has failed to carry out his obligations under paragraph 5 of the terms of service, the Minister may refer the matter for consideration of the Local Medical or Dental Committee, whichever is appropriate.

(2) Any such reference to a Committee shall be accompanied by a statement of the grounds for considering that such obligations have not been fulfilled.

(3) (*a*) The Committee shall furnish the practitioner concerned with a copy of the said statement and shall afford him reasonable opportunity of submitting to them a statement in writing and of appearing before and being heard by them.

(*b*) A copy of any such statement by the practitioner shall be forwarded to the Minister by the Committee for his observations and a representative or representatives of the Minister shall be entitled, in case of a hearing, to attend and be heard by that Committee.

(4) If so required by notice in writing signed by the chairman of the Committee, the practitioner shall—

(*a*) produce at the hearing all record cards held by him or such of the record cards as may be specified in the notice;

(*b*) give in the case of a medical practitioner to any members of the Committee specified in the notice or in the case of a dental practitioner to the dental officer, access at all reasonable times to the practitioner's surgery or other place where the record cards are kept, for the purpose of inspection of such record cards and furnish such persons with any such record cards and with any necessary information with regard thereto as they may require.

(5) After considering the case, the Committee shall report to the Minister whether there has been a failure on the part of the practitioner to carry out his said obligations and, if so, the extent and gravity of such failure and shall make a recommendation as to the action, if any, which should be taken by the Minister. A copy of such report shall be forwarded by the Committee to the practitioner.

(6) (*a*) The practitioner shall be entitled to appeal against any findings of the Committee contained in the report by sending to the Minister notice of appeal within one month from the date on which a copy of the report was received by him and the provisions of paragraph (5) of regulation 12 of these regulations relating to the determination of appeals shall apply accordingly: Provided that if the appellant is a dental practitioner, a reference to a dental practitioner shall be substituted for the reference to a medical practitioner.

(*b*) If the Minister is dissatisfied with the findings of the Committee he may appoint a person or persons to hear and determine the matter in the manner provided in paragraph (5) of regulation 12 of these regulations as modified by the preceding sub-paragraph and those provisions, including those relating to the person or persons to be appointed, shall apply accordingly.

(7) In this regulation "record cards" means

(*a*) in the case of a medical practitioner, the cards on which he is required to keep records of the illnesses of his patients and of his treatment of them under sub-paragraph (12) of paragraph 7 of the terms of service, and

(*b*) in the case of a dental practitioner, the records which under paragraph 5 of the terms of service he is required to keep of the clinical conditions present in the mouth of the person for whom he is providing general dental services and of the treatment provided by him. [2452]

15. Decisions as to treatment for which fees may be charged.—(1) If any question arises, either in the course of an investigation by the medical service committee or otherwise as to whether any treatment given by a medical practitioner to a patient is treatment for which he may demand or accept a fee from that patient (unless it arises in relation to sub-paragraph (1) (*a*) or (*e*) of paragraph 10 of the terms of service or is whether a certificate is reasonably required by the patient under or for the purposes of any enactment), the question shall be referred for determination to the Local Medical Committee. If the Committee and the Council disagree, the matter shall be submitted to referees appointed under these regulations for decision in accordance with the rules set out in the second schedule to these regulations; and the decision of the referees, given after hearing such parties and taking such evidence as they think just, shall be final.

(2) For the purpose of giving effect to this regulation the Minister shall, upon any such disagreement arising, nominate as referees two medical practitioners not being officers of the Ministry of Health (who shall be selected from any panel of practitioners set up by the Minister for the purpose or if no such panel exists, from among practitioners in actual practice) and one barrister-at-law or solicitor in actual practice.

(3) The referees may decide any question coming before them by a majority but, subject as aforesaid, their procedure shall be such as they may from time to time determine.

(4) If on any question referred to the Local Medical Committee under this regulation the Committee and the Council are agreed, the Council shall report the matter to the Minister and he may, if he thinks fit, refer the question for decision to referees in the manner provided in this regulation and the foregoing provisions of this regulation shall apply accordingly. [2453]

16. Determination of question whether a substance was a drug.—(1) Any question whether a substance supplied by a medical practitioner or chemist on the prescription of a medical practitioner was a drug forming part of pharmaceutical services provided under the Act, shall, if the practitioner concerned so desires in accordance with regulation 17 of these regulations and may, in any other case in which the Council or the Minister think fit, be referred to the Local Medical Committee, and the Council or the Minister, as the case may be, shall inform the Local Pharmaceutical Committee that the question has been so referred.

(2) The Local Medical Committee shall furnish the practitioner concerned with a statement indicating the nature of the question referred to them under this regulation and shall afford him reasonable opportunity of appearing before and being heard by them or, if he thinks fit, of submitting to them any statement in writing.

The Committee shall further consider any representations made to them by the Council or the Minister and, if the practitioner appears before and is heard by them, shall afford an opportunity to a representative of the Council and the Minister of appearing before and being heard by them.

(3) The Committee shall inform the practitioner, the Council and the Minister of the finding at which they have arrived on the question referred to them.

(4) If the practitioner, or the Council are dissatisfied with the finding of the Committee and inform the Minister accordingly within one month from the date on which the notice of the finding was received, the question shall be referred for decision to referees nominated by the Minister under this regulation and if the Minister is dissatisfied with the finding of the Committee he may, if he thinks fit, also refer the question for decision to referees so nominated.

(5) For the purpose of obtaining a decision under paragraph (4) of this regulation the Minister shall nominate as referees a person or persons (not exceeding three in number and not being an officer or officers of the Ministry of Health) of whom at least one shall be a medical practitioner. The referees may decide any question coming before them by a majority, but, subject as aforesaid, their procedure shall be such as they may determine. [2454]

17. Recovery of cost of substance held not to be a drug.—(1) If it appears to the Council that any substance supplied to a person under these regulations was not a drug forming part of pharmaceutical services provided under the Act, the Council shall recover from the practitioner, by deduction from his remuneration or otherwise, an amount calculated in the manner provided in paragraph (2) of this regulation:

Provided that before recovering any such amount the Council shall, unless it has already been decided in accordance with the last foregoing regulation that the substance supplied in that case was not such a drug, bring the question to the practitioner's notice in writing and inquire whether he desires it to be referred for decision under that regulation; and if the practitioner within one week after the receipt of such notice informs the Council that he desires the question to be so referred, the Council shall refer it to the Local Medical Committee and the provisions of regulation 16 shall apply accordingly.

(2) For the purpose of paragraph (1) of this regulation the amount to be recovered in respect of the supply of any substance shall be a sum calculated in the manner set forth in the Drug Tariff:

Provided that if any substance which was not a drug was an ingredient in a preparation of which other ingredients were drugs, the amount to be recovered shall be the price of that substance calculated in the manner set forth in the Drug Tariff, together with half the amount of the dispensing fee payable in respect of the supply of the preparation. [2455]

18. Appeals from Dental Estimates Board.—(1) Any person aggrieved by a decision of the Dental Estimates Board shall be entitled to appeal by sending to the Minister a notice of appeal within one month from the date on which notice of the decision of the Board was received by that person.

(2) The notice of appeal shall contain a concise statement of the facts and contentions upon which the appellant intends to rely.

(3) The Minister shall appoint two dental practitioners, of whom one shall be selected from the panel referred to in paragraph (6) of regulation 11 of these regulations, who shall hear the representations of the appellant and the Dental Estimates Board and determine the appeal. [2456]

19. Power of Local Medical Committee to consider complaints.—The Local Medical Committee shall have power to consider any complaint made to them by any medical practitioner against a medical practitioner practising in the area for which the Committee is constituted involving any question of the efficiency of the general medical services. [2457]

20. Power of Local Pharmaceutical Committee to consider complaints.—The Local Pharmaceutical Committee shall have power to consider any complaint made to them by any chemist against a chemist carrying on business in the area for which the Committee is constituted involving any question of the efficiency of the pharmaceutical services. [2458]

21. Power of Local Dental Committee to consider complaints.—The Local Dental Committee shall have power to consider any complaint made to them by any dental practitioner against a dental practitioner practising in the area for which the Committee is constituted involving any question of efficiency of the general dental services. [2459]

PART III

Inquiries relating to practitioners and chemists

22. Interpretation and forms.—(1) In this part of these regulations, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them :—

" inquiry " means an inquiry held in accordance with the provisions of this part of these regulations ;

" representation " means a representation made to the Tribunal that the continued inclusion of a medical practitioner in any medical list or a chemist in any pharmaceutical list or a dental practitioner in any dental list would be prejudicial to the efficiency of the general medical, pharmaceutical or general dental services as the case may be ;

" complainant " means any person or body making a representation to the Tribunal ;

" respondent " means any practitioner or chemist against whom a representation is made.

(2) The forms set out in the third schedule to these regulations or forms substantially to the like effect shall be used in all cases to which those forms are applicable. [2460]

23. Chairman of Tribunal.—(1) The chairman of the Tribunal shall hold office during the pleasure of the Lord Chancellor.

(2) The members of the Tribunal shall hold office during the pleasure of the Minister. [2461]

24. Officers of Tribunal.—The chairman of the Tribunal shall appoint a person approved by the Minister to act as clerk of the Tribunal and shall also appoint such other officers as may be necessary. [2462]

25. Representation and preliminary statement.—(1) A representation shall be in writing signed by or on behalf of the complainant and addressed to the clerk of the Tribunal.

(2) The Tribunal may, if they think fit, require the complainant to send them a preliminary statement setting out the alleged facts and grounds on which the representation is based and, where a fact is not within the personal knowledge of the complainant, the source of the information and grounds for the belief of the complainant that the information is true, together with such further particulars as they may think necessary and they may require the preliminary statement to be verified by statutory declaration. [2463]

26. Power to refuse inquiry.—If it appears to the Tribunal, after due consideration of any representation or of any preliminary statement furnished to them by the complainant, not being a Council, that no good cause has been shown why an inquiry should be held, they may refuse to hold an inquiry and shall inform the complainant accordingly. [2464]

27. Notices to be sent in case of inquiry.—(1) The Tribunal shall, in all cases where an inquiry is to be held, send the following notices, namely :—

(*a*) A notice to the respondent informing him that it is proposed to hold an inquiry as to the representation made by the complainant ; and

(*b*) A notice to the complainant informing him that it is proposed to hold an inquiry as to the representation made by him and requiring him, within a time specified in the notice, to send to the Tribunal a concise statement of the alleged facts and grounds on which the representation is based (in this part of these regulations referred to as " the statement of complaint ") together with a list of all the documents which he proposes to put in evidence :

Provided that where the complainant has sent a preliminary statement to the Tribunal, the Tribunal may, if they think fit, dispense with a statement of complaint and in that case the preliminary statement shall, for the purposes of the inquiry, be treated as the statement of complaint.

(2) The Tribunal may, if they think proper, on the application of the complainant extend the time for sending to them the statement of complaint. [2465]

28. Respondent may admit or deny allegations.—The Tribunal shall send to the respondent a copy of the statement of complaint and of the list of documents which the complainant proposes to put in evidence together with a notice informing him that he may, if he so desires, within a time specified in the notice, by a statement in writing addressed to the clerk of the Tribunal admit or dispute the truth of all or any of the allegations appearing in the statement of complaint. [2466]

29. Amendment of statement of complaint.—The Tribunal at any time before the conclusion of the inquiry, may allow the statement of complaint to be amended upon such conditions as they may think just. [2467]

30. Right of respondent to inspect documents.—(1) The respondent may, on giving due notice to the complainant, inspect, either personally or by an agent authorised in writing, the documents included in the list sent by the complainant to the Tribunal and the complainant shall give reasonable facilities for the purpose.

(2) The respondent shall be entitled, on making application to the Tribunal, to a copy of any document in that list and the Tribunal may require the complainant to furnish to the clerk of the Tribunal a copy of the document for the respondent's use. [2468]

31. Notice of inquiry to be given.—(1) The Tribunal shall appoint a day for the holding of the inquiry and shall, not less than fourteen days before the appointed day, send notices to the complainant and the respondent informing them of the date, time and place of the inquiry.

(2) The Tribunal shall if they think fit also send to any other Council on whose medical, pharmaceutical or dental list the name of the respondent appears, notice of the date, time and place of the inquiry and each such Council may appear and take such part in the proceedings at the inquiry as the Tribunal shall think proper. [2469]

32. Power to postpone inquiry.—The Tribunal may, if they think fit or on the application of either party, postpone the date for the holding of the inquiry. [2470]

33. Power to treat representation as withdrawn in certain cases.—If the complainant fails, within the time specified in the notice or within any extended period, to send a statement of complaint to the Tribunal or if he fails to comply with any other requirement of this part of these regulations, the Tribunal may treat the representation as having been withdrawn. [2471]

34. Withdrawal of representation.—(1) The complainant may at any time before the inquiry, with the consent of the Tribunal and on such terms as the Tribunal think fit, withdraw the representation by giving notice of withdrawal in writing to the clerk of the Tribunal.

(2) Where the representation has been withdrawn or is treated by the Tribunal as having been withdrawn, the Tribunal shall (without prejudice to their power to hold an inquiry as hereinafter provided) forthwith inform the respondent that the representation has been withdrawn or is treated as having been withdrawn, as the case may be. [2472]

35. Procedure at inquiry.—The proceedings shall be held *in camera* unless the respondent has applied for the inquiry to be held in public but otherwise the procedure at the inquiry shall be within the discretion of the Tribunal. [2473]

36. Appearance by representatives.—(1) Any Council or other body (whether corporate or incorporate) entitled to appear at the inquiry may appear by their clerk or other officer duly appointed for the purpose or by counsel or solicitor.

(2) The complainant and the respondent shall be entitled to appear and be heard at the inquiry in person or by counsel or solicitor, or by any officer or member of any organisation of which he is a member, or by any member of his family, and shall be entitled to call witnesses and to produce other evidence upon his behalf. [2474]

37. Provisions of Local Government Act, 1933 to apply.—The provisions of sub-sections (2), (3) and (5) of section 290 of the Local Government Act, 1933, which relate to the summoning of witnesses, awarding of costs and other matters shall apply to an inquiry held under this part of these regulations as if in sub-section (5) the word " Tribunal " were substituted for the word " Department ". [2475]

38. Power to suspend proceedings in certain cases.—Where it appears to the Tribunal that the alleged facts on which any representation is based are or may be the subject of investigation by any other tribunal, they may, if they think fit, direct that no further steps shall be taken under this part of these regulations pending the issue of such other investigation. [2476]

39. Power to dispense with oral inquiry.—Notwithstanding anything in this part of these regulations, where the grounds on which any representation is based consist solely of an allegation that the respondent has been convicted of a criminal offence and he admits the truth of such allegation, the Tribunal may, with the consent of the respondent, dispense with an oral inquiry and determine the case upon such documentary evidence as may be submitted to them. [2477]

40. Report by Tribunal.—(1) At the conclusion of the inquiry the Tribunal shall, as soon as may be, issue a statement under the hand of the chairman containing their findings of fact, the conclusion which they have reached and such directions as they may give under subsection (3) of section 42 of the Act, and any order they may decide to make with respect to the costs of the parties.

(2) A copy of such statement shall be forwarded by the Tribunal to the Minister, the respondent and the complainant, and the Minister shall send a copy of the statement to such Councils as appear to him to be concerned. [2478]

41. Appeal to Minister.—The Tribunal shall give notice to the respondent of his right of appeal to the Minister against any direction given by them for the removal of his name from any list, and the right may be exercised by submitting to the Minister a notice of appeal within fourteen days after such notice has been forwarded to the respondent, or within such further time as the Minister may allow.

The notice of appeal shall contain a concise statement of the facts and contentions upon which the appellant intends to rely. [2479]

42. Procedure on appeal.—(1) The Minister shall appoint a person to hear the appeal and report thereon to him. He shall also appoint :—

(*a*) where the appellant is a medical practitioner, a medical practitioner from the panel of medical practitioners referred to in regulation 11 of these regulations ; or

(*b*) where the appellant is a chemist, a registered pharmacist ; or
(*c*) where the appellant is a dental practitioner, a dental practitioner from the panel of dental practitioners referred to in regulation 11 of these regulations ;

for the purpose of assisting the person hearing the appeal.

The Minister shall consider the report made by the person hearing the appeal and in the case of a medical or dental practitioner any recommendation made by the medical or dental advisory committee constituted under regulation 11 of these regulations to whom he shall refer such report and thereafter give his decision and shall send a notice thereof to the appellant, the Tribunal, the complainant and such Councils as may appear to him to be concerned.

(2) Regulations 30, 31, 32, 35 and 36 of these regulations shall, with the necessary modifications, apply to the hearing of appeals under this regulation in like manner as to an inquiry.

(3) The appellant may, at any time before the day appointed for the hearing, withdraw the appeal by giving notice of such withdrawal in writing to the Minister.

(4) When an appeal has been withdrawn the Minister shall forthwith confirm the direction of the Tribunal. [2480]

43. Publication of decisions of Tribunal, etc.—Notice of any decision of the Tribunal or the Minister under section 42 of the Act and of the imposition and removal of any disqualification imposed by virtue of subsection (6) of the said section (which provides for the removal from lists in England and Wales of persons who have been disqualified for inclusion in similar lists in Scotland) shall be published by the Minister in such manner as he thinks fit. [2481]

PART IV

Notices

44. Service of notices, etc.—(1) Any document which is required or authorised by these regulations to be given to or served on any person may be given or served either—

(*a*) by delivering it to that person ; or
(*b*) in the case of the Minister, the Tribunal or any Council, or committee, by delivering it to their secretary or clerk or by sending it in a prepaid letter, addressed to them at their principal office ; or
(*c*) in the case of a practitioner or chemist, by sending it in a prepaid letter addressed to him at the address given in the list in which he is included ; or
(*d*) in any other case, by sending it in a prepaid letter addressed to him at his usual or last known address.

(2) Where a party to an inquiry is represented by a solicitor it shall be a sufficient compliance with this regulation if the document required to be given or served is sent by post to the solicitor at his professional address.

(3) Until the contrary is proved, any document sent as aforesaid shall be deemed to be served at the time at which a letter would be delivered in the ordinary course of post. [2482]

45. Power to dispense with requirements as to notices.—The Minister or the Tribunal may dispense with any requirements of these regulations respecting notices, applications, documents or otherwise in any case where it appears to the Minister or the Tribunal just and proper to do so. [2483]

PART V

The Isles of Scilly

46. Application of regulations.—These regulations shall extend to the Isles of Scilly subject to the following exceptions, adaptations and modifications :—

(*a*) Any provision in the regulations requiring consultation with, or the opinion of the Local Medical, Pharmaceutical or Dental Committees in respect of any matter shall not apply to the Council unless a Local Medical, Pharmaceutical or Dental Committee has been formed for the Isles and recognised by the Minister under section 32 of the Act.

(*b*) For regulation 3 there shall be substituted the following provision :—

"**3.**—(1) The Council shall appoint a medical service committee, a pharmaceutical service committee, a dental service committee, and a joint services committee.

(2) Each committee shall consist of a chairman and such other members as the Council shall think fit.

(3) The following provisions shall have effect with regard to the appointment of the chairman of each of the said committees :—

(*a*) The chairman shall be appointed at a meeting of the members of the committee to be specially summoned for the purpose. The chairman of the Council or, if he is a member of the committee or is unable to attend, the vice-chairman or some other member of the Council (not being a member of the committee) to be nominated by the chairman shall preside at the meeting but shall not be entitled to vote. The appointment shall be made by a majority of the votes cast at the meeting.

(*b*) The persons eligible for appointment shall be any member of the Executive Council being also a member of the Council of the Isles of Scilly.

(*c*) The foregoing provisions with respect to the appointment of a chairman shall apply to the appointment of a deputy chairman.

(*d*) If the person appointed as chairman or deputy chairman of a committee is already a member of the committee, he shall thereupon cease to be a member other than as chairman or deputy chairman, and a new member shall be appointed to take his place.

(4) If in the opinion of the chairman any member of a committee is interested, or is partner, principal, assistant or manager to a practitioner or chemist who is interested, in a question referred to them, that member shall take no part in the hearing thereof.

(5) The deputy chairman if the chairman is absent shall exercise and perform the powers and duties of the chairman, and shall otherwise be entitled to be present at, and take part in, the proceedings of the committee, but not to vote.

(6) The Council may make standing orders with respect to the term of office of the chairman, deputy chairman, members and deputy members of the committee : Provided that the term of office of the chairman shall not exceed one year unless he is re-appointed."

(*c*) Regulations 12, 13, 14, 15, 16 and 17 shall not apply to the Isles.

[2484]

SCHEDULES

FIRST SCHEDULE

RULES OF PROCEDURE UNDER REGULATION 5

1. Procedure of medical, pharmaceutical and dental service committees.—(1) Where under the provisions of the regulations any question or matter is required to be investigated by any medical, pharmaceutical or dental service committee, the following procedure shall be adopted :—

(*a*) If in the opinion of the chairman the statement made by the complainant discloses no prima facie ground of complaint, or is frivolous or vexatious, the clerk of the Council shall so inform the complainant and shall invite him within seven days to submit a further statement. If no further statement is submitted by the complainant within that period, or if the statement so submitted does not in the opinion of the chairman render a hearing of the case necessary, the case shall be brought before the committee which shall have power to dispense with a hearing and to report on the matter forthwith.

(*b*) The clerk of the Council shall, as soon as practicable, send to the chairman of the appropriate committee and to the practitioner or chemist concerned a copy of the complainant's statement and any ensuing correspondence on the matter.

(*c*) Except in cases dealt with under (*a*) without a hearing the clerk shall give to both parties and to the secretary of the Local Medical, Pharmaceutical or Dental Committee, as the case may be, not less than fourteen days' notice of the meeting at which the case will be heard.

(*d*) The chairman may, upon the application of either party, postpone the hearing if he is satisfied that the attendance of the party or any witness on the date fixed for the hearing is not reasonably practicable or if for any other reason he thinks fit.

(*e*) The clerk shall three clear days before the hearing supply to each member of the committee copies of the statement and the reply, if any, thereto, and of any further correspondence relating to the matter which has taken place between the clerk and either party.

(*f*) Either party shall be entitled to be present at the hearing and to give and call such evidence as the committee may think relevant to the matters at issue, and may put questions relevant to the matter in dispute to the other party or to any witness called by him, either directly, or, if the committee so direct, through the chairman of the committee. Subject as aforesaid, the procedure at the hearing shall be such as the committee may determine.

(*g*) If either party fails to appear at the hearing, and the committee are satisfied that his absence is due to illness or other reasonable cause, or if for any other reason the committee think fit, they may adjourn the hearing.

(*h*) If in the course of a hearing the complainant introduces any issue which in the opinion of the chairman was not sufficiently disclosed in the written statement or statements sent to the respondent, it shall be within the discretion of the chairman to admit or exclude such issue as he thinks fit, but if the issue is admitted the hearing will be adjourned if the respondent desires an opportunity of producing further evidence, and desires an adjournment for that purpose.

(*i*) In the case of any medical service committee the chairman, together with one lay member and one medical member and in the case of any pharmaceutical service committee the chairman, together with one lay member and one pharmacist member, and in the case of any dental service committee the chairman together with one lay member and one dental member shall form a quorum.

(2) The foregoing provisions of this schedule shall apply to cases which are referred to any medical, pharmaceutical or dental service committee by the Council or by any other committee with such modifications as the circumstances may require.

(3) Where a case has been opened before any committee and the meeting is adjourned for the purpose of hearing further evidence or of preparing or considering the report, a member of the committee who was not present at the meeting shall not be entitled to be present or take part in the proceedings at the adjourned meeting, and it shall not be necessary for the clerk to send him notice of such meeting.

2. Procedure of joint services committees.—Where any question is referred to any joint services committee the following procedure shall be adopted :—

(*a*) The clerk of the Council shall, as soon as practicable, send to the chairman of the committee and to the practitioner and chemist (if any) concerned a copy of the complainant's statement and any ensuing correspondence on the matter.

(*b*) A quorum shall be formed by the chairman together with one lay member and, in the case of a question relating to

(i) a medical practitioner and a chemist, one medical member and one pharmaceutical member ;

(ii) a chemist and a dental practitioner, one pharmaceutical member and one dental member ;

(iii) a medical practitioner and a dental practitioner, one medical member and one dental member.

(*c*) Subject as aforesaid, the procedure of any joint services committee shall be similar to that of a medical service committee with such modifications as are rendered necessary by the inclusion of a third party.

3. Interpretation.—In these rules, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them :—

" chairman " includes a deputy chairman acting in his place.

" member " includes a deputy member acting in the place of a member.

" lay member " means a member appointed to the medical, pharmaceutical or dental services committees or the joint services committee by and from the members of the Council who were appointed by the local health authority or the Minister.

" medical member ", " pharmaceutical member " or " dental member " of a service committee means a member appointed by the Local Medical, Pharmaceutical or Dental Committee, as the case may be, and in the case of a joint services committee a member appointed by and from the medical, pharmaceutical or dental members of the medical, pharmaceutical or dental service committee. [2485]

SECOND SCHEDULE

RULES OF PROCEDURE UNDER REGULATION 15

1. Where a Council and a Local Medical Committee fail to agree as to the decision of any question

(1) The Council shall prepare and submit to the Committee a written statement of the facts in connection with which the question has arisen and of the decision given by the Council and the grounds on which the decision is based.

(2) The Committee shall, as soon as may be after receipt of the said statement, furnish to the Council a written statement of the decision given by the Committee and the grounds on which the decision is based and shall inform the Council whether it concurs in the statement of facts prepared by the Council and, if not, in what respects it does not concur in that statement.

(3) The Council shall send the statements prepared by the Council and the Committee to the Minister and he may, if he thinks fit, require both or either of the said bodies to furnish to him further particulars either with regard to the facts of the case or the decision or the grounds of the decision.

2. Where the Minister thinks fit to refer for decision to referees any question on which the Council and the Committee are agreed, the Minister may require

either or both of the said bodies to furnish written statements of the facts in connection with which the question has arisen and of their decision and the grounds on which the decision is based and the Minister shall inform the body or bodies furnishing such statements whether he concurs in the statement of facts contained therein and, if not, in what respect he does not concur therein and shall further inform the body or bodies of his grounds for disagreeing with their decision.

3. The Minister shall furnish copies of all such documents to each of the referees appointed by him for the purpose of deciding the question.

4. If the referees on consideration of such documents are of the opinion that the question referred to them is similar to a question previously determined by referees under regulation 15 of these regulations they may dispense with a hearing and determine the case summarily.

5. Except in a case in which the referees dispense with a hearing in accordance with the last foregoing rule the Minister shall fix the time and place of the hearing and shall give not less than twenty-one days' notice thereof to the Council and the Committee.

6. Each body shall be entitled to appear at the hearing by the chairman, clerk or secretary of the body or by counsel or solicitor and the Minister may appear by one of his officers and the bodies and the Minister may produce such evidence as in the opinion of the referees may be relevant to the matters at issue.

7. The referees shall, as soon as may be after the hearing or after determining a case summarily, report to the Minister the decision at which they have arrived. [2486]

THIRD SCHEDULE

Forms for use in proceedings before Tribunal

FORM 1

Notice to the respondent of intention to hold inquiry

In the matter of a*

and

In the matter of the National Health Service Act, 1946.

To of

Take notice that a representation has been made by of to the Tribunal that your continued inclusion in the † list of the Executive Council would be prejudicial to the efficiency of the ‡ services provided under Part IV of the Act, and that it is proposed to hold an inquiry with respect to the above representation.

A statement of the alleged facts and grounds on which the above representation is based will be sent to you as soon as possible, and notice of the date appointed for the holding of the inquiry will follow in due course.

A copy of the National Health Service (Service Committees and Tribunal) Regulations, 1948, is enclosed herewith for your information.

Signed,

Clerk of the Tribunal.

Dated .....

*State whether respondent is a medical or dental practitioner or chemist.
†State whether medical, pharmaceutical or dental list.
‡State whether general medical, pharmaceutical or general dental.

FORM 2

Notice to complainant of intention to hold inquiry

In the matter of a*

and

In the matter of the National Health Service Act, 1946.

To of

Take notice that it is proposed to hold an inquiry with respect to the representation dated the day of 19 , made by you to the Tribunal to the effect that the continued inclusion of the above-named respondent in the ‡ list of the Executive Council would be prejudicial to the efficiency of the § services provided under Part IV of the Act.

You are hereby required within days after receipt of this notice to set out on the accompanying form—

(*a*) a concise statement of the alleged facts and grounds on which your said representation is based; and

(*b*) a list of all the documents (if any) which you propose to put in evidence at the inquiry.

and to forward the form to me.

Notice of the day appointed for the holding of the inquiry will be sent to you in due course.

A copy of the National Health Service (Service Committees and Tribunal) Regulations, 1948, is enclosed herewith for your information.

Signed

Clerk of the Tribunal.

Dated .....

*State whether respondent is a medical or dental practitioner or chemist.
‡State whether medical, pharmaceutical or dental.
§State whether general medical, pharmaceutical or general dental.

FORM 2A

Statement of complaint

In the matter of a*

and

In the matter of the National Health Service Act, 1946.
To the Clerk of the Tribunal,

The facts and grounds on which the representation made by me with respect to the above-named is based, are as follows :—

[Here set out concise statement of facts and grounds.]

The following is a list of all the documents which I propose to put in evidence :—

[Here set out list of documents.]

Signed

Dated .....

*State whether respondent is a medical or dental practitioner or chemist.

FORM 3

Notice to respondent of alleged facts and grounds on which representation is based

In the matter of a*

and

In the matter of the National Health Service Act, 1946.

To of

With reference to the representation made by of concerning you (of which representation due notice was given to you dated the day of 19) I am directed by the Tribunal to send you a copy of the statement of complaint received by the Tribunal from the said setting out the alleged facts and grounds on which the said representation is based, together with a list of all documents proposed to be put in evidence by him.

You may if you so desire, inform the Tribunal, by statement in writing addressed to me within days after receipt of this notice, whether you admit or dispute the truth of all or any of the allegations appearing in the statement of complaint.

You are further entitled to inspect any of the documents mentioned in the above list, either personally or by an agent authorised in writing, on giving due notice to the above-named and, by applying to the Tribunal for that purpose, to receive copies of any of the said documents.

Signed

Clerk of the Tribunal.

Dated .....

*State whether respondent is a medical or dental practitioner or chemist.

FORM 4

Notice to complainant or respondent of day appointed for holding of inquiry

In the matter of a*

and

In the matter of the National Health Service Act, 1946.

To of

With further reference to the representation made by you with respect to the above-named respondent by of with respect to you.

Take notice that the Tribunal will on day the day of 19 , at a.m. / p.m. at hold an inquiry to investigate the said representation.

You are hereby informed that if you do not attend on the date at the time and place appointed for the inquiry, the Tribunal may proceed to hold the inquiry in your absence.

Signed

Clerk of the Tribunal.

Dated .....

*State whether respondent is a medical or dental practitioner or chemist.

FORM 5

Notice of inquiry to be sent to any Executive Council which is not the complainant

In the matter of a*

and

In the matter of the National Health Service Act, 1946.
To the Executive Council for

Take notice that a representation has been made by of to the Tribunal to the effect that the continued inclusion of the above-named respondent in the † list of the Executive Council would be prejudicial to the efficiency of the ‡ services provided under Part IV of the said Act.

You are hereby informed that an inquiry to investigate the said representation will be held by the Tribunal on day the day of 19 , at a.m. at and p.m. that you are entitled to appear and take such part in the proceedings as the Tribunal shall think proper.

A copy of the statement of complaint is enclosed for your information.

Signed

Clerk of the Tribunal.

Dated .....

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*State whether respondent is a medical or dental practitioner or chemist.
†State whether medical, pharmaceutical or dental.
‡State whether general medical, pharmaceutical or general dental. [2487]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the regulations, but is intended to indicate their general purport.*)

The regulations provide for disciplinary matters and the determination of disputes arising in connection with the provision of general medical and dental services and pharmaceutical services under Part IV of the National Health Service Act 1946. *Provision is made for the constitution by an Executive Council of service committees, for their investigation of complaints and for the action which may be taken against practitioners on such complaints. In certain cases it is provided that disputes may be referred to Local Medical or Dental Committees. The regulations include provisions governing the procedure before the Council, the service committees, and the Local Medical and Dental Committees, and for appeals against the decisions of these bodies.*

The regulations further prescribe the procedure to be followed in the hearing of representations for the removal of a practitioner or chemist from a list under section 42 *of the Act.*

NATIONAL HEALTH SERVICE (TRANSFER OF LOCAL AUTHORITY FUNCTIONS) REGULATIONS, 1948

S.I. 1948 *No.* 567

March 19 1948

The Minister of Health in pursuance of the powers conferred on him by section 69 of the National Health Service Act, 1946, hereby makes the following regulations :—

1. These regulations may be cited as the National Health Service (Transfer of Local Authority Functions) Regulations, 1948, and shall come into force on the first day of April, 1948. [2488]

2.—(1) In these regulations the following expressions have the meanings hereby assigned to them :—

" the Act " means the National Health Service Act, 1946 ;

" the Minister " means the Minister of Health ;

" Council " means the Common Council of the City of London, the Council of a Metropolitan Borough or the Council of a county district ;

" appointed day " means the 5th day of July, 1948.

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [2489]

3.—(1) Subject to the provisions of these regulations there shall on the appointed day be transferred to and vest in the local health authority by virtue of these regulations all property and liabilities held by a Council, or to which a Council is subject, immediately before the appointed day being property or liabilities held or incurred solely for the purpose of carrying out functions which by virtue of the Act are transferred from the Council to the local health authority.

(2) The property and liabilities transferred as aforesaid shall include the unexpended balances of any loans raised by the Council solely for the said purpose and any sinking fund established by the Council in connection with any such loan.

(3) The local health authority and the Council may agree that, in lieu of a transfer of a loan, the local health authority shall from time to time repay to the Council all sums required to meet the loan charges ; and in the event of any such agreement being made the loan and any such sinking fund as aforesaid shall not be transferred to the local health authority.

(4) This regulation shall not apply to rights and liabilities arising under contracts for the rendering of personal services or to rights and liabilities arising under any enactment scheme or contract for the payment of superannuation benefits. [2490]

4.—(1) If not later than six weeks before the appointed day a Council or a local health authority submit to the Minister a representation in writing that it is inexpedient that any property or liability should be transferred to the local health authority under regulation 3 the provisions of that regulation shall not apply to such property or liability until the Minister by order so determines.

(2) Where any such representation as aforesaid is made the Minister may by order determine either that the provisions of regulation 3 shall apply to the property or liability as from the date of the order or that, subject to such conditions as he may thereby impose, the property or liability shall not be transferred. [2491]

5.—(1) Where immediately before the appointed day any property is held by a Council or a Council is subject to any liability, and the property or

liability is held or incurred partly for the purpose of carrying out functions which by virtue of the Act are transferred from the Council to the local health authority and partly for some other purposes, the Council and the authority may make agreements for the purpose of adjusting such property or liability and the agreements may provide for the transfer or retention of any property or liability with or without conditions and for the joint use of any property on such terms as may be agreed.

(2) In default of agreement as to any matter requiring adjustment under this regulation such adjustment shall be made in such manner as the Minister may by order direct. [2492]

6. The Minister may, at the request of the local health authority to which or the Council from which, any property or liability is transferred by virtue of regulation 3 of these regulations, by order amend any document relating to the said property or liability to such extent as appears to the Minister to be necessary for the purposes of the transfer. [2493]

7. Any proceedings with respect to any property or liability transferred to a local health authority by virtue of regulation 3 of these regulations or any functions transferred from a Council to a local health authority by virtue of the Act and pending on the appointed day shall not be prejudicially affected by these regulations or by the Act and any such proceedings may be amended in such manner as may appear necessary or proper for enabling them to be prosecuted and enforced by or against the local health authority. [2494]

8. Subject to the provisions of regulation 3 (4) all agreements made or any other acts done by or in relation to a Council for the purpose of carrying out functions which on the appointed day are transferred to a local health authority shall be of full force and effect against or in favour of the local health authority and may be enforced as fully and effectually as if, instead of the Council, the local health authority had been a party thereto. [2495]

9. Save as otherwise provided, any question arising under these regulations shall in default of agreement be determined by the Minister. [2496]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

The Regulations make provision consequential on and supplementary to the transfer of functions, by virtue of the National Health Service Act, 1946, *from the Common Council of the City of London, the Councils of Metropolitan Boroughs, and the Councils of County Districts to local health authorities, and in particular for the transfer to local health authorities of property and liabilities held or incurred for the purposes of those functions.*

NATIONAL HEALTH SERVICE (CENTRAL HEALTH SERVICES COUNCIL AND STANDING ADVISORY COMMITTEES) REGULATIONS, 1948

S.I. 1948 *No.* 575

March 19, 1948

The Minister of Health in exercise of his powers under paragraph 2 of the First Schedule to the National Health Service Act, 1946, hereby makes the following regulations :—

1. These regulations may be cited as the National Health Service (Central

Health Services Council and Standing Advisory Committees) Regulations, 1948, and shall come into operation on the first day of April, 1948. [2497]

2.—(1) In these regulations unless the context otherwise requires the following expressions have the respective meanings hereby assigned to them :—

" the Minister " means the Minister of Health ;

" Council " means the Central Health Services Council ;

" Advisory Committee " means a Standing Advisory Committee constituted under section 2 of the Act ;

" appointed member " in relation to the Council means a person who is a member of the Council otherwise than by virtue of holding one of the offices referred to in paragraph 1 of the First Schedule to the Act ; and

" the Act " means the National Health Service Act, 1946.

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [2498]

3. One third (as near as may be) of the original appointed members of the Council shall go out of office on the thirty-first day of March, 1950, another third (as near as may be) on the thirty-first day of March, 1951, and the remainder on the thirty-first day of March, 1952. [2499]

4.—(1) A person appointed to be a member of an Advisory Committee by reason of his membership of the Council and his experience in the service with which the Committee is concerned shall, subject to regulation 5 (2), hold office for so long as his membership of the Council continues :

Provided that for the purpose of this paragraph such a member of the Council shall not be deemed to discontinue his membership thereof if on the termination of his period of office as a member of the Council he is reappointed thereto.

(2) Of the original members of an Advisory Committee, other than those to whom paragraph (1) of this regulation relates, one third (as near as may be) shall be appointed for a period ending on the thirty-first day of March in the second year following the year in which the Committee is constituted, another third (as near as may be) for a period ending on the thirty-first day of March in the third year, and the remainder on the thirty-first day of March in the fourth year. [2500]

5.—(1) Subject as in these regulations provided, the appointed members of the Council and the members of any Advisory Committee shall be appointed for a period expiring on the thirty-first day of March in the third year following the year in which they are appointed.

(2) Any appointed member of the Council or any member of an Advisory Committee may resign on giving notice in writing to the Minister.

(3) A person appointed to fill a casual vacancy shall hold office for the remainder of the period for which his predecessor was appointed.

(4) Any member shall on the expiration of his term of office, be eligible for re-appointment. [2501]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Regulations, but is intended to indicate their general purport.*)

The regulations prescribe the periods for which members of the Central Health Services Council (other than the ex-officio members) and of any Standing Advisory Committee constituted under the National Health Service Act, 1946, *are to be appointed.*

NATIONAL HEALTH SERVICE (DESIGNATION OF TEACHING HOSPITALS (NO. 1)) ORDER, 1948

S.I. 1948 *No.* 656

March 24, 1948

General note.—This order has been amended by the inclusion of the Chesterton Hospital, Cambridge, in the United Cambridge Hospitals mentioned in the Schedule to the present order, (see S.I. 1948 No. 1579, *post*). As to further designations of hospitals as teaching hospitals, see S.I. 1948 Nos. 979 and 1920, *post*.

Whereas by section 11 (8) of the National Health Service Act, 1946, it is provided that the Minister of Health may after consultation with the university concerned designate as a teaching hospital any hospital or group of hospitals which appears to him to provide for any university facilities for undergraduate or post-graduate clinical teaching;

And whereas each of the groups of hospitals mentioned in the second column of the Schedule hereto appears to the Minister to provide facilities for undergraduate or post-graduate clinical teaching for the university mentioned in the third column of the said Schedule opposite to the group:

Now therefore the Minister, in exercise of his powers under section 11 (8) of the National Health Service Act, 1946, and after consultation with the universities concerned, hereby orders as follows:—

1. This order may be cited as the National Health Service (Designation of Teaching Hospitals (No. 1)) Order, 1948, and shall come into operation on the date hereof. [2502]

2. Each of the groups of hospitals set out in the second column of the Schedule hereto is hereby designated as a teaching hospital and shall be known by the name inserted in the first column of the Schedule opposite thereto. [2503]

SCHEDULE

Title (1)	Hospital or Group of Hospitals (2)	University (3)
The United Newcastle-upon-Tyne Hospitals	The Royal Victoria Infirmary, Newcastle-upon-Tyne (including the Castle Hill Convalescent Home, Wylam-on-Tyne, Northumberland). The Princess Mary Maternity Hospital, Newcastle-upon-Tyne. The Babies' Hospital, Newcastle-upon-Tyne. The Newcastle-upon-Tyne Dental Hospital.	The University of Durham
The United Leeds Hospitals	The General Infirmary at Leeds (including the Ida and Robert Arthington Branch Hospital, Cookridge, near Leeds, and the Roundhay Hall Annexe, Leeds, but excluding the Castleford, Normanton and District Branch Hospital, Castleford, Yorkshire). The Maternity Hospital at Leeds. The Hospital for Women at Leeds. The University of Leeds Dental Hospital.	The University of Leeds

Title (1)	Hospital or Group of Hospitals (2)	University (3)
The United Sheffield Hospitals	The Royal Sheffield Infirmary and Hospital (including the Sheffield Royal Hospital and the Fulwood Annexe, the Sheffield Royal Infirmary and the Edgar Allen Institute, Sheffield). The Jessop Hospital for Women, Sheffield (including the Firth Auxiliary Hospital, Norton, Sheffield). The Children's Hospital, Sheffield (including the Children's Hospital Annexe, Tapton Crescent Road, Sheffield).	The University of Sheffield
The United Cambridge Hospitals	Addenbrooke's Hospital, Cambridge (including Addenbrooke's Home of Recovery and Charlotte Rebecca Waley Home of Rest for Nurses, Hunstanton). The County Hospital, Mill Road, Cambridge. The Cambridge Borough Isolation Hospital.	The University of Cambridge
The United Oxford Hospitals	The Radcliffe Infirmary, Oxford (including the Sunnyside Recovery Home, Headington, Oxford, and the Osler Pavilion, Oxford but excluding the Didcot and District Hospital). The Churchill Hospital, Oxford. The Oxford Eye Hospital. The Cowley Road Hospital, Oxford. The City Isolation Hospital, The Slade, Headington, Oxford (including the Old Isolation Hospital, Cold Arbour, Oxford, and the Garsington Smallpox Hospital, Oxford).	The University of Oxford
The United Bristol Hospitals	The Bristol Royal Hospital (including the Bristol Royal Infirmary, the Bristol General Hospital and the Cerne Abbas Convalescent Home, Bournemouth). The Bristol Maternity Hospital. The Bristol Royal Hospital for Sick Children and Women (including the Jan Smuts Convalescent Home, Burnham-on-Sea, Somerset). The Bristol Eye Hospital. The Queen Victoria Jubilee Convalescent Home, Bristol.	The University of Bristol
The United Cardiff Hospitals	The Cardiff Royal Infirmary (including the William Nicholls Convalescent Home, St. Mellons, Monmouthshire). The Llandough Hospital, Cardiff. The Lord Pontypridd Hospital, Dulwich House, Cardiff.	The University of Wales

Title (1)	Hospital or Group of Hospitals (2)	University (3)
The United Birmingham Hospitals	The Birmingham United Hospital (including the General Hospital, Birmingham, the Queen Elizabeth Hospital, Birmingham and the Jaffray Branch Hospital, Erdington, Birmingham). The Children's Hospital (King Edward VII Memorial), Birmingham (including St. Cuthbert's Hospital, Malvern, Worcestershire). The Midland Nerve Hospital, Birmingham. The Birmingham Dental Hospital. The Birmingham and Midland Hospitals for Women (including the Hospital for Women, Birmingham, the Maternity Hospital, Birmingham, the Women's Convalescent Home, Sparkhill, Birmingham and the Gertrude Myers Home, Cleeve Prior, Evesham, Worcestershire).	The University of Birmingham
The United Manchester Hospitals	The Manchester Royal Infirmary (including the Central Branch, Roby Street, Manchester, the Private Patients' Home, Royal Infirmary, Manchester, and the Barnes Hospital, Cheadle, Cheshire). St. Mary's Hospitals for Women & Children, Whitworth Park, Manchester (including St. Mary's Maternity Hospital, Whitworth Street, West, Manchester). The Manchester Royal Eye Hospital. The Dental Hospital of Manchester. The Manchester Foot Hospital.	The University of Manchester
The United Liverpool Hospitals	The Royal Liverpool United Hospital (including the Liverpool Royal Infirmary, the David Lewis Northern Hospital, Liverpool, the Royal Southern Hospital, Liverpool and the Liverpool Stanley Hospital). The Women's Hospital, Liverpool (including the Hospital for Women, Shaw Street, Liverpool and the Samaritan Hospital for Women, Liverpool). The Liverpool Maternity Hospital (including the Hesketh Annexe, Southport). The Royal Liverpool Children's Hospital (including the City Branch, Myrtle Street, Liverpool, the Heswall Branch, Heswall, Cheshire and the Thingwall Branch, Thingwall Hall, Barnston, Birkenhead). The Liverpool Eye, Ear and Throat Infirmary. St. Paul's Eye Hospital, Liverpool. The Liverpool Dental Hospital. The Liverpool Convalescent Home, Woolton, Liverpool.	The University of Liverpool

[2504]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This order is made by the Minister of Health under section 11 (8) *of the National Health Service Act,* 1946 *for the purpose of designating certain hospitals and groups of hospitals outside the Metropolitan Area as teaching hospitals.*

NATIONAL HEALTH SERVICE (APPORTIONMENT AND TRANSFER) REGULATIONS, 1948

S.I. 1948 *No.* 888

April 27, 1948

The Minister of Health, in exercise of the powers conferred upon him by sections 6 (5), 7 (9) and 9 (8) of the National Health Service Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

PART I

General

1. These regulations may be cited as the National Health Service (Apportionment and Transfer) Regulations, 1948, and shall come into operation on the first day of May, 1948. [2505]

2.—(1) In these regulations, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them :—

" the Act " means the National Health Service Act, 1946 ;

" the appointed day " means the fifth day of July, 1948 ;

" the apportionment date " means the date of the agreement or of the award of the arbitrator under Part IV of these regulations ;

and other expressions used in these regulations have the same meaning as in the Act.

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [2506]

PART II

Provisions relating to the apportionment, transfer and vesting of property and liabilities under section 6 *of the Act*

3. Any interests in premises, other than workhouse premises, used partly for the purposes of any hospital to which section 6 of the Act applies and partly for other purposes shall be apportioned between the Minister and the other person or persons concerned according to the extent to which such premises are used for each of such purposes. [2507]

4. On the apportionment date or the appointed day, whichever shall be the later, the appropriate interests determined by the apportionment shall, without the necessity of any deed, transfer, assignment or other instrument (other than the agreement or the award of the arbitrator under these regulations), vest in the Minister and the other person or persons concerned. [2508]

5.—(1) On the apportionment under this part of these regulations of a leasehold interest, if the lease does not reserve separate rents for the several parts of the premises, the rent shall be apportioned between the apportioned

parts of the premises according to their value and the covenants on the lessee's part and the conditions contained in the lease shall be severed.

(2) After the apportionment date or the appointed day, whichever shall be the later, the non-payment of rent or the breach of a covenant or condition by the person or persons (other than the Minister) to whom a part of the premises has been apportioned shall not give rise to any claim against the Minister or to any right or remedy against or in respect of the part of the premises apportioned to the Minister and the non-payment of rent or the breach of any covenant or condition by the Minister or his successors in title shall not give rise to any claim against, or to any right or remedy against or in respect of the part of the property apportioned to, such other person or persons.

(3) Save as aforesaid, nothing contained in these regulations shall prejudice or affect any of the rights, powers or remedies which under or by virtue of any such lease or otherwise are conferred on the lessor in respect of the rent reserved by or the premises comprised in the lease, and the same rights, powers and remedies shall continue in full force and shall extend and apply to the apportioned parts of the rent and of the premises as fully as they applied before the apportionment to the whole of the rent and of the premises respectively. [2509]

6. Any periodical sum (other than rent in respect of an apportioned leasehold interest) payable in respect of any property or liability which is apportioned between the Minister and the other person or persons concerned under this part of these regulations shall be apportioned between the Minister and such other person or persons in the same proportions as the property or liability in respect of which it is payable. [2510]

7.—(1) Any liability (other than a liability mentioned in sub-section (6) of section 6 of the Act) incurred partly for the purposes referred to in sub-section (1) or sub-section (2) of that section and partly for other purposes shall be apportioned between the Minister and the other person or persons concerned according to the extent to which it was incurred for each of such purposes.

(2) Where any liability which is apportioned under the preceding paragraph of this regulation is charged on any property nothing contained in that paragraph shall affect the person entitled to the benefit of such liability and accordingly any apportionment made under that paragraph, or under regulation 6 in respect of a periodical sum payable in respect of a liability apportioned under that paragraph, shall have effect only as between the Minister and the other person or persons concerned and so far as concerns the person entitled to the benefit of the liability (but without prejudice to the rights of the Minister and the other person or persons concerned as between themselves by reason of the apportionment under the preceding paragraph of this regulation or under regulation 6) the liability so charged as aforesaid and any periodical sums payable in respect of such liability shall be apportioned between the Minister and the other person or persons concerned in the same proportions as the property on which it is charged is apportioned under this part or under Part III of these regulations or, if such property is not apportioned under these regulations, shall remain charged thereon in the same manner as if the Act had not been passed.

(3) Where a liability which is charged on property is apportioned under the last preceding paragraph of this regulation then as from the apportionment date or the appointed day, whichever shall be the later—

(*a*) such part only of that liability as is apportioned to the Minister shall be charged on the share of the property apportioned to the Minister, and such part only of the liability as is apportioned to the other

person or persons concerned shall be charged on the share of the property apportioned to such person or persons ;

(*b*) the covenants and conditions contained in the deed or other document creating the liability or charging it on such property as aforesaid shall be severed so that no breach of any covenant or condition on the part of any other person or persons than the Minister shall give rise to any claim against the Minister or to the exercise of any right, power or remedy in respect of the liability or property apportioned to the Minister, and no breach of any covenant or condition on the part of the Minister shall give rise to any claim against such other person or persons or to the exercise of any right, power or remedy in respect of the liability or property apportioned to such person or persons ;

(*c*) save as aforesaid, nothing contained in these regulations shall prejudice or affect any of the rights, powers or remedies which under or by virtue of any deed or document or otherwise are conferred on any person in respect of any liability apportioned under these regulations, and the same rights, powers and remedies shall continue in full force and apply to the apportioned parts of the liability and the apportioned parts of the property as fully as they applied before the apportionment to the whole of the liability and the whole of the property respectively. [2511]

8. Any apportionment made under this part of these regulations shall take effect on the apportionment date or the appointed day, whichever shall be the later, and shall save as is otherwise expressly provided be binding upon the person or persons entitled to the benefit of any liability which is apportioned. [2512]

9.—(1) There shall, on the appointed day, be transferred to and vested in the Minister without the necessity of any deed, transfer, assignment or other instrument, any interests held solely for the purposes of two or more voluntary hospitals to which section 6 of the Act applies in premises used for the purposes of those hospitals, and any property and liabilities which would, if the interests were held and the premises used solely for the purposes of one such hospital, be transferred to the Minister under sub-section (1) of that section.

(2) Any interest in premises, and any rent, periodical sum or liability which is used or held or has been incurred partly for the purposes of two or more voluntary hospitals to which section 6 of the Act applies and partly for other purposes and which would be directed to be apportioned under this part of these regulations if it were used or held or had been incurred partly for the purpose of one such voluntary hospital and partly for other purposes shall be apportioned between the Minister and the other person or persons concerned in the same manner and with the like consequences as if it had been used, held or incurred partly for the purposes of one such voluntary hospital and partly for other purposes. [2513]

10. Any property transferred to the Minister under this part of these regulations shall vest in him free of any trust existing immediately before the appointed day and the Minister may use any such property for the purpose of any of his functions under the Act but shall so far as practicable secure that the objects for which any such property was used immediately before the appointed day are not prejudiced by the provisions of this regulation. [2514]

11.—(1) Where any interests in premises fall to be apportioned under this part of these regulations and have not been apportioned before the

appointed day, then as from that day (but without prejudice to any subsequent apportionment)—

(*a*) such parts of the premises as were immediately before the appointed day used mainly for hospital purposes shall, pending apportionment, be controlled and managed by the appropriate hospital authority as if those parts of the premises formed part of or were used for the purposes of a hospital transferred on the appointed day to the Minister by virtue of the Act, and the appropriate hospital authority may exercise in respect of those parts of the premises all such functions as would be exerciseable by them if those parts of the premises formed part of or were used for the purposes of a hospital transferred as aforesaid.

(*b*) such parts of the premises as were immediately before the appointed day used mainly for purposes other than hospital purposes shall, pending apportionment, be controlled and managed by the persons who, if the premises were used solely for purposes other than hospital purposes, would be entitled to the control and management thereof:

Provided that:

(*i*) in any case falling within sub-paragraph (*a*) of this paragraph the appropriate hospital authority shall, so far as practicable and to the satisfaction of the Minister, afford to the other person or persons concerned the like accommodation and facilities as were immediately before the appointed day available for purposes other than hospital purposes.

(*ii*) in any case falling within sub-paragraph (*b*) of this paragraph the other person or persons concerned shall, so far as practicable and to the satisfaction of the Minister, afford to the appropriate hospital authority such accommodation and facilities as were immediately before the appointed day available for hospital purposes.

(2) The question whether any part of any premises falls within sub-paragraph (*a*) or sub-paragraph (*b*) of the preceding paragraph of this regulation shall, in default of agreement between the appropriate hospital authority and the other person or persons concerned, be determined by the Minister.

(3) (*a*) Where it is agreed between the Minister and the other person or persons concerned that any premises were immediately before the appointed day used partly for the purposes of any hospital to which section 6 of the Act applies and partly for other purposes this regulation shall apply notwithstanding (but without prejudice to) any dispute which relates only to the extent of the interests to be vested, on apportionment, in the Minister and such other person or persons.

(*b*) This regulation shall not apply in respect of any premises if it is disputed that the interests in those premises fall to be apportioned under these regulations.

(4) The appropriate hospital authority who, by virtue of this regulation have the control and management of any parts of any premises shall, in respect of the period from the appointed day to the apportionment date, be responsible for the maintenance of those parts of those premises and for the payment of such proportion of any rent and other outgoings due in respect of the whole of the premises as may be agreed between the appropriate hospital authority and the other person or persons concerned or as may, in default of agreement, be determined by arbitration.

(5) For the purpose of this regulation, "appropriate hospital authority" means, in relation to a teaching hospital, the Board of Governors of that hospital, and in relation to a hospital other than a teaching hospital, the

Regional Hospital Board for the area acting (to the extent specified in the National Health Service (Functions of Regional Hospital Boards, etc.) Regulations, 1948) through the agency of the Hospital Management Committee for the hospital or for the group of hospitals of which the hospital forms part. [2515]

PART III

Provisions relating to the apportionment transfer and vesting of property and liabilities under section 7 of the Act

12. In this part of these regulations, unless the context otherwise requires, "hospital authority" used in relation to any property or to any right or liability relating to property means the Minister or the Board of Governors of a teaching hospital or the Hospital Management Committee to whom the property would have been transferred if it had been an endowment within the meaning of the Act. [2516]

13. Any property held by the governing body of a voluntary hospital to which section 7 of the Act applies partly for the purposes of that hospital and partly for other purposes, being property which would, if it were held solely for the purposes of the hospital, constitute an endowment of that hospital shall, unless a direction requiring the disposal of such property is given by the Minister under regulation 21, be apportioned between the hospital authority and the other person or persons concerned according to the extent to which such property is held for each of such purposes. [2517]

14. On the apportionment date or the appointed day, whichever shall be the later, the appropriate shares determined by the apportionment shall, without the necessity of any deed, transfer, assignment or other instrument (other than the agreement or the award of the arbitrator under these regulations), vest in the hospital authority and the other person or persons concerned. [2518]

15. On an apportionment under this part of these regulations of the reversion expectant on the term granted by a lease the rent shall be apportioned in the same proportions as the reversionary estate in the land and from the apportionment date or the appointed day, whichever shall be the later, an apportioned part of the rent and the benefit of every covenant condition and provision relating to the subject matter of the lease (but in the case of the covenant for the payment of rent only to the extent of the apportioned rent) shall be annexed and incident to and go with the reversionary estate in each apportioned part of the land expectant on the terms granted by the lease. [2519]

16. On the apportionment under this part of these regulations of any moneys secured by covenant the covenant shall after the apportionment date or the appointed day, whichever shall be the later, have effect as separate covenants relating to the shares into which the money is apportioned. [2520]

17.—(1) On the apportionment under this part of these regulations of a leasehold interest in property, if the lease does not reserve separate rents for the several parts of the property, the rent shall be apportioned between the apportioned parts of the property according to their value and the covenants on the lessee's part and the conditions contained in the lease shall be severed.

(2) After the apportionment date or the appointed day, whichever shall be the later, the non-payment of rent or the breach of a covenant or condition by the person or persons (other than the hospital authority) to whom a part of the property has been apportioned shall not give rise to any claim

against the hospital authority or to any right or remedy against or in respect of the part of the property apportioned to the hospital authority, and the non-payment of rent or the breach of any covenant or condition by the hospital authority or their successors in title shall not give rise to any claim against, or to any right or remedy against or in respect of the part of the property apportioned to, such other person or persons.

(3) Save as aforesaid, nothing contained in these regulations shall prejudice or affect any of the rights, powers or remedies which under or by virtue of any such lease or otherwise are conferred on the lessor in respect of the rent reserved by or the property comprised in the lease, and the same rights, powers and remedies shall continue in full force and shall extend and apply to the apportioned parts of the rent and of the property as fully as they applied before the apportionment to the whole of the rent and of the property respectively. [2521]

18. Any periodical sum (other than rent in respect of an apportioned leasehold interest) payable in respect of any property which is apportioned between the hospital authority and the other person or persons concerned under this part of these regulations shall be apportioned between the hospital authority and the other person or persons concerned in the same proportions as the property in respect of which it is payable. [2522]

19.—(1) Any right or liability acquired or incurred for the purposes of managing any property which is apportioned between the hospital authority and the other person or persons concerned under this part of these regulations, shall, unless such liability is charged on such property, be apportioned between the hospital authority and the other person or persons concerned in the same proportions as the property for the management of which such right or liability was acquired or incurred.

(2) Any liability charged on any property which is apportioned between the hospital authority and the other person or persons concerned under this part of these regulations shall be apportioned between the hospital authority and the other person or persons concerned in the same proportions as the property on which it is charged.

(3) Where any liability which is charged on property is apportioned under the last preceding paragraph of this regulation then as from the apportionment date or the appointed day, whichever shall be the later—

(*a*) such part only of that liability as is apportioned to the hospital authority shall be charged on the share of the property apportioned to the hospital authority, and such part only of the liability as is apportioned to the other person or persons concerned shall be charged on the share of the property apportioned to such person or persons ;

(*b*) the covenants and conditions contained in the deed or other document creating the liability or charging it on such property as aforesaid shall be severed so that no breach of any covenant or condition on the part of any other person or persons than the hospital authority shall give rise to any claim against the hospital authority or to the exercise of any right, power or remedy in respect of the liability or property apportioned to the hospital authority, and no breach of any covenant or condition on the part of the hospital authority shall give rise to any claim against such other person or persons or to the exercise of any right, power or remedy in respect of the liability or property apportioned to such other person or persons ;

(*c*) save as aforesaid, nothing contained in these regulations shall prejudice or affect any of the rights, powers or remedies which under or by virtue of any deed or document or otherwise are conferred on any person in respect of any liability apportioned under these

regulations, and the same rights, powers and remedies shall continue in full force and apply to the apportioned parts of the liability and the apportioned parts of the property as fully as they applied before the apportionment to the whole of the liability and the whole of the property respectively. [2523]

20. Any apportionment made under this part of these regulations shall take effect on the apportionment date or the appointed day, whichever shall be the later, and shall be binding upon the person or persons entitled to the benefit of any liability which is apportioned. [2524]

21.—(1) In lieu of the apportionment of property to which this part of these regulations refers, the Minister may, by a direction given under this regulation, require the persons who, prior to the appointed day, were the governing body of a voluntary hospital to dispose of such property.

(2) Any such direction may require the persons to whom it is given—

(*a*) to sell the property, whether in consideration of a capital sum or of a rent charge or other similar periodical payment; or

(*b*) to exchange the property, either with or without receiving any money for equality of exchange;

and may contain such provisions incidental to or consequential on the requirement to dispose of the property as appear to the Minister to be necessary or expedient.

(3) The persons required to dispose of property by a direction given by the Minister under this regulation shall have power to dispose of such property as directed by the Minister notwithstanding that the property is held for charitable purposes, or is subject to a restraint on alienation, and without the necessity of obtaining any order, consent or approval which apart from these regulations would be necessary for the purposes of the transaction.

(4) When any property is disposed of pursuant to a direction given by the Minister under this regulation the proceeds (including any property taken in exchange), after deduction of any costs and expenses properly incurred in connection with the transaction, shall be apportioned between the hospital authority and the other person or persons concerned in the same proportions as the property would have been apportioned but for the direction under this regulation. [2525]

22.—(1) Any property (including the benefit of any rent or other periodical sum) apportioned—

(*a*) to the Minister, shall vest in him free of any trust existing immediately before the appointed day and shall be transferred by him to the Hospital Endowments Fund;

(*b*) to the Board of Governors of a teaching hospital, shall vest in the Board free of any trust existing immediately before the appointed day, and shall be held by the Board on trust for such purposes relating to hospital services or to the functions of the Board under Part II of the Act with respect to research as the Board think fit, and the Board may dispose of the whole or any part of such property and hold the proceeds thereof on trust for any of the said purposes;

(*c*) to a Hospital Management Committee, shall vest in that Committee free of any trust existing immediately before the appointed day, and shall be held by the Committee on trust for such purposes relating to hospital services or to the functions of the Committee under Part II of the Act with respect to research as the Committee think fit, and the Committee may dispose of the whole or any part of such property and hold the proceeds thereof on trust for any of the said purposes.

(2) Every Board of Governors and Hospital Management Committee shall, in the case of any property apportioned to them under these regulations, and the Minister shall, in the case of any property apportioned to him and transferred to the Hospital Endowments Fund under these regulations, secure, so far as is reasonably practicable, that the objects for which the property was held immediately before the appointed day and the observance of any conditions attaching to the property, including in particular conditions intended to preserve the memory of any person or class of persons, are not prejudiced by the provisions of this regulation. [2526]

PART IV

Methods of apportionment

23. Any apportionment directed to be made under Part II or Part III of these regulations shall be made—

(*a*) by agreement in writing between the Minister, the Board of Governors of the teaching hospital, or the Hospital Management Committee and the other person or persons concerned ; or

(*b*) failing such agreement, by arbitration. [2527]

24.—(1) The Minister, the Board of Governors of a teaching hospital, a Hospital Management Committee and any other person or persons concerned shall have power to enter into agreements for the purposes of regulation 23, and, notwithstanding that the property to which such agreement relates is held for charitable purposes, or is subject to a restraint on alienation, any such agreement shall be valid without the necessity of obtaining any order, consent or approval which apart from these regulations would be necessary for the purposes of the transaction.

(2) Any such agreement may provide for the transfer or retention of any interest in premises or other property or of any rent liability or periodical or other sum or any part thereof with or without any conditions reservations exceptions or restrictions and for the joint use of any premises or other property and for the payment to or by any party of a capital or periodical sum and may include such other provisions as may be necessary or expedient for effecting the apportionment. [2528]

25. The arbitrator shall have power to determine any question arising as to any matters referred to in these regulations and to provide in his award for any matter for which an agreement might have provided and which the arbitrator considers fair and reasonable and necessary to give effect to the apportionment directed to be made by these regulations. [2529]

PART V

Supplementary and consequential provisions

26. The Minister may, in respect of any hospital which appears to him to be, or to be likely to be, within the provisions of Part II of the Act relating to the transfer of property and liabilities, require the governing body or trustees of that hospital, or the local authority in whom that hospital is vested, to deliver to him, or to such person or persons as he may specify, within such reasonable time as he may require, a statement setting out full particulars of all interests in or attaching to premises and of all property, endowments, rights and liabilities held used or incurred, whether solely or partly, for the purposes of that hospital, and may require such further information to be supplied (including plans, title deeds, securities, contracts and other documents) as may appear to him to be necessary in connexion with the said provisions relating to the transfer of property and liabilities. [2530]

27. In the construction and for the purposes of any Act of Parliament, judgment, decree, order, award, deed, contract or other document passed or made in relation to, but before the date of the vesting of, any property or liabilities transferred under Part II of the Act or under these regulations, the name of the Minister or the other person or persons to whom the property or liabilities is or are transferred, shall be deemed to be substituted, in respect of the transferred property or liabilities so transferred, for the name of the person or persons entitled or subject thereto immediately before such transfer. [2531]

28.—(1) Where any property vested in or transferred to the Minister or any other person or persons by virtue of the Act or under these regulations consists of any stock standing, immediately before the appointed day, in the books of a company in the name of a governing body of a voluntary hospital, or of trustees, or of a local authority, it shall be obligatory upon the company, on production to it of a certificate signed by the Minister, or by a person authorised to act on his behalf, to transfer the stock into the name of, and to pay the dividends in respect thereof to, the Minister, the Board of Governors, the Hospital Management Committee, or the other person or persons named in the certificate.

(2) In this regulation the expression :—

"company" includes the Bank of England and any company or person keeping books in which any stock is registered or inscribed ;

"stock" includes any share annuity or other security. [2532]

29. Any proceedings affecting any property or liabilities transferred under the aforesaid provisions of Part II of the Act or under these regulations, and pending at the date of such transfer, shall not be prejudicially affected by reason of the Act or these regulations or of anything done thereunder, but any such proceedings may be amended in such manner as may appear necessary or proper for enabling them to be prosecuted and enforced by or against the Minister, the Board of Governors of a teaching hospital, the Hospital Management Committee or any other person or persons concerned as the case may be. [2533]

30. Any question as to whether any property or liability will be or has been transferred under the provisions of Part II of the Act relating to the transfer of property and liabilities, or as to whether any property or liability falls to be apportioned under these regulations or as to the person to whom it will be or has been transferred shall, in default of agreement, be determined by arbitration. [2534]

31.—(1) If after the appointed day an arbitration under the last preceding regulation is pending in relation to any property or liabilities then, while such arbitration is pending, such property shall be maintained and such liabilities as they fall due shall be discharged by the person or persons who maintained the property or discharged the liabilities immediately before the appointed day, but nothing in this provision shall prejudice the right of such person to recover the moneys so expended after the appointed day from the Minister, the Board of Governors of a teaching hospital, or the Hospital Management Committee or the other person or persons in or to whom the property or liabilities are by the award of the arbitrator held to have been vested or transferred on the appointed day.

(2) Except as provided in regulation 11, where any property or liabilities fall to be apportioned under these regulations then, pending apportionment, such property shall be maintained and such liabilities as they fall due shall be discharged by the person or persons who maintained the property or discharged the liabilities immediately before the appointed day. [2535]

32.—(1) For the purposes of the determination of any question which under these regulations is to be determined by arbitration, a panel of persons to act as arbitrators shall be appointed by the Lord Chancellor, and the Lord Chancellor shall nominate two members of the panel as chairman thereof and as deputy chairman respectively.

(2) Any such question as aforesaid shall be determined by the arbitration of such member of the panel as the chairman, or, in the event of the chairman's being temporarily absent or unable to act, the deputy chairman, may select. [2536]

33. Where, after the date on which any property or liability has, by virtue of the Act or under these regulations, been vested in or transferred to the Minister, the Board of Governors of a teaching hospital, a Hospital Management Committee or any such governing body as is referred to in section 8 of the Act, any person retains possession of any document relating to the title to, or to the control or management of, any such property, or relating to any such liability, he shall be deemed to have given to the Minister, the Board of Governors of the teaching hospital, the Hospital Management Committee or governing body concerned, as the case may be, an acknowledgment in writing of the right to production of that document and to delivery of copies thereof, and section 64 of the Law of Property Act, 1925 (which relates to the production and safe custody of documents) shall apply as if the acknowledgment had been given without any such expression of contrary intention as is referred to in sub-section (13) of that section. [2537]

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EXPLANATORY NOTE

(*This Note is not part of the Regulations, but is intended to indicate their general purport.*)

The regulations provide for the apportionment and vesting of interests in premises used partly for hospital purposes and partly for other purposes, and of property which, if held solely for the purposes of a single voluntary hospital, would constitute an "endowment" of that hospital; for the apportionment of rents and other periodical payments payable in respect of transferred property; and for the apportionment of liabilities incurred partly for hospital purposes and partly for other purposes. Provision is also made for the control and management of apportionable premises pending apportionment.

The regulations also provide for the transfer to the Minister of Health of interests in premises and of liabilities held or incurred for the purposes of two or more voluntary hospitals.

Part V of the regulations contains provisions supplementary to or consequential on the transfer and apportionment of property and liabilities, including a provision for arbitration in respect of disputed transfers.

NATIONAL HEALTH SERVICE (DESIGNATION OF TEACHING HOSPITALS (NO. 2)) ORDER, 1948

S.I. 1948 *No.* 979

May 7, 1948

General note.—This order has been amended as regards the Bethlem and Maudsley Hospitals mentioned in the Schedule to the present order by S.I. 1948 No. 1920, *post.* As to other designations of hospitals as teaching hospitals, see S.I. 1948 No. 656, *ante,* and S.I. 1948 No. 1579, *post.*

Whereas by section 11 (8) of the National Health Service Act, 1946, it is provided that the Minister of Health may after consultation with the univer-

sity concerned designate as a teaching hospital any hospital or group of hospitals which appears to him to provide for any university facilities for undergraduate or post-graduate clinical teaching :

And Whereas each of the hospitals or groups of hospitals mentioned in the second column of the Schedule hereto appears to the Minister to provide facilities for undergraduate or post-graduate clinical teaching for the University of London :

Now, therefore, the Minister, in exercise of his powers under section 11 (8) of the National Health Service Act, 1946, and after consultation with the University of London, hereby orders as follows :—

1. This order may be cited as the National Health Service (Designation of Teaching Hospitals (No. 2)) Order, 1948, and shall come into operation on the date hereof. [2538]

2. Each of the hospitals or groups of hospitals set out in the second column of the Schedule hereto is hereby designated as a teaching hospital and shall be known by the name inserted in the first column of the Schedule opposite thereto. [2539]

SCHEDULE

Title (1)	Hospital or Group of Hospitals (2)
The Royal Hospital of St. Bartholomew.	The Royal Hospital of St. Bartholomew, E.C.1 (including the Alexandra Hospital for Children with Hip Disease, and the Zachary Merton Convalescent Home, Northwood).
The London Hospital ..	The London Hospital, E.1 (including the Croft Home, Reigate, the Marie Celeste Annexe, Reigate, the Zachary Merton Annexe, Banstead, the London Hospital Annexe, Brentwood, and the Herman de Stern Convalescent Home, Felixstowe). Queen Mary's Maternity Home, Hampstead, N.W.3.
The Royal Free Hospital ..	The Royal Free Hospital, W.C.1 (excluding the Eastman Dental Clinic). The London Fever Hospital, N.1. The Elizabeth Garrett Anderson Hospital, N.W.1 (including the Rosa Morrison House, New Barnet, and the Garrett Anderson Hospital Maternity Home, Belsize Grove). The Hampstead General and North-West London Hospital, N.W.3. The Children's Hospital, Hampstead, N.W.3. The North Western Hospital (L.C.C.), Hampstead, N.W.3.
University College Hospital	The North London or University College Hospital, W.C.1 (including the Obstetric Hospital and the Royal Ear Hospital, Huntley Street, W.C.1). The Hospital for Tropical Diseases, W.1. St. Pancras' Hospital (L.C.C.), N.W.1.
The Middlesex Hospital ..	The Middlesex Hospital and Cancer Wing, W.1 (including the Middlesex Branch Hospital and Hulke Endowed Convalescent Home, Clacton-on-Sea).

Title (1)	Hospital or Group of Hospitals (2)
The Middlesex Hospital—*cont.*	The Woodside Hospital for Functional Nervous Disorders, N.10 (including the Country Branch, Welders House, Chalfont St. Peter, Bucks).
	The Hospital for Women, Soho Square, W.1.
	The British Red Cross Society's Clinic for Rheumatism, Peto Place, N.W.1.
Charing Cross Hospital ..	Charing Cross Hospital, W.C.2.
	Harrow Hospital, Roxeth Park, Harrow-on-the-Hill.
	Wembley Hospital, Fairview Avenue, Wembley.
St. George's Hospital ..	St. George's Hospital, Hyde Park Corner (including the Atkinson Morley Convalescent Hospital, Wimbledon).
	The Victoria Hospital for Children, S.W.3 (including the Victoria Convalescent Home, Broadstairs).
	The Princess Beatrice Hospital, S.W.5.
	The Royal Dental Hospital of London, W.C.2.
Westminster Hospital ..	Westminster Hospital, S.W.1 (including the Westminster Hospital Convalescent Home, Chartham Park, Sussex, the Westminster Hospital (Parkwood) Convalescent Home, Swanley, Kent, and the Yarrow Home of Westminster Hospital, for Convalescent Children, Broadstairs, Kent).
	The Infants Hospital, S.W.1.
	The Gordon Hospital for Diseases of the Rectum and Colon, S.W.1.
	All Saints' Hospital, S.E.11.
St. Mary's Hospital ..	St. Mary's Hospital, W.2 (including Joyce Grove House, Nettlebed, Oxon., and Adair Lodge, Aldeburgh).
	Paddington Green Children's Hospital, W.2 (including the "Clear Springs" Convalescent Home and the "Pinecroft" Convalescent Home, Lightwater, Surrey).
	The Princess Louise Kensington Hospital for Children, W.10 (including the Convalescent Home, 19–20, South Terrace, Littlehampton).
	The Samaritan Free Hospital for Women, N.W.1.
	The Western Ophthalmic Hospital, N.W.1.
	St. Luke's Hospital for Advanced Cases, W.2.
Guy's Hospital	Guy's Hospital, S.E.1 (including the York Clinic, Nuffield House, and "Holmesdale," Nutfield, Surrey).
	The Evelina Hospital for Sick Children, S.E.1 (including the Eleanor Wemyss Recovery and Convalescent Home, Crazies Hill, near Reading).
King's College Hospital ..	King's College Hospital, S.E.5 (including the Baldwin Brown Convalescent Home, Camberley).
	The Royal Eye Hospital or Royal South London Ophthalmic Hospital, S.E.1 (including the Royal Eye Hospital Branch, Surbiton).
	The Belgrave Hospital for Children (including the Belgrave Hospital Convalescent Home, Minstead, Hants).

Title (1)	Hospital or Group of Hospitals (2)
St. Thomas's Hospital ..	St. Thomas's Hospital, S.E.1.
	The Royal Waterloo Hospital for Children and Women, S.E.1.
	The General Lying-in Hospital, S.E.1.
	The Grosvenor Hospital for Women, S.W.1.
	The Roffey Park Rehabilitation Centre, Horsham, Sussex.
The Hammersmith, West London and St. Mark's Hospitals.	Hammersmith Hospital, W.12.
	West London Hospital, W.6.
	St. Mark's Hospital for Cancer, Fistula, and Other Diseases of the Rectum, E.C.1.
The Hospital for Sick Children.	The Hospital for Sick Children, W.C.1 (including the Tadworth Court Branch Hospital, Tadworth, Surrey, "Runabouts" Convalescent Home, Chipping Norton, Oxon., and the Sarah Louise Convalescent Home, Hove, Sussex).
The National Hospitals for Nervous Diseases.	The National Hospital, Queen Square, W.C.1 (including the National Hospital Convalescent Home, Finchley).
	The Maida Vale Hospital for Nervous Diseases, W.9.
The Royal National Throat, Nose and Ear Hospital.	The Royal National Throat, Nose and Ear Hospital (including the Central London Hospital Division, W.C.1, the Golden Square Hospital Division, W.1, and the Dame Gertrude Young Memorial Convalescent Home, Castle Bar Hill, W.5).
The Moorfields Westminster and Central Eye Hospital.	The Moorfields Westminster and Central Eye Hospital.
The Bethlem and Maudsley Hospitals.	The Bethlem Royal Hospital for Nervous and Mental Disorders, Beckenham.
	The Maudsley Hospital, S.E.5.
St. John's Hospital for Diseases of the Skin.	St. John's Hospital for Diseases of the Skin, W.C.2.
The Hospitals for Diseases of the Chest.	The Hospital for Consumption and Diseases of the Chest, S.W.3 (including the Brompton Hospital Sanatorium, Frimley, Hants).
	The London Chest Hospital, E.2 (including the London Chest Hospital Annexe, Arlesey, Beds.).
The Royal National Orthopaedic Hospital.	The Royal National Orthopaedic Hospital, W.1 (including the Country Branch and Convalescent Branch, Stanmore).
The National Heart Hospital	The National Hospital for Diseases of the Heart, W.1 (including the Country Branch, Maid's Moreton, Bucks).
St. Peter's and St. Paul's Hospitals.	St. Peter's Hospital for Stone and Other Urinary Diseases, W.C.2.
	St. Paul's Hospital for Urological and Skin Diseases, W.C.2.
The Royal Cancer Hospital	The Royal Cancer Hospital (Free), S.W.3.
Queen Charlotte's and Chelsea Hospitals.	Queen Charlotte's Maternity Hospital, W.6.
	The Chelsea Hospital for Women, S.W.3 (including the Chelsea Hospital Convalescent Home, St. Leonards-on-Sea).
The Eastman Dental Clinic	The Eastman Dental Clinic, W.C.1. [2540]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This order is made by the Minister of Health under section 11 (8) *of the National Health Service Act,* 1946, *for the purpose of designating certain hospitals and groups of hospitals in the Metropolitan Area as teaching hospitals.*

NATIONAL HEALTH SERVICE (EXECUTIVE COUNCILS) AMENDMENT REGULATIONS, 1948

S.I. 1948 *No.* 1156

May 31, 1948

The Minister of Health, in exercise of his powers under sections 41 and 79 of and the Fifth Schedule to the National Health Service Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

1.—(1) These regulations may be cited as the National Health Service (Executive Councils) Amendment Regulations, 1948, and these regulations and the National Health Service (Executive Councils) Regulations, 1947 (hereinafter referred to as the " principal regulations ") may be cited together as the National Health Service (Executive Councils) Regulations, 1947 and 1948.

(2) These regulations shall come into operation on the third day of June, 1948. [2541]

2. The principal regulations shall have effect as if the following regulation were added after regulation 6 :—

" 6A. **Vacation of office.**—If a member of the council, being a member appointed by the local health authority, is also a member or officer of that authority, he shall upon ceasing to be a member or officer of the authority, also cease to be a member of the council :

Provided that for the purpose of this regulation a person shall not be deemed to have ceased to be a member of the local health authority, if he has been re-elected a member thereof not later than the day of his retirement." [2542]

3. In paragraph (1) of regulation 8 of the principal regulations there shall be substituted for the word " resignation " the words " vacation of office ". [2543]

4. The following regulation shall be added after regulation 18 of the principal regulations :—

" 18A. **Vacancy in membership.**—The proceedings of an ophthalmic services committee shall not be invalidated by any vacancy in the membership of the committee or by any defect in the appointment or qualification of any member thereof." [2544]

5. In paragraph (1) of regulation 19 of the principal regulations the word " or " shall be inserted at the end of sub-paragraph (*c*) and the following sub-paragraph shall be added immediately after the said sub-paragraph (*c*) :—

" (*d*) had immediately before the appointed day his name included in the list of medical practitioners prepared by either the British Medical Association, the National Ophthalmic Treatment Board or the Incorporated Ophthalmic Council for use by approved societies for the purpose of ophthalmic benefit under the National Health Insurance Act, 1936 ; ". [2545]

6. After paragraph (3) of the said regulation 19 there shall be inserted the following paragraphs :—

" (4) The qualifications required by an ophthalmic optician or a dispensing optician, being a firm or company (whether corporate or unincorporate), for the purposes of Part IV of the Act and these regulations, shall be that at all premises at which the firm or company provide supplementary ophthalmic services such services shall be in the charge of a director or member or employee of the firm or company who possesses—

(*a*) in the case of a firm or company who propose to provide services as ophthalmic opticians, the qualifications required under paragraph (2) of this regulation, or

(*b*) in the case of a firm or company who propose to provide services as dispensing opticians, the qualifications required under paragraph (3) of this regulation.

(5) Notwithstanding the above provisions of this regulation a person who has the qualifications prescribed for a medical practitioner, ophthalmic optician or dispensing optician for the purpose of providing supplementary ophthalmic services in Scotland under the National Health Service (Scotland) Act, 1947, or in Northern Ireland under the Health Services (Northern Ireland) Act, 1948, shall for the purpose of Part IV of, and the Seventh Schedule to, the Act and these regulations be deemed to have the corresponding qualifications prescribed by these regulations." [2546]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Regulations, but is intended to indicate their general purport.*)

The regulations amend the National Health Service (Executive Councils) Regulations, 1947 (*S. R. & O.*, 1947, *No.* 889), *by inserting further provisions as to the retirement of members, provision for validating the acts of an Ophthalmic Services Committee notwithstanding a defect in its membership and further provisions with respect to the qualifications to be held by persons and companies providing supplementary ophthalmic services.*

NATIONAL HEALTH SERVICE (TRANSFER OF PROPERTY AND LIABILITIES OF INSURANCE COMMITTEES, ETC.) REGULATIONS, 1948

S.I. 1948 *No.* 1237

June 10, 1948

The Minister of Health in pursuance of the powers conferred on him by section 69 of the National Health Service Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

1. These regulations may be cited as the National Health Service (Transfer of property and liabilities of Insurance Committees, etc.) Regulations, 1948, and shall come into force on the 20th day of June, 1948. [2547]

2.—(1) In these regulations the following expressions have the meanings hereby assigned to them :—

" the Act " means the National Health Service Act, 1946 ;

" the Minister " means the Minister of Health ;

" the Dental Benefit Council " means the Dental Benefit Council constituted under the National Health Insurance Act, 1936 ;

" Insurance Committee " includes a joint committee constituted under section 94 of the National Health Insurance Act, 1936 ;

" the Ophthalmic Benefit Approved Committee " means the Committee approved for the purpose of administering ophthalmic benefit under the National Health Insurance Act, 1936 ;

" appointed day " means the fifth day of July, 1948 ;

and other expressions used in these regulations have the same meanings as in the Act.

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [2548]

3. Subject to the provisions of regulation 6, there shall on the appointed day be transferred to and vest in the Executive Council, by virtue of these regulations, all property held by any Insurance Committee for any area comprised in the area of the Executive Council, and all liabilities to which the Insurance Committee were subject immediately before the appointed day :

Provided that in the case of a joint committee constituted under section 94 of the National Health Insurance Act, 1936, the property and liabilities of the joint committee shall be transferred to and vest in such Executive Council as the Minister shall determine. [2549]

4. The Executive Council shall deal with any moneys or fund transferred by the foregoing regulation in such manner as the Minister may, with the approval of the Treasury, determine. [2550]

5. Subject to the provisions of regulation 6, there shall on the appointed day be transferred to and vest in the Minister, by virtue of these regulations, all property held by the Dental Benefit Council or the Ophthalmic Benefit Approved Committee and all liabilities to which such Council or Committee were subject immediately before the appointed day. [2551]

6. These regulations shall not apply to rights and liabilities arising under contracts with officers for the rendering of personal services or to rights and liabilities arising under any enactment scheme or contract providing for the payment of superannuation benefit but this regulation shall be without prejudice to any regulations made under Part VI of the Act relating to the transfer and compensation of officers and the superannuation of officers [2552]

7. The Minister may by order amend any contract or other document relating to any property or liability transferred under these regulations to such extent as appears to the Minister to be necessary for the purposes of such transfer. [2553]

8.—(1) Any proceedings with respect to any property or liability transferred under these regulations and pending on the appointed day shall not be prejudicially affected by these regulations and may be prosecuted and enforced by or against the Executive Council or the Minister as the case may be, to whom the property or liability is transferred :

Provided that proceedings with respect to any property or liability transferred from a joint committee may be prosecuted and enforced by or against such Executive Council as the Minister shall determine.

(2) Any such proceedings may be amended in such manner as may appear necessary or proper for enabling them to be prosecuted and enforced in accordance with the preceding provisions of this regulation. [2554]

9. Save as otherwise provided, any question arising under these regulations shall in default of agreement be determined by the Minister. [2555]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

The Regulations make provision in accordance with section 69 (2) *of the National Health Service Act,* 1946, *for the transfer of the property and liabilities of Insurance Committees to Executive Councils and of the Dental Benefit Council and the Ophthalmic Benefit Approved Committee to the Minister.*

NATIONAL HEALTH SERVICE (EXECUTIVE COUNCILS AND DENTAL ESTIMATES BOARD) FINANCIAL REGULATIONS, 1948

S.I. 1948 *No.* 1239

June 10, 1948

The Minister of Health, in exercise of the powers conferred on him by sections 40, 54 and 55 of and the Fifth Schedule to the National Health Service Act, 1946, and of all other powers enabling him in that behalf and with the approval of the Treasury hereby makes the following regulations :—

PART I

General

1. Short title, commencement and extent.—These regulations may be cited as the National Health Service (Executive Councils and Dental Estimates Board) Financial Regulations, 1948, and shall come into operation on the first day of July nineteen hundred and forty-eight. [2556]

2. Interpretation.—(1) In these regulations unless the context otherwise requires the following expressions have the meanings hereby assigned to them :—

" the Act " means the National Health Service Act, 1946 ;
" Council " means the Executive Council constituted for any area ;
" Board " means the Dental Estimates Board ;
" Ophthalmic Services Committee " includes a joint committee constituted under subsection (4) of section 31 of the Act for providing supplementary ophthalmic services ;
" financial year " means a period of 12 months ending on the 31st day of March ;
" auditor " means an auditor appointed by the Minister ;

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [2557]

PART II

Executive Council

3. Annual and supplementary estimates.—(1) It shall be the duty of the finance committee to prepare and submit to the Council not later than the 30th day of September of each year an estimate (hereinafter referred to as

" the annual estimate ") of the receipts and payments of the Council during the next financial year. Such estimate shall include estimated receipts and payments in connection with supplementary ophthalmic services.

(2) If at any time after the annual estimate has been submitted it appears to the finance committee that there will be additional receipts or payments of the Council during the financial year for which provision has not been included in the annual estimate, the committee shall as soon as may be prepare and submit to the Council an estimate (hereinafter referred to as " a supplementary estimate ") of such additional payments or receipts.

(3) The Council shall consider the annual and any supplementary estimate submitted to them by the finance committee and subject to such amendments therein, if any, as they may think fit to make, shall adopt such estimates of the Council and shall transmit them to the Minister in a form to be approved by him, in the case of the annual estimate not later than the 15th day of October prior to the commencement of the financial year and in the case of a supplementary estimate within 14 days of its adoption by the Council.

(4) No expenses chargeable to administration account shall be incurred by or on behalf of the Council unless provision for such expenses has been included in the annual or supplementary estimates. [2558]

4. Advances of Funds by Minister.—The Minister shall from time to time issue to the Council such sums as appear to him to be necessary to meet expenses incurred or to be incurred by the Council (or by an Ophthalmic Services Committee on behalf of the Council) for the purpose of discharging their functions under the Act and for this purpose the Council shall furnish to the Minister estimates and statements of receipts and payments at such times and in such form as the Minister (with the approval of the Treasury) may direct. [2559]

5. Banking accounts.—The Council shall open a banking account or accounts with such bankers and upon such terms and conditions as the Minister, with the consent of the Treasury, may approve. [2560]

6. Financial officer.—(1) The Council shall appoint the clerk or another of their officers approved by the Minister as the officer (hereinafter in this part of these regulations referred to as " the financial officer ") who shall, subject to these regulations, be responsible for the receipt and payment of moneys of the Council, the safe custody of any moneys not lodged with the Council's bankers and any other duties to be performed by him under these regulations or at the direction of the Council.

(2) The financial officer shall be responsible for the prompt and correct entry and the balancing of the accounts of the Council, for presenting the accounts to the Council, for the completion of all financial records or returns required by the Council, or by the Minister, and for the submission of accounts to the auditor at such times and for such periods as the auditor may require.

(3) The financial officer shall also be responsible for supervising the accounts, books and records of a financial nature kept by other officers of the Council. [2561]

7. Receipt of moneys.—Every officer who receives money on behalf of the Council shall keep and punctually enter up a cash account and receipt books and shall pay to the bankers of the Council or to the financial officer all moneys received by him at such times and in such manner as the Council may direct but in no case less frequently than once a week. [2562]

8. Payments of moneys.—(1) Except as provided in paragraph (4) of this regulation no payment shall be made by or on behalf of the Council unless authorised by a prior resolution of the Council or the finance committee.

(2) Except as otherwise herein expressly provided all payments by or on behalf of the Council shall be made by cheque or other order drawn on the bankers of the Council.

(3) All cheques or other orders for the payment of money by the bankers of the Council shall be signed by a member of the finance committee and countersigned by the financial officer or his authorised deputy:

Provided that where the bankers are furnished with a schedule of payees and amounts payable, signed and countersigned as aforesaid and showing in words and figures the total payable, a cheque drawn in favour of the payee for the amount shown in the schedule in respect of that payee may be signed by the financial officer or his authorised deputy.

(4) (i) The Council may advance to the financial officer a sum of money not exceeding such amount as shall be fixed from time to time by the Council to be disbursed by him on behalf of the Council.

(ii) Out of any moneys so advanced disbursements may be made by the financial officer (*a*) in respect of the remuneration of officers and servants falling due for payment at intervals of less than one month, (*b*) in respect of accounts not exceeding £2, and (*c*) in respect of accounts of an urgent nature, but for no other purpose.

(iii) Disbursements so made shall be recorded in a book kept for the purpose and the financial officer shall submit the book with all necessary vouchers and receipts to the finance committee at their meeting next following the payment.

(iv) Any moneys so advanced which are not required for immediate use may be deposited with the Council's bankers in a separate account and may from time to time be withdrawn by cheque signed by the financial officer or his authorised deputy.

(5) The Minister may on the application of the Council approve any variation of the system of payment. [2563]

9. Books and accounts.—(1) Every Council shall record their transactions in the books and accounts specified in the First Schedule to these regulations.

(2) If any Council satisfy the Minister that it is necessary or desirable that they should keep any other books or accounts which will furnish substantially the same information as the books or accounts specified in the First Schedule to these regulations, the Minister may approve such books or accounts and they shall, as respects that Council, be deemed to be substituted for the books or accounts specified in the said Schedule.

(3) The financial officer of the Council shall keep an account of all sums received or paid on behalf of the Council and shall balance and sign the account at the end of each financial year and at the end of such shorter periods as the Council may determine.

(4) The accounts of the Council shall be posted from time to time and made up and balanced at the end of the financial year. As soon as may be after the close of the financial year and in any case not later than the 15th day of May the financial officer shall prepare a statement in the form set out in the Second Schedule to these regulations and shall certify the same to be correct. He shall submit the account to the Council for their approval and adoption, which shall be signified by the signature of the Chairman thereon, and to the auditor.

(5) The Council shall also prepare and submit to the Minister such further accounts or statements relating to their transactions as the Minister may with the approval of the Treasury from time to time require. [2564]

10. Audit.—(1) The auditor shall have a right of access at all reasonable times to the books and accounts and vouchers of the Council, of the

Ophthalmic Services Committee, and of their officers. He may by writing under his hand require the production before him of all books, deeds, contracts, accounts, vouchers, receipts and other documents, and shall be entitled to require from the members or officers of the Council such information and explanation as he may deem necessary for the purposes of the audit.

(2) After the completion of the audit, the auditor shall certify the accounts and the form set out in the Second Schedule to these regulations with or without reservation and shall transmit the form to the Minister with his report thereon. [2565]

PART III

Dental Estimates Board

11. Keeping of accounts.—The provisions of regulations 4, 5, 6, 7 and 8 shall apply to the Dental Estimates Board in the same way as they apply to Executive Councils with the following modifications :—

(1) The word " Board " shall be substituted for the word " Council ".
(2) References to the finance committee shall be construed as references to the Board.
(3) References to the Ophthalmic Services Committee shall be omitted. [2566]

12. Estimates.—(1) It shall be the duty of the financial officer to prepare and submit to the Board not later than the 30th day of September of each year an estimate (hereinafter referred to as " the annual estimate ") of the administration expenses of the Board during the next financial year.

(2) If at any time it appears to be necessary to make additional payments for which provision has not been included in the annual estimate the financial officer shall as soon as may be prepare and submit to the Board an estimate (hereinafter referred to as " a supplementary estimate ") of such additional payments.

(3) The Board shall consider the annual and any supplementary estimate submitted to them by the financial officer and subject to such amendments therein, if any, as they may think fit to make, shall adopt such estimates as estimates of the Board and shall transmit them to the Minister in a form to be approved by him, in the case of the annual estimate not later than the 15th day of October in each year and in the case of a supplementary estimate within 14 days of its adoption by the Board.

(4) No expenses shall be incurred by or on behalf of the Board unless provision for such expenses has been included in the annual or supplementary estimates of the Board. [2567]

13. Books and accounts.—(1) The Board shall record their transactions in such books and accounts as may from time to time be approved by the Minister.

(2) The accounts of the Board shall be posted from time to time and made up and balanced at the end of the financial year. As soon as may be after the close of the financial year and in any case not later than the 30th day of April the financial officer shall prepare a statement in a form to be approved by the Minister and shall certify the same to be correct. He shall submit the form to the Board for their approval and adoption, which shall be signified by the signature of the Chairman thereon, and to the auditor.

(3) The provisions of paragraphs (3) and (5) of regulation 9 with the substitution of the word " Board " for the word " Council " shall apply to the Dental Estimates Board. [2568]

14. Audit.—The payment of moneys to the Board under the provisions of subsection (4) of section 54 of the Act shall be subject to the condition that the provisions of this Part of these regulations are observed and that the books and accounts of the Board and of their officers shall be audited by the auditor in the same way and with the like incidents and consequences as the books and accounts of a Council and regulation 10 of these regulations shall *mutatis mutandis* apply to the Dental Estimates Board. [2569]

PART IV

Transitional

15. The Minister may to such extent as he considers necessary or expedient, dispense with any of the requirements of these regulations in respect of the financial year ending on the 31st day of March, 1949. [2570]

SCHEDULES

FIRST SCHEDULE

Books and Accounts to be kept by Executive Councils

1. Minute book showing, inter alia, the payments authorised by the Council.

2. Inventory of the property of the Council.

3. Register of instruments, agreements and contracts entered into by or on behalf of the Council.

4. General cash book.

5. Financial officer's disbursement account book.

6. Ledger, containing the following accounts together with, as respects each particular account, such subsidiary accounts as the Council may deem necessary or as the Minister may from time to time require :—

(*a*) Current Account with the Minister.
(*b*) Administration Account.
(*c*) General Medical Services Account.
(*d*) General Dental Services Account.
(*e*) Supplementary Ophthalmic Services Account.
(*f*) Pharmaceutical Services Account.
(*g*) Such other accounts as may be found necessary or desirable.

7. Records showing :—

(i) Sums due and paid to medical practitioners for the provision of general medical services and the supply of drugs and appliances.
(ii) Sums due and paid to dental practitioners for the provision of general dental services and the supply of drugs.
(iii) Sums due and paid to medical practitioners and ophthalmic opticians for the testing of sight.
(iv) Sums due and paid to ophthalmic opticians and dispensing opticians for the supply of optical appliances.
(v) Sums due and paid to chemists in respect of the supply of drugs, medicines and appliances in connection with the provision of General Medical and Dental Services.
(vi) Such other information as may be found necessary or desirable.

[2571]

SECOND SCHEDULE

NATIONAL HEALTH SERVICE ACT, 1946

The Executive Council for.....

Statement of Account for the year ended 31st March, 19 (Receipts and Payments)

	£ s. d.	£	s.	d.
1. Advances from Minister of Health.	— — —			
2. Superannuation Contributions retained :				
(*a*) Deducted from salaries, wages, remuneration of practitioners, etc.				
(*b*) Council's share				
3. Superannuation Additional Cash Contributory Payments.	— — —			
4. Miscellaneous receipts (to be specified)				
Total £				
5. Balance as at 31st March, 19 (Brought forward from last a/c).				
£				

	£ s. d.	£	s.	d.
6. Administration Expenses :				
(*a*) Salaries and Wages (including Insurance and Superannuation Contributions)				
(*b*) Travelling and subsistence expenses				
(*c*) Other expenses				
7. General Medical Services	— — —			
8. Pharmaceutical Services	— — —			
9. General Dental Services	— — —			
10. Supplementary Ophthalmic Services.	— — —			
11. Other payments (to be specified) ..				
Total £				
12. Balance as at 31st March, 19 ..				
£				

Certified that the Statement of Account for the year ended 31st March, 19 as set out above is correct.

Signed....., Clerk of the Executive Council.

Signed....., Chairman of the Executive Council.

Date.....19.....

Audit Certificate

I have examined the books and accounts of this Executive Council and I hereby certify, subject to my report dated , that the accounts and this statement for the year ended 31st March, 19 are correct.

Date..... Signed.....

Auditor.

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

The regulations lay down the financial procedure to be followed by the Executive Councils and the Dental Estimates Board in the exercise of their functions under Part IV of the National Health Service Act, 1946. The regulations further provide for the form of accounts to be kept by the Councils and the Board, for the accounts to be furnished by them to the Minister and for the audit of these accounts.

NATIONAL HEALTH SERVICE (SUPPLEMENTARY OPHTHALMIC SERVICES) REGULATIONS, 1948

S.I. 1948 *No.* 1273

June 15, 1948

The Minister of Health, in exercise of his powers under sections 41, 42, 44, 45 and 74 of the National Health Service Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

PART I

General

Short title and commencement

1. These regulations may be cited as the National Health Service (Supplementary Ophthalmic Services) Regulations, 1948, and shall come into operation on the fifth day of July, 1948. [2573]

Interpretation

2.—(1) In these regulations, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them :—

" the Act " means the National Health Service Act, 1946 ;

" Committee " means an Ophthalmic Services Committee appointed in accordance with the National Health Service (Executive Councils) Regulations, 1947 and 1948 (hereinafter referred to as the Executive Councils Regulations) ;

" Council " means the Executive Council for any area ;

" dispensing optician " means a person, firm or company qualified as a dispensing optician in accordance with the Executive Councils Regulations ;

" glasses " includes any optical appliance which may be supplied under supplementary ophthalmic services ;

" glasses of a special type " means glasses of a more expensive type than standard glasses ;

" ophthalmic medical practitioner " means a medical practitioner having the qualifications prescribed by the Executive Councils Regulations ;

" ophthalmic optician " means a person, firm or company qualified as an ophthalmic optician in accordance with the Executive Councils Regulations ;

" replacement " means the supply of glasses in place of glasses previously supplied under these regulations which have been lost, damaged or destroyed and which contained lenses conforming to the same prescription ;

" standard glasses " means glasses specified as such in the statement referred to in regulation 3 ;

" supply " in relation to glasses includes replacement ;

" the Tribunal " means the Tribunal constituted under section 42 of the Act.

(2) Any references to a form in these regulations shall include references to a form substantially to the like effect.

(3) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [2574]

PART II

General arrangements for the provision of supplementary ophthalmic services

Preparation of statement determining fees, etc.

3.—(1) The Minister shall, after consultation with such organisations as he may recognise as representative of medical practitioners and opticians providing supplementary ophthalmic services, cause to be prepared a statement which shall specify :—

(*a*) the fees payable for the testing of sight by ophthalmic medical practitioners and ophthalmic opticians and for the dispensing of glasses by ophthalmic and dispensing opticians ;

(*b*) the types and quality of standard glasses and glasses of a special type ;

(*c*) a scale of charges for the supply or repair of standard glasses ;

(*d*) the charges which may be made to persons to whom, at their request, an ophthalmic or dispensing optician supplies glasses of a special type or in respect of the repair of any such glasses.

(2) The said statement may be amended from time to time by the Minister after consultation with such organisations as aforesaid. [2575]

Terms of service for ophthalmic medical practitioners ophthalmic opticians and dispensing opticians

4. The arrangements which a Council is required by section 41 of the Act to make with ophthalmic medical practitioners and ophthalmic and dispensing opticians for the provision of supplementary ophthalmic services shall incorporate the terms of service contained in Parts I, II and III respectively of the first schedule to these regulations and the statement referred to in the last foregoing regulation. [2576]

Ophthalmic list

5.—(1) The Committee shall prepare a list in three parts, to be called " the ophthalmic list ", of ophthalmic medical practitioners, ophthalmic opticians and dispensing opticians respectively who having made application to the Committee on the appropriate form set out in the second schedule to these regulations, are entitled to be included in the list.

(2) The ophthalmic list shall contain, in addition to the names of ophthalmic medical practitioners and ophthalmic and dispensing opticians :—

(*a*) the address of any place at which they undertake to test sight or supply glasses ;

(*b*) particulars of the days and hours at which the service will normally be provided.

(3) Copies of the ophthalmic list shall be available for inspection at the offices of the Council and the Committee, at post offices, at surgeries, con-

sulting rooms and other premises where general medical services and supplementary ophthalmic services are provided, and at such other places as appear to the Committee to be convenient for informing all persons interested and shall be kept revised up to date.

(4) The Committee shall send a copy of the ophthalmic list to the Council and to the Minister and shall within seven days inform each of them of any alteration which may from time to time be made therein. The Committee shall send a copy of the list to the Local Medical Committee and the local health authority, the Regional Hospital Board, the Hospital Management Committees of hospitals serving the area and the Board of Governors of any teaching hospital in the area, and at intervals of not more than three months shall notify each of them of any alteration made therein. [2577]

Publication of particulars

6. The Committee shall cause to be published in such manner as appears to them best calculated to inform all persons interested, particulars of the arrangements made by the Committee, including a statement of the places where copies of the terms of service for ophthalmic medical practitioners and ophthalmic and dispensing opticians and copies of the ophthalmic list may be seen, and any other particulars which the Committee think proper. [2578]

PART III

Method of obtaining supplementary ophthalmic services involving the testing of sight

7.—(1) A person receiving from a medical practitioner a recommendation in writing for supplementary ophthalmic services may present the same to any ophthalmic medical practitioner or ophthalmic optician whose name appears on an ophthalmic list.

(2) If a person is unable or unwilling on conscientious grounds to obtain such a recommendation he may apply to the Committee for authority to receive such services, and such an authority signed by the clerk of the Committee shall confer on the person the same rights as a recommendation given by a medical practitioner.

(3) If a person has previously received supplementary ophthalmic services involving a testing of the sight he shall be entitled to receive such services without producing such a recommendation or authority as aforementioned. [2579]

8. An ophthalmic medical practitioner or ophthalmic optician, on receiving an application for supplementary ophthalmic services which involve the testing of sight, may if such a recommendation or authority as is mentioned in regulation 7 is produced to him or if the applicant states that he has previously had his sight tested under the supplementary ophthalmic services, make such examination of the applicant's eyes as may be required and shall forthwith

(1) see that part I of the form No. 1 in the third schedule hereto is completed by or on behalf of the applicant;
(2) complete part II if glasses are required and part V of the said form and secure the completion of part IV, and
(3) forward the form with the recommendation or authority (if any) to the Committee. [2580]

9.—(1) Where the Committee, on the receipt of such form and after any such inquiry as they think proper, are satisfied that any glasses prescribed therein are not required by way of replacement or that, if they are required by way of replacement, such replacement is not necessitated by lack of care, they shall send to the applicant the upper detachable part of

the form endorsed to the effect that the supply of glasses under the supplementary ophthalmic services is authorised, together with a note informing him that he may take it for dispensing to any ophthalmic or dispensing optician on the ophthalmic list.

(2) Where the Committee, on the receipt of such form and after any such inquiry as they think proper, are satisfied that the applicant is already in possession of such glasses as are prescribed therein, or that any glasses prescribed therein are required by way of replacement which has been necessitated by lack of care, they shall send him the upper detachable part of the form endorsed to the effect that the glasses will not be supplied at the cost of the Council, together with a note confirming the Council's decision. The provisions of paragraphs (1), (2) (except the last sentence) and (3) of regulation 12 shall apply to the case of replacement necessitated by lack of care. [2581]

10.—(1) The form No. 1 endorsed with the Committee's approval shall authorise the optician to whom it is presented to supply the glasses in accordance with the prescription: Provided that glasses shall not be supplied until inquiry has been made whether the applicant is in possession of a frame for glasses which has been supplied under these regulations.

(2) If on inquiry it is ascertained that the applicant possesses such a frame, or if the applicant produces a frame which has not been so supplied, and it is not worn out or otherwise unsuitable or required for use with lenses of another type, it shall be used for the glasses so supplied.

(3) When the glasses have been supplied to the applicant the optician shall complete part VII of the form and obtain the applicant's signature to part IX and subject to the next following paragraph shall forthwith return the form to the Committee for payment.

(4) If the glasses are of a special type supplied by arrangement with the applicant, the optician shall return the form to the Committee for payment with part VIII thereof duly completed. [2582]

PART IV

Method of obtaining supplementary ophthalmic services not involving the testing of sight

Replacement and repairs

11.—(1) Where a person requires a supplementary ophthalmic service which does not involve the testing of sight by reason of the fact that

(*a*) the service consists of the replacement of glasses, or

(*b*) the service consists of the repair of glasses whether or not supplied under these regulations,

and in either case the prescription for the glasses was issued less than two years previously, he shall be entitled to apply for such service to any opthalmic or dispensing optician whose name appears on an ophthalmic list.

(2) On receiving the application the optician may complete, or as the case may be secure the completion of, part I and so far as is applicable parts II, III, IV and V of form No. 2 set out in the third schedule to these regulations and forward it to the Committee for approval and on receipt of such approval and subject to any decision of the Committee under paragraph (2) of the next following regulation may provide the required service: Provided that the optician may provide such service without waiting for the Committee's approval—

(*a*) When the form contains an admission signed by the applicant that the service is necessitated by lack of care on his part, and he has

signed the undertaking in part III of the form to pay for replacement or repairs so necessitated, or

(*b*) in any other case, where the applicant has paid to the optician by way of deposit a sum equal to the optician's charges under these regulations.

(3) After providing the service the optician shall complete parts III and V, if applicable, and part VII of the form, and secure the applicant's signature to part VIII and forward the form to the Committee.

(4) When the optician receives a deposit under this regulation he shall give to the applicant a receipt in the form provided by the Committee for that purpose. **[2583]**

PART V

Services for which charges may be made

Replacements and repairs due to lack of care

12.—(1) Where in the case of replacement or repair of glasses (*a*) it is admitted that the service is necessitated by lack of care on the part of the applicant, or (*b*) it is determined in accordance with the following provisions of this regulation that the service is so necessitated, the appropriate charges shall be recoverable from the applicant and not from the Council.

(2) Where the Committee have reason to think that the replacement or repair is necessitated by lack of care on the part of the applicant but such lack of care has not been admitted by him, they shall consider any representation which he may make or has made in writing with reference thereto, or if in their opinion the circumstances so require, they shall afford him an opportunity of making any further representations in writing or orally, and shall take any such representations into consideration before making a decision. Their decision shall be communicated in writing to the optician and the applicant and the Committee shall in returning the form indicate on the form, if the decision is that there has been carelessness, that the charges will be payable by the applicant and not by the Council.

(3) Any replacement or repair of glasses for which the prescription was issued within a period of two years previous to the application shall be presumed to be necessitated by lack of care on the part of the applicant unless he satisfies the Committee by such representations as aforesaid that the replacement or repair is not so necessitated.

(4) Where under paragraph (2) of the last preceding regulation an optician has taken a deposit, he shall be entitled to retain it in satisfaction of his charges, but unless it is decided that the service is necessitated by lack of care the Council shall, if a claim for the repayment of the deposit is made to the Committee within three months after the payment thereof or such longer period as the Committee may in special circumstances allow, pay to the person who made the deposit a sum equal to the amount thereof. **[2584]**

Glasses of a special type

13.—(1) Where an optician has agreed at a person's request to supply, as part of the supplementary ophthalmic services, any glasses of a special type or to repair such glasses, he may require such person to pay in respect thereof a charge not exceeding such amount as is specified in the statement prepared under regulation 8.

(2) In a case to which paragraph (1) of this regulation applies the fee payable by the Council shall subject to the provisions of the last preceding regulation be the appropriate charge specified in the said statement for the supply or repair of glasses of a standard type. **[2585]**

PART VI

School Children

14.—(1) Without prejudice to their right to obtain supplementary ophthalmic services under and in accordance with the foregoing regulations, the provisions of this Part of these regulations shall have effect in relation to pupils in attendance at any educational establishment maintained by a Local Education Authority, or at any other educational establishment with the proprietors of which the Local Education Authority have made arrangements for securing the medical inspection of, and the provision of medical treatment for, pupils attending the establishment in accordance with section 78 of the Education Act, 1944.

(2) In this Part of the regulations " ophthalmic surgeon " means an ophthalmic medical practitioner on the ophthalmic list who is acting on behalf of a Local Education Authority ; " medical officer " means a medical officer of a Local Education Authority within the meaning of the Education Act, 1944, who is not on such a list ; and references to forms No. 1 and No. 2 shall be deemed to be references to forms No. 1 and No. 2 in the third schedule hereto stamped or marked in a conspicuous position thereon with the name of the said authority.

(3) When, on the examination of the eyes of a pupil, an ophthalmic surgeon or medical officer is of the opinion that he needs to be supplied with glasses he may issue a prescription for the same on form No. 1 and after completing the appropriate parts of the form forward it to the Committee, together with, if the glasses are needed by way of replacement, a note of the circumstances in which replacement is required.

The appropriate parts of the form are, in the case of an ophthalmic surgeon, part I, part II and part V and, in the case of a medical officer, part I and part II (except the panel headed " Name and Address of Ophthalmic Medical Practitioner ").

(4) On receiving the form the Committee, if satisfied that the pupil is not already in possession of lenses conforming to the prescription, shall deliver or send the upper detachable part of the form to the parent, guardian or other person having the charge of the pupil and shall at the same time inform him that the glasses may be obtained from any optician providing supplementary ophthalmic services.

(5) When, on the examination of the eyes of a pupil, an ophthalmic surgeon is of the opinion that he does not need to be supplied with glasses he may after completing the appropriate parts of form No. 1 forward the form to the Committee.

The appropriate parts of the form are part I, the " Remarks " panel in part II and part V.

(6) The Council shall pay to the ophthalmic surgeon the appropriate fee in respect of the testing of the pupil's sight.

(7) The provisions of regulation 10 shall apply to the supply by an optician of the glasses prescribed as aforesaid.

(8) Where the replacement or repair of glasses is required by a pupil, an ophthalmic surgeon or medical officer or other duly authorised officer of the Local Education Authority may furnish him on form No. 3 set out in the third schedule to these regulations with authority to obtain the service from any optician providing supplementary ophthalmic services. The form shall be stamped with the name of the Local Education Authority and shall contain a brief statement signed by the parent, guardian or other person having charge of the pupil of the circumstances necessitating the service.

(9) On the presentation to him of the said authority the optician may replace or repair the glasses and shall thereupon complete, or as the case may be secure the completion of, the appropriate parts of form No. 2 and

forward it to the Committee for payment. The appropriate parts of the form are—

part I (excluding the last panel).
part II (if applicable) and parts IV, VII and VIII.

(10) If the Committee, on investigation of the circumstances necessitating the replacement or repair of glasses, determine that they involved lack of care on the part of the pupil they shall give written notice of their determination to the Local Education Authority and the Council shall thereupon be entitled to recover the cost of the service from that Authority.

(11) The provisions of regulation 13 shall apply to the supply or to the replacement or repair of glasses under this Part of these regulations.

(12) Save so far as they are specifically applied the provisions of parts III, IV and V of these regulations shall not apply to services provided under this Part. [2586]

PART VII

Exercise of choice of person by whom services are to be provided

15. The right to choose the person by whom supplementary ophthalmic services are to be provided shall be exercised—

(*a*) on behalf of any person under the age of sixteen by the mother, or in her absence, the father, or, in the absence of both parents, the guardian or other person who has the care of the child ; and

(*b*) on behalf of any other person who on account of old age, sickness or other infirmity is incapable of choosing a person to provide the services, by a relative or any person who has the care of such person. [2587]

PART VIII

Investigations

Investigations by Committee

16.—(1) Any complaint made by a person against an ophthalmic medical practitioner or ophthalmic or dispensing optician, in respect of an alleged failure to comply with the terms of service applicable to him, shall be investigated by the Committee.

(2) A person desiring to make a complaint under this regulation against an ophthalmic medical practitioner or ophthalmic or dispensing optician shall within six weeks after the event which gave rise to the complaint give written notice to the clerk of the Committee stating the substance of the matter which it is desired to have investigated.

(3) Notwithstanding failure to give notice within the period specified in the last preceding paragraph, the Committee may investigate the matter if they are satisfied that such failure was occasioned by illness or other reasonable cause, and either—

(i) the notice is given within two months after the said event, or
(ii) the practitioner or optician consents to the investigation taking place notwithstanding the failure to give notice in time, or
(iii) the Minister's consent to the investigation has been obtained. In applying for such consent the Committee shall furnish the Minister and the practitioner or optician with a copy of the said notice, a statement of the reasons for the failure to give notice in time and any further information which the Minister may require, and the practitioner or optician, shall be entitled within seven days after the receipt by him of such statement or further information to forward to the Minister a statement of the grounds on which he contends that the investigation should not take place.

(4) The Committee shall investigate any matters referred to them by the Council (or any committee of the Council duly authorised in that behalf by the Council) relating to the administration of supplementary ophthalmic services, whether or not any such matter has been raised on complaint under the foregoing provisions of this regulation :

Provided that no question which involves an allegation against a practitioner or optician of a breach of the terms of service shall, without the consent of the Minister, or of the practitioner or optician concerned, be referred for investigation under this paragraph, except within the period specified in paragraph (2) of this regulation and the provisions of paragraph (3) thereof with reference to the procedure to be adopted on application for the Minister's consent shall *mutatis mutandis* apply to any application for his consent under this paragraph. [2588]

Procedure of Committee

17.—(1) The Committee shall permit a party to an investigation to be assisted in the presentation of his case by some other person : Provided that no person shall be entitled in the capacity of counsel, solicitor or other paid advocate to conduct the case for any party by addressing the Committee or examining or cross-examining witnesses.

(2) The proceedings at the hearing before the Committee shall be private and no person shall be admitted to those proceedings except—

(*a*) the parties to the investigation and the persons, if any, permitted to appear for the purpose of assisting them ;

(*b*) the secretary or other officer of the Local Medical Committee or a committee representing opticians ;

(*c*) persons whose attendance is required for the purpose of giving evidence and who shall, unless the Committee otherwise direct, be excluded from the hearing except when they are actually giving evidence ; and

(*d*) such officers of the Committee or Council as they may appoint for the purpose.

(3) The provisions of the fourth schedule to these regulations shall apply with respect to the investigation of complaints, and the procedure of the Committee.

(4) The Committee shall draw up a report stating such relevant facts as appear to them to be established by the evidence placed before them and the inferences which in their opinion may properly be drawn from the facts, together with a recommendation as to the action, if any, which should be taken and shall present the report to the Council, and the Council shall accept as conclusive any finding of fact contained in the report. In presenting such report to the Council the Committee may, if they think fit, draw the attention of the Council to any previous reports made by the Committee in connection with the practitioner or optician and to any action taken by the Minister on such reports and may recommend that account should be taken thereof by the Council in reaching their decision. [2589]

Action by Council

18. The Council shall furnish the Minister with a copy of the report of the Committee and a statement of the Council's decision thereon which may include action in any one or more of the following ways—

(*a*) The Council may recover from the ophthalmic medical practitioner or ophthalmic or dispensing optician, as the case may be, by a deduction from his remuneration or otherwise, any expenses (other than expenses incurred in connection with an investigation by the Committee) which have been reasonably and necessarily incurred

by any person owing to the failure of the practitioner or optician to comply with the terms of service, and any sum so recovered shall be paid to that person.

(*b*) The Council may make representations to the Minister that owing to the failure of the practitioner or optician to comply with the terms of service, an amount should be withheld from his remuneration.

(*c*) If the Council are of the opinion that the continued inclusion of the practitioner or optician on the ophthalmic list would be prejudicial to the efficiency of supplementary ophthalmic services, they may make representations to that effect to the Tribunal. [2590]

Appeal to Minister from decision of Council

19.—(1) The Council shall furnish the parties to an investigation with a copy of the Committee's report and of their decision and shall inform them of their right to appeal to the Minister against the decision, except in so far as it is a decision under paragraph (*c*) of the last preceding regulation, and of the Minister's power on such an appeal to award costs.

(2) Any appeal shall be made by sending to the Minister notice thereof within one month from the date on which notification of the decision was received.

(3) The notice of appeal shall contain a concise statement of the facts and contentions upon which the appellant intends to rely.

(4) The Minister may, on the application of any person desiring to appeal, extend the time for giving notice of appeal and may do so although the application is not made until after the expiration of one month from the date on which notice of the Council's decision was received.

(5) An application for the extension of the time for giving notice of appeal must be made in writing to the Minister, stating the grounds for the application. [2591]

20. No appeal shall lie against a decision of the Council to make representations with regard to the continued inclusion in any list of the name of any practitioner or optician and if the Council decide to make such representations and an appeal to the Minister is made against their decision on other matters, the Minister may treat as conclusive for the purpose of the appeal any relevant findings of the Tribunal. [2592]

Procedure on appeal

21.—(1) If the Minister, after considering the notice of appeal and any further particulars furnished by the appellant, is of opinion that the notice and particulars disclose no reasonable grounds of appeal or that the appeal is otherwise vexatious or frivolous, he may dismiss the appeal forthwith: Provided that an appeal against a decision of the Council to take action under paragraphs (*a*) or (*b*) of regulation 18 shall not be dismissed without an oral hearing unless the appellant does not desire such a hearing.

(2) The Minister shall, unless he dismisses the appeal for the aforementioned ground, send a copy of the notice of appeal and of any further particulars furnished by the appellant to the Council, the Committee and to the person or persons, if any, who were parties to the proceedings before the Committee or who appear to him to be interested in the appeal.

(3) Subject to the proviso to paragraph (1) of this regulation, the Minister may, if he is of opinion that the case is of such a nature that it can properly be determined without an oral hearing, dispense with an oral hearing and determine the appeal summarily.

(4) In the event of an oral hearing the Council or any person who has received notice of appeal may appear and take such part in the proceedings as the persons holding the inquiry think proper.

(5) For the purpose of an oral hearing the Minister may appoint an officer or officers of the Ministry of Health or some other person or persons, not exceeding three in number, to hold an inquiry and to draw up a report. The Minister, after taking such report into consideration, shall give his decision, which shall be final and conclusive.

(6) (*a*) A party to an appeal when an oral hearing takes place shall be entitled to appear and be heard either in person or by counsel or solicitor, by any officer or member of any organisation of which he is a member, by any member of his family, or by any friend.

(*b*) A council or other body being a party to any appeal shall be entitled to appear by either a member or their clerk or other officer duly appointed for the purpose or by counsel or solicitor.

(7) A party to an appeal shall not, except with the consent of the Minister or, in the case of an oral hearing, of the person or persons before whom the hearing takes place, be entitled to rely upon any facts or contentions which do not appear to the Minister or to the person or persons holding the inquiry to have been raised before the Committee in the course of the proceedings in respect of which the appeal is brought: Provided that this paragraph shall not apply in the case of a hearing if at least seven days before the hearing notice is given in writing to the Minister or to the person or persons holding the inquiry of any new facts or contentions upon which the party intends to rely.

(8) The Council may, with the consent of the Minister, make such contribution as they think fit, and shall if directed by the Minister make such contribution as he may determine, towards the cost of the appeal incurred by the complainant or by the practitioner or optician. [2595]

Provisions of Local Government Act, 1933, to apply

22. The provisions of sub-sections (2), (3) and (5) of section 290 of the Local Government Act, 1933, which relate to the summoning of witnesses, the awarding of costs and other matters, shall apply to any inquiry held by the Minister under the last foregoing regulation as if in sub-section (5) the word "Minister" were substituted for the word "department." [2594]

Procedure on withholding money

23.—(1) If the Minister is satisfied after considering either any report made by the Committee under paragraph (4) of regulation 17 and the decision of the Council thereon or the report of a person or persons hearing an appeal against such decision under paragraph (5) of regulation 21 or any report of the Tribunal after an inquiry under Part IX of these regulations that a practitioner or optician has failed or neglected to comply with the terms of service applicable to him, he may direct the Council to recover such amount as he thinks fit either by deduction from the remuneration of the practitioner or optician or otherwise, and such sum shall be a debt owing by the practitioner or optician to the Council:

Provided that, except in cases in which the facts have already been the subject of an investigation in the course of an appeal made to the Minister, the Minister shall, before directing that any such amount shall be withheld, afford the practitioner or optician concerned a reasonable opportunity of making representations to him on the matter and if he decides to make representations orally the Minister shall appoint a person or persons to hear the case. The Council and the Local Medical Committee or any organisation which the Minister recognises as representative of opticians, as the case may be, shall be entitled to be represented at such hearing and to take such part in the proceedings as the persons appointed to hear the case may think fit.

(2) The persons appointed to hear the oral representations shall be, or include, a person belonging to the same branch of the service as the person making the representations. [2595]

PART IX

Inquiries by Tribunal

Interpretation

24. In this Part of these regulations, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them :—

" inquiry " means an inquiry held in accordance with the provisions of this Part of these regulations ;

" representation " means a representation made to the Tribunal that the continued inclusion of an ophthalmic medical practitioner or optician in any ophthalmic list would be prejudicial to the efficiency of supplementary ophthalmic services ;

" complainant " means any person or body making a representation to the Tribunal ;

" respondent " means any ophthalmic medical practitioner or optician against whom a representation is made. [2596]

Representation and preliminary statement

25.—(1) A representation shall be in writing signed by or on behalf of the complainant and addressed to the clerk of the Tribunal.

(2) The Tribunal may, if they think fit, require the complainant to send them a preliminary statement setting out the alleged facts and grounds on which the representation is based and, where a fact is not within the personal knowledge of the complainant, the source of the information and grounds for the belief of the complainant that the information is true, together with such further particulars as they may think necessary and they may require the preliminary statement to be verified by statutory declaration. [2597]

Power to refuse inquiry

26. If it appears to the Tribunal, after due consideration of any representation or of any preliminary statement furnished to them by the complainant, not being a council, that no good cause has been shown why an inquiry should be held, they may refuse to hold an inquiry and shall inform the complainant accordingly. [2598]

Notices to be sent in case of inquiry

27.—(1) The Tribunal shall, in all cases where an inquiry is to be held, send the following notices, namely :—

(*a*) A notice to the respondent informing him that it is proposed to hold an inquiry as to the representation made by the complainant ; and

(*b*) A notice to the complainant informing him that it is proposed to hold an inquiry as to the representation made by him and requiring him, within a time specified in the notice, to send to the Tribunal a concise statement of the alleged facts and grounds on which the representation is based (in this Part of these regulations referred to as " the statement of complaint ") together with a list of all the documents which he proposes to put in evidence :

Provided that where the complainant has sent a preliminary statement to the Tribunal, the Tribunal may, if they think fit, dispense with a statement of complaint and in that case the preliminary statement shall, for the purposes of the inquiry, be treated as the statement of complaint.

(2) The Tribunal may, if they think proper, on the application of the complainant extend the time for sending to them the statement of complaint. [2599]

Respondent may admit or deny allegations

28. The Tribunal shall send to the respondent a copy of the statement of complaint and of the list of documents which the complainant proposes to put in evidence together with a notice informing him that he may, if he so desires, within a time specified in the notice, by a statement in writing addressed to the clerk of the Tribunal, admit or dispute the truth of all or any of the allegations appearing in the statement of complaint. [2600]

Amendment of statement of complaint

29. The Tribunal, at any time before the conclusion of the inquiry, may allow the statement of complaint to be amended upon such conditions as they may think just. [2601]

Right of respondent to inspect documents

30.—(1) The respondent may, on giving due notice to the complainant, inspect, either personally or by an agent authorised in writing, the documents included in the list sent by the complainant to the Tribunal and the complainant shall give reasonable facilities for the purpose.

(2) The respondent shall be entitled, on making application to the Tribunal, to a copy of any document in that list and the Tribunal may require the complainant to furnish to the clerk of the Tribunal a copy of the document for the respondent's use. [2602]

Notice of inquiry to be given

31.—(1) The Tribunal shall appoint a day for the holding of the inquiry and shall, not less than fourteen days before the appointed day, send notices to the complainant and the respondent informing them of the date, time and place of the inquiry.

(2) The Tribunal shall if they think fit also send to any Council on the ophthalmic list of whose area the name of the respondent appears, notice of the date, time and place of the inquiry and each such Council may appear and take such part in the proceedings at the inquiry as the Tribunal shall think proper. [2603]

Power to postpone inquiry

32. The Tribunal may, if they think fit or on the application of either party, postpone the date for the holding of the inquiry. [2604]

Power to treat representation as withdrawn in certain cases

33. If the complainant fails, within the time specified in the notice or within any extended period, to send a statement of complaint to the Tribunal or if he fails to comply with any other requirement of this Part of these regulations, the Tribunal may treat the representation as having been withdrawn. [2605]

Withdrawal of representation

34.—(1) The complainant may at any time before the inquiry, with the consent of the Tribunal and on such terms as the Tribunal think fit, withdraw the representation by giving notice of withdrawal in writing to the clerk of the Tribunal.

(2) Where the representation has been withdrawn or is treated by the Tribunal as having been withdrawn, the Tribunal shall forthwith inform the respondent that the representation has been withdrawn or is treated as having been withdrawn, as the case may be. [2606]

Procedure at inquiry

35. The proceedings shall be held *in camera* unless the respondent has applied for the inquiry to be held in public but otherwise the procedure at the inquiry shall be within the discretion of the Tribunal. [2607]

Appearance by representatives

36.—(1) Any council or other body (whether corporate or unincorporate) entitled to appear at the inquiry may appear by their clerk or other officer duly appointed for the purpose or by counsel or solicitor.

(2) The complainant and the respondent shall be entitled to appear and be heard at the inquiry in person or by counsel or solicitor or by any officer or member of any organisation of which he is a member, or by any member of his family or any friend and to call witnesses and to produce other evidence on their behalf. [2608]

Provisions of Local Government Act, 1933 to apply

37. The provisions of sub-sections (2), (3) and (5) of section 290 of the Local Government Act, 1933, which relate to the summoning of witnesses, awarding of costs and other matters, shall apply to an inquiry held under this Part of these regulations as if in sub-section (5) the word " Tribunal " were substituted for the word " department." [2609]

Power to suspend proceedings in certain cases

38. Where it appears to the Tribunal that the alleged facts on which any representation is based are or may be the subject of investigation by any other tribunal, they may, if they think fit, direct that no further steps shall be taken under this Part of these regulations pending the result of such other investigation. [2610]

Power to dispense with oral inquiry

39. Notwithstanding anything in this Part of these regulations, where the grounds on which any representation is based consist solely of an allegation that the respondent has been convicted of a criminal offence and he admits the truth of such allegation, the Tribunal may, with the consent of the respondent, dispense with an oral inquiry and determine the case upon such documentary evidence as may be submitted to them. [2611]

Report by Tribunal

40.—(1) At the conclusion of the inquiry the Tribunal shall, as soon as may be, issue a statement under the hand of the chairman containing their findings of fact, the conclusion which they have reached and such directions as they may give under sub-section (3) of section 42 of the Act, and any order they may decide to make with respect to the costs of the parties.

(2) A copy of such statement shall be forwarded by the Tribunal to the Minister, the respondent and the complainant, and the Minister shall send a copy of the statement to such Councils as appear to him to be concerned. [2612]

Appeal to Minister

41. The Tribunal shall give notice to the respondent of his right of appeal to the Minister against any direction given by them for the removal of his name from any list, and the right may be exercised by submitting to the Minister a notice of appeal within fourteen days after such notice has been forwarded to the respondent, or within such further time as the Minister may allow.

The notice of appeal shall contain a concise statement of the facts and contentions upon which the appellant intends to rely. [2613]

Procedure on appeal

42.—(1) The Minister shall appoint a person to hear the appeal and report thereon to him. He shall also appoint a person belonging to the same branch of the service as the appellant for the purpose of assisting the person hearing the appeal.

The Minister shall consider the report made by the person hearing the appeal and thereafter give his decision and shall send a notice thereof to the appellant, the Tribunal, the complainant and such councils as may appear to him to be concerned.

(2) Regulations 30, 31, 32, 35 and 36 of these regulations shall, with the necessary modifications, apply to the hearing of appeals under this regulation in like manner as to an inquiry.

(3) The appellant may, at any time before the day appointed for the hearing, withdraw the appeal by giving notice of such withdrawal in writing to the Minister.

(4) When an appeal has been withdrawn the Minister shall forthwith confirm the direction of the Tribunal. [2614]

Publication of decisions of Tribunal

43. Notice of any decision of the Tribunal or the Minister under section 42 of the Act, or of the imposition or removal of any disqualification imposed by virtue of sub-section (6) of the said section (which provides for the removal from lists in England and Wales of the names of persons who have been disqualified for inclusion in similar lists in Scotland) shall be published by the Minister in such manner as he thinks fit. [2615]

PART X

Notices

Service of notices, etc.

44.—(1) Any document which is required or authorised by these regulations to be given to or served on any person may be given or served either—

(*a*) by delivering it to that person ; or

(*b*) in the case of the Minister, the Tribunal or any Council, or Committee, by delivering it to their secretary or clerk or by sending it in a prepaid letter, addressed to them at their principal office ; or

(*c*) in the case of an ophthalmic medical practitioner or optician, by sending it in a prepaid letter addressed to him at the address given in the list in which he is included ; or

(*d*) in any other case, by sending it in a prepaid letter addressed to him at his usual or last known address.

(2) Where a party to an inquiry is represented by a solicitor it shall be a sufficient compliance with this regulation if the document required to be given or served is sent by post to the solicitor at his professional address.

(3) Until the contrary is proved, any document sent as aforesaid shall be deemed to be served at the time at which a letter would be delivered in the ordinary course of post. [2616]

Power to dispense with requirements as to notices

45. The Minister or the Tribunal may dispense with any requirements of these regulations respecting notices, applications, documents or otherwise in any case where it appears to the Minister or the Tribunal just and proper to do so. [2617]

PART XI

Isles of Scilly

46. In their application to the Isles of Scilly these regulations shall have effect as if—

(*a*) Elsewhere than in regulation 2 and part VIII references to the Executive Council for the Isles were substituted for references to the Ophthalmic Services Committee ;

(*b*) In part VIII references to a committee appointed by the said Executive Council were substituted for references to the Ophthalmic Services Committee ; and

(*c*) Any further consequential alterations of the regulations were made. [2618]

SCHEDULES

FIRST SCHEDULE

PART I

Terms of Service for Ophthalmic Medical Practitioners

Interpretation

1. In these terms of service, except so far as the context otherwise requires, the expression " the regulations " means the National Health Service (Supplementary Ophthalmic Services) Regulations, 1948, and other words and expressions have the same meaning as in the regulations.

Incorporation of provisions of regulations, etc.

2. Any provisions of the regulations or of the statement prepared under regulation 3 of the regulations affecting the rights and obligations of the practitioner shall be deemed to form part of these terms of service.

Standard of service

3. In testing sight in accordance with the provisions of the regulations, the practitioner shall give proper care and attention and where glasses are necessary shall prescribe for them on form No. 1 set out in the third schedule to the regulations.

4. Where a practitioner is of the opinion that a person whose eyes he has examined—

(*a*) does not require glasses, or

(*b*) shows on examination any abnormality of the eyes or otherwise requires treatment outside the scope of the supplementary ophthalmic services, or

(*c*) is not likely to secure a satisfactory standard of vision notwithstanding the application of corrective lenses, or

(*d*) should revisit him with a view to a further examination within six months,

he shall so inform his general medical practitioner.

Premises

5.—(1) The practitioner shall provide proper and sufficient consulting and waiting room accommodation and suitable instruments for the testing of sight.

(2) The practitioner on receipt of a written request shall admit any medical practitioner being an authorised officer of the Minister or any authorised member or officer of the Committee at all reasonable times to any consulting or waiting room under the control of the practitioner for the purpose of inspecting the said consulting or waiting room.

Records

6. In each case in which the practitioner tests sight under these regulations, he shall keep proper records and shall, if required to do so, produce such records to any medical practitioner being an authorised officer of the Minister.

Remuneration

7. The practitioner shall not suggest, demand or accept any fee or remuneration otherwise than under the regulations in respect of any supplementary ophthalmic services provided by him :

Provided that nothing in this paragraph shall deprive the practitioner of any right to recover a reasonable charge from any person in respect of loss of remunerative time resulting from the failure of that person without sufficient excuse to keep an appointment, or in respect of a journey at the request of a person to his place of residence.

Deputies, assistants and partners

8.—(1) Save as provided in this paragraph in the case of deputies and assistants, a testing of sight shall be made by a practitioner personally, except where he is prevented by reason of other professional duties, temporary absence from home or other reasonable cause.

(2) A practitioner shall make all necessary arrangements for the testing of sight of any person where he is unable for any of the causes mentioned above to provide the service personally and shall inform the Committee of any standing arrangements for that purpose.

(3) A practitioner shall for the purposes of providing supplementary ophthalmic services employ only a deputy or assistant who is an ophthalmic medical practitioner.

(4) A practitioner shall not, without the consent of the Minister, employ as a deputy or assistant any practitioner who is disqualified under section 42 of the Act for inclusion in the ophthalmic list of the Committee.

(5) A deputy or assistant shall, in addition to signing with his own name any form or other document issued by him under these terms of service, insert therein, if it does not already appear, the name of the practitioner for whom he is acting as deputy or assistant.

(6) A practitioner shall be responsible for all acts and omissions of any practitioner acting as his deputy or assistant in relation to his obligations under these terms of service.

Revision of terms of service

9.—(1) The Committee may, subject to the approval of the Minister, alter the terms of service as from such date as the Minister may approve by giving notice of the proposed alterations to each practitioner.

(2) Except in the case of an alteration which results from the coming into operation of any Act of Parliament or from an amendment of the regulations, or of the statement prepared under regulation 3 of the regulations, the alteration shall not come into operation within a period of three months from the date of the issue of the notice.

Withdrawal from ophthalmic list

10. The practitioner shall be entitled at any time to give notice to the Committee that he desires to withdraw his name from the ophthalmic list and his name shall be removed therefrom at the expiration of three months from the date of such notice or of such shorter period as the Committee may agree :

Provided that if representations are made to the Tribunal under section 42 of the Act that the continued inclusion of a practitioner in the ophthalmic list would be prejudicial to the efficiency of the supplementary ophthalmic services, he shall not, except with the consent of the Minister and subject to such conditions if any as the Minister may impose, be entitled to have his name removed from the list pending the termination of the proceedings on such representations.

Issue of notices to the practitioner

11. Any notice which a Committee is required or authorised by these terms of service to give to the practitioner shall be sufficiently given if it has been addressed to him and sent by post or delivered to or at the address which he has last notified the Committee as being his address. [2619]

PART II

Terms of Service for Ophthalmic Opticians

Interpretation

1. In these terms of service, except so far as the context otherwise requires, the expression " the regulations " means the National Health Service (Supplementary Ophthalmic Services) Regulations, 1948, and other words and expressions have the same meaning as in the regulations.

Incorporation of provisions of regulations, etc.

2. Any provisions of the regulations or of the statement prepared under regulation 3 of the regulations affecting the rights and obligations of ophthalmic opticians shall be deemed to form part of these terms of service.

Standard of service

3. In testing sight in accordance with the provisions of the regulations, the ophthalmic optician shall give proper care and attention and where glasses are necessary shall prescribe for them on form No. 1 set out in the third schedule to the regulations.

4. Where an ophthalmic optician is of the opinion that a person whose eyes he has examined—

(*a*) does not require glasses, or
(*b*) shows on examination any abnormality of the eyes or otherwise requires treatment outside the scope of the supplementary ophthalmic services, or
(*c*) is not likely to secure a satisfactory standard of vision notwithstanding the application of corrective lenses, or
(*d*) should revisit him with a view to a further examination within six months,

he shall so inform his general medical practitioner.

5.—(1) In supplying or repairing glasses in accordance with the provisions of the regulations, an ophthalmic optician shall employ proper care and attention and proceed with reasonable expedition.

(2) All glasses supplied by or through an ophthalmic optician shall conform to the types and quality set out in the statement referred to in regulation 3 of the regulations.

Premises

6.—(1) The ophthalmic optician shall provide proper and sufficient consulting, fitting and waiting room accommodation, and suitable instruments for the testing of the sight and the supplying or repairing of glasses.

(2) The ophthalmic optician on receipt of a written request shall admit an authorised officer of the Minister or any authorised member or officer of the Committee at all reasonable times to any such accommodation under the control of the optician for the purpose of inspecting the same.

Records

7. In each case in which the ophthalmic optician tests sight or supplies or repairs glasses under the regulations, he shall keep proper records, and shall, if required to do so produce such records to any authorised officer of the Minister.

Remuneration

8.—(1) The ophthalmic optician shall not suggest, demand or accept any fee or remuneration otherwise than under the regulations in respect of any supplementary ophthalmic services provided by him :

Provided that nothing in this sub-paragraph shall deprive the optician of any right to recover a reasonable charge from any person in respect of loss of remunerative time resulting from the failure of that person without sufficient excuse to keep an appointment, or in respect of a journey made at the request of a person to his place of residence.

(2) Any remuneration payable under these terms of service to an ophthalmic optician, who is a member, director or employee of a firm or company providing supplementary ophthalmic services may be paid by the Council to the firm or company.

Inability of an ophthalmic optician to complete service

9. If owing to the death of the person or other cause beyond the control of the ophthalmic optician, the optician is unable to supply the person with glasses which he has undertaken to supply under the regulations he shall notify the Committee in writing and he shall be entitled to such payment as may be approved by the Committee.

Arrangements for the provision of services

10.—(1) Where the name of a person, firm or company is included in the ophthalmic list as an ophthalmic optician in addition to the name of any employee, the person, firm or company shall be jointly responsible with such employee for any supplementary ophthalmic service provided by the employee.

(2) The ophthalmic optician shall make all necessary arrangements for the provision of supplementary ophthalmic services to persons to whom he has undertaken to provide such services.

(3) The ophthalmic optician for the purpose of testing sight shall only employ a person who is an ophthalmic optician.

(4) The ophthalmic optician shall not without the consent of the Minister employ for the purposes of supplementary ophthalmic services any person who is disqualified under section 42 of the Act for inclusion in the ophthalmic list of the Committee.

(5) An employee who is an ophthalmic optician whose name is not on the ophthalmic list shall, in addition to signing with his own name any form or other document issued by him under these terms of service, insert therein, if it does not already appear, the name of his employer.

(6) The ophthalmic optician shall be responsible for all acts and omissions of an employee whose name is not included in the ophthalmic list.

(7) " An employee " for the purposes of this paragraph includes a deputy, and in the case of a firm or company any member or director.

Advertising

11.—(1) Except as provided in sub-paragraph (2) of this paragraph an ophthalmic optician shall not advertise either directly or by implication that his name is included in an ophthalmic list or that he provides or is authorised to provide services under the Act.

(2) Nothing in this paragraph shall prohibit the display at any premises at which the optician carries on his business of a notice supplied by the Committee in the following form :

NATIONAL HEALTH SERVICE

Ophthalmic Optician qualified to provide services under the National Health Service Act, 1946,

under contract with the .....

Ophthalmic Services Committee.

(3) For the purposes of this paragraph, the expression " advertise " includes—

(*a*) the publication of a notice in any newspaper or other printed paper issued periodically for public circulation ;

(*b*) the issue of circular letters ;

(*c*) the use of letter headings, bill or account headings and the like ;

(*d*) the publication of booklets, leaflets and pamphlets ;

(*e*) canvassing in any form ;

(*f*) the making of any public announcement by means of wireless, gramophone records or loudspeaker ;

(*g*) the display of any poster, placard, streamer or sign ;

(*h*) the exhibition of any film, slide or announcement at a theatre, cinema or other place of public entertainment or resort.

Fair wages

12. An ophthalmic optician shall, in respect of the categories of staff whose wages and conditions of work are approved by the Joint Industrial Council for the Ophthalmic Optical Industry, pay rates of wages and observe conditions not less favourable than those for the time being so approved.

Revision of terms of service

13.—(1) The Committee may, subject to the approval of the Minister, alter the terms of service as from such date as the Minister may approve by giving notice of the proposed alterations to each ophthalmic optician.

(2) Except in the case of an alteration which results from the coming into operation of any Act of Parliament or from an amendment of the regulations, or of the statement prepared under regulation 3 of the regulations the alteration shall not come into operation within a period of three months from the date of the issue of the notice.

Withdrawal from ophthalmic list

14. The ophthalmic optician shall be entitled at any time to give notice to the Committee that he desires to withdraw his name from the ophthalmic list and his name shall be removed therefrom at the expiration of three months from the date of such notice or of such shorter period as the Committee may agree :

Provided that :—

(i) if representations are made to the Tribunal under section 42 of the Act that the continued inclusion of an ophthalmic optician in the ophthalmic list would be prejudicial to the efficiency of the supplementary ophthalmic services, he shall not, except with the consent of the Minister and subject to such conditions if any as the Minister may impose, be entitled to have his name removed from the list pending the termination of the proceedings on such representations.

(ii) An optician shall make satisfactory arrangements for the completion of any service which he has undertaken under the regulations.

Issue of notices to ophthalmic opticians

15. Any notice which a Committee is required or authorised by these terms of service to give to an ophthalmic optician shall be sufficiently given if it has been addressed to him and sent by post or delivered to or at the address which he has last notified the Committee as being his address. [2620]

PART III

Terms of Service for Dispensing Opticians

Interpretation

1. In these terms of service, except so far as the context otherwise requires, the expression "the Regulations" means the National Health Service (Supplementary Ophthalmic Services) Regulations, 1948, and other words and expressions have the same meaning as in the regulations.

Incorporation of provisions of regulations, etc.

2. Any provisions of the regulations or of the statement prepared under regulation 3 of the regulations affecting the rights and obligations of dispensing opticians shall be deemed to form part of these terms of service.

Standard of service

3. In supplying or repairing glasses in accordance with the provisions of the regulations, a dispensing optician shall employ proper care and attention and proceed with reasonable expedition.

Premises

4.—(1) The dispensing optician shall provide proper and sufficient accommodation and suitable instruments for the supplying or repairing of glasses.

(2) The dispensing optician on receipt of a written request shall admit an authorised officer of the Minister or an authorised member or officer of the Committee at all reasonable times to any fitting or waiting room accommodation under the control of the optician for the purpose of inspecting the accommodation.

Records

5. In each case in which the dispensing optician supplies or repairs glasses under these regulations he shall keep proper records and shall, if required to do so, produce such records to any authorised officer of the Minister.

Remuneration

6.—(1) The dispensing optician shall not suggest, demand or accept any fee or remuneration otherwise than under the regulations in respect of any supplementary ophthalmic services provided by him :

Provided that nothing in this sub-paragraph shall deprive the optician of any right to recover a reasonable charge from any person in respect of loss of remunerative time resulting from the failure of that person without sufficient excuse to keep an appointment, or in respect of a journey made at the request of a person to his place of residence.

(2) Any remuneration payable under these terms of service to a dispensing optician, who is a member, director, or employee of a firm or company providing supplementary ophthalmic services, may be paid by the Council to the firm or company.

Inability of a dispensing optician to complete service

7. If owing to the death of the person or other cause beyond the control of the dispensing optician, the optician is unable to supply him with glasses which he has undertaken to supply under the regulations he shall notify the Committee in writing and he shall be entitled to such payment as may be approved by the Committee.

Arrangements for the provision of services

8.—(1) When the name of a person, firm or company is included in the ophthalmic list as a dispensing optician in addition to the name of any employee, the person, firm or company shall be jointly responsible with any such employee for any supplementary ophthalmic service provided by the employee.

(2) The dispensing optician shall make all necessary arrangements for the fitting and supply of glasses to persons to whom he has undertaken to provide them.

(3) The dispensing optician shall not without the consent of the Minister employ for the purposes of supplementary ophthalmic services any person who is disqualified under section 42 of the Act for inclusion in the ophthalmic list of the Committee.

(4) An employee who is a dispensing optician whose name is not on the ophthalmic list shall, in addition to signing with his own name any form or other document issued by him under these terms of service, insert therein if it does not already appear the name of his employer.

(5) The dispensing optician shall be responsible for all acts and omissions of an employee whose name is not included in the ophthalmic list.

(6) " An employee " for the purpose of this paragraph includes a deputy and in the case of a firm or company any member or director.

Advertising

9.—(1) Except as provided in sub-paragraph (2) of this paragraph a dispensing optician shall not advertise either directly or by implication that his name is included in the list of an Ophthalmic Services Committee or that he provides or is authorised to provide services under the Act.

(2) Nothing in this regulation shall prohibit the display at or on any premises at which the optician carries on his business of a notice supplied by the Committee in the following form—

NATIONAL HEALTH SERVICE

Dispensing Optician qualified to provide services under the National Health Service Act, 1946, under contract with the.....Ophthalmic Services Committee.

(3) For the purposes of this paragraph, the expression " advertise " includes—

(*a*) the publication of a notice in any newspaper or other printed paper issued periodically for public circulation ;

(*b*) the issue of circular letters ;

(*c*) the use of letter headings, bill or account headings and the like ;

(*d*) the publication of booklets, leaflets and pamphlets ;

(*e*) canvassing in any form ;

(*f*) the making of any public announcement by means of wireless, gramophone records or loudspeaker ;

(*g*) the display of any poster, placard, streamer or sign ;

(*h*) the exhibition of any film, slide or announcement at a theatre, cinema or other place of public entertainment or resort.

Fair wages

10. A dispensing optician shall, in respect of the categories of staff whose wages and conditions of work are approved by the Joint Industrial Council for the Dispensing Optical Industry, pay rates of wages and observe conditions not less favourable than those for the time being so approved.

Revision of terms of service

11.—(1) The Committee may, subject to the approval of the Minister, alter the terms of service as from such date as the Minister may approve by giving notice of the proposed alterations to each dispensing optician.

(2) Except in the case of an alteration which results from the coming into operation of any Act of Parliament or from an amendment of the regulations, or of the statement prepared under regulation 3 of the regulations the alteration shall not come into operation within a period of three months from the date of the issue of the notice.

Withdrawal from ophthalmic list

12. The dispensing optician shall be entitled at any time to give notice to the Committee that he desires to withdraw his name from the ophthalmic list and his name shall be removed therefrom at the expiration of three months from the date of such notice or of such shorter period as the Committee may agree.

Provided that :—

(i) if representations are made to the Tribunal under section 42 of the Act that the continued inclusion of a dispensing optician in the ophthalmic list would be prejudicial to the efficiency of the supplementary ophthalmic services, he shall not, except with the consent of the Minister and subject to such conditions if any as the Minister may impose, be entitled to have his name removed from the list pending the termination of the proceedings on such representations.

(ii) An optician shall make satisfactory arrangements for the completion of any service which he has undertaken under the regulations.

Issue of notices to dispensing opticians

13. Any notice which a Committee is required or authorised by these terms of service to give to a dispensing optician shall be sufficiently given if it has been addressed to him and sent by post or delivered to or at the address which he has last notified the Committee as being his address. [2621]

SECOND SCHEDULE

Form of Application for Inclusion in Ophthalmic List

I. OPHTHALMIC MEDICAL PRACTITIONER

To the Ophthalmic Services Committee for .....

I .....

of .....

being a medical practitioner having the qualifications prescribed for the purpose of section 41 of the National Health Service Act, 1946, undertake under the arrangements for Supplementary Ophthalmic Services to test sight on the terms in operation in the Committee's area, and apply to have my name included in the Ophthalmic List.

Particulars of my usual surgery hours are given below.

Address of Surgery.	*Days and Hours of Attendance.*
.....	.....
.....	.....

I am practising in partnership with .....

To be completed where appropriate.

of .....

I am acting as an assistant to .....

of .....

Signed .....

Central Professional Committee Number .....

Date .....

Form of Application for Inclusion in Ophthalmic List.

II. OPHTHALMIC OPTICIANS

To the Ophthalmic Services Committee for .....

I (We) .....

of .....

an ophthalmic optician (or firm or company of ophthalmic opticians) having the qualifications prescribed for the purposes of section 41 of the National Health Service Act, 1946, undertake under the arrangements for Supplementary Ophthalmic Services to test sight and supply glasses on the terms in operation in the Committee's area and apply to have my (our) name(s) included in the Ophthalmic List. My (Our)

consulting rooms or other premises for this purpose and usual hours of service are :—

Address(es) of Consulting Rooms or other premises.	*Days and Hours of Service*	
	Days	*Hours*
.....	.....	
.....	.....	

To be completed where appropriate.

I am employed by .....

of .....

*The ophthalmic optician(s) having the prescribed qualifications who is (are) in charge at this (these) address(es) is (are)

.....

.....

Signed .....

Central Professional Committee Number .....

Date .....

* To be completed only where application is being made by a firm or company.

Form of Application for Inclusion in Ophthalmic List

III. DISPENSING OPTICIANS

To the Ophthalmic Services Committee for .....

I (We) .....

of .....

a dispensing optician (or firm or company of dispensing opticians) having the qualifications prescribed for the purposes of section 41 of the National Health Service Act, 1946, undertake under the arrangements for Supplementary Ophthalmic Services to supply glasses on the terms in operation in the Committee's area and apply to have my (our) name(s) included in the Ophthalmic List.

My (Our) premises and usual hours of service are :—

Address(es) of Premises.	*Days and Hours of Service.*	
	Days	*Hours*
.....	.....	
.....	.....	

To be completed where appropriate.

I am employed by .....

of .....

*The dispensing optician(s) having the prescribed qualifications who is (are) in charge at this (these) address(es) is (are)

.....

.....

Signed .....

Central Professional Committee Number .....

Date .....

* To be completed only where application is being made by a firm or company. [2622]

THIRD SCHEDULE

FORM NO. 1.

NATIONAL HEALTH SERVICE
SUPPLEMENTARY OPHTHALMIC SERVICES
SIGHT TESTING AND SUPPLY OF GLASSES

PART I — TO BE COMPLETED BY OR ON BEHALF OF THE APPLICANT

SURNAME (In Block Letters)	MR., MRS., MISS ETC.	NATIONAL REGISTRATION IDENTITY NUMBER
CHRISTIAN NAMES		AGE
PRESENT ADDRESS	PERMANENT HOME ADDRESS (if different from present address)	
NAME AND ADDRESS OF OPTICIAN WHO SUPPLIED PREVIOUS GLASSES (if any)	APPROXIMATE DATE ON WHICH SIGHT WAS LAST TESTED	

PART II — TO BE COMPLETED BY AN OPHTHALMIC MEDICAL PRACTITIONER OR BY AN OPHTHALMIC OPTICIAN AND SENT TO THE OPHTHALMIC SERVICES COMMITTEE AFTER PARTS IV AND V HAVE BEEN COMPLETED

	RIGHT						LEFT				
	Sph.	Cyl.	Axis	Prism	Base		Sph.	Cyl.	Axis	Prism	Base
DISTANCE						DISTANCE					
READING						READING					

REMARKS

NAME AND ADDRESS OF OPHTHALMIC MEDICAL PRACTITIONER OR OPHTHALMIC OPTICIAN TO WHOM PAYMENT SHOULD BE MADE (rubber stamp or block letters)

THE APPLICANT REQUIRES GLASSES AS PRESCRIBED ABOVE

SIGNATURE OF OPHTHALMIC MEDICAL PRACTITIONER
OR
SIGNATURE OF OPHTHALMIC OPTICIAN [JOINTLY ON HIS OWN BEHALF AND ON BEHALF OF

_____]

SIGNATURE _____

O.S.C. LIST No. _____

DATE _____

PART III — FOR OFFICIAL USE

APPROVED

PLEASE DO NOT DETACH THIS PART OF THE FORM

PART IV — TO BE COMPLETED BY OR ON BEHALF OF THE APPLICANT

MY SIGHT* / THE APPLICANT'S SIGHT* HAS BEEN TESTED TO-DAY I HAVE NOT* / THE APPLICANT HAS NOT* BEEN SUPPLIED WITH GLASSES SINCE JULY, 1948

SIGNATURE OF APPLICANT _____ DATE _____
(or, in the case of a child or an invalid, the signature of a parent, guardian or other person in charge)

* Delete whichever is not applicable

PART V — TO BE COMPLETED BY THE OPHTHALMIC MEDICAL PRACTITIONER OR THE OPHTHALMIC OPTICIAN

NAME AND ADDRESS OF OPHTHALMIC MEDICAL PRACTITIONER OR OPHTHALMIC OPTICIAN TO WHOM PAYMENT SHOULD BE MADE (rubber stamp or block letters)

I HAVE TESTED THE APPLICANT'S SIGHT AND I ACCORDINGLY CLAIM PAYMENT OF £ :

SIGNATURE OF OPHTHALMIC MEDICAL PRACTITIONER
OR
SIGNATURE OF OPHTHALMIC OPTICIAN [JOINTLY ON HIS OWN BEHALF AND ON BEHALF OF

_____]

SIGNATURE _____

O.S.C. LIST No _____

DATE _____

PART VI — FOR OFFICIAL USE

AUTHORISED FOR PAYMENT

Form O.S.C. 7.

PART VII

TO BE COMPLETED BY THE OPTICIAN WHO SUPPLIES THE GLASSES AND SENT TO THE OPHTHALMIC SERVICES COMMITTEE AFTER PART VIII (IF APPLICABLE) AND PART IX HAVE BEEN COMPLETED AS INDICATED BELOW

DETAILS OF THE GLASSES SUPPLIED TO THE APPLICANT TO THE PRESCRIPTION OVERLEAF

DESCRIPTION OF FRAMES (if supplied)

DESCRIPTION OF LENSES

NAME AND ADDRESS OF OPTICIAN TO WHOM PAYMENT SHOULD BE MADE (rubber stamp or block letters)

I HAVE SUPPLIED THE APPLICANT WITH THE GLASSES DESCRIBED ABOVE AND I CLAIM PAYMENT OF £ : : FROM THE OPHTHALMIC SERVICES COMMITTEE. THIS SUM DOES NOT INCLUDE ANY AMOUNT DUE FROM THE APPLICANT.

SIGNATURE OF OPTICIAN [JOINTLY ON HIS OWN BEHALF AND ON BEHALF OF

_____

_____]

SIGNATURE _____

O.S.C. List No. _____

DATE _____

PART VIII

IF GLASSES OF A SPECIAL TYPE ARE SUPPLIED AT THE REQUEST OF THE APPLICANT TO BE COMPLETED (a) BY THE OPTICIAN AND (b) BY OR ON BEHALF OF THE APPLICANT

(a) MY CHARGE TO THE APPLICANT IN ADDITION TO THE CHARGE TO THE OPHTHALMIC SERVICES COMMITTEE IS

£ : : .

SIGNATURE OF OPTICIAN [JOINTLY ON HIS OWN BEHALF AND ON BEHALF OF

_____

_____]

SIGNATURE _____

DATE _____

(b) I EXPRESSLY DESIRED TO BE SUPPLIED WITH GLASSES OF THE SPECIAL TYPE DESCRIBED ABOVE AND I UNDERTAKE TO PAY THE SUPPLIER

£ : :

SIGNATURE OF APPLICANT _____
(or in the case of a child or an invalid, the signature of a parent, guardian or other person in charge)

DATE _____

PART IX

TO BE COMPLETED BY OR ON BEHALF OF THE APPLICANT

I HAVE BEEN*
*THE APPLICANT HAS BEEN** SUPPLIED WITH THE GLASSES DESCRIBED ABOVE

SIGNATURE OF APPLICANT _____ DATE _____
(or in the case of a child or an invalid, the signature of a parent, guardian or other person in charge)

* Delete whichever is not applicable

PART X

FOR OFFICIAL USE

AMOUNT AUTHORISED		
£ : : .		
AUTHORISED FOR PAYMENT		

THIS PART OF THE FORM TO BE LEFT BLANK

FORM No. 2.

NATIONAL HEALTH SERVICE

SUPPLEMENTARY OPHTHALMIC SERVICES

REPLACEMENT OR REPAIR OF GLASSES WITHIN TWO YEARS OF A SIGHT TEST

PART I

To be completed by or on behalf of the applicant.

Surname *(in block letters)*	Mr. Mrs. Miss etc.	National Registration Identity Number

Christian Names	Age

Present Address	Permanent Home Address *(if different from present address)*

Name and address of optician who supplied the glasses	Approximate date on which sight was last tested.

The loss or damage $\frac{\text{was*}}{\text{was not*}}$ caused by personal carelessness§

Signature of applicant..... Date .....
(or in the case of a child or invalid, the signature of a parent, guardian, or other person in charge)

***Delete if not applicable*

§Notes for the guidance of the Applicant.

You will normally have to pay the cost of replacing or repairing glasses lost or damaged unless you can show, to the satisfaction of the Ophthalmic Services Committee, that the loss or damage was not caused by personal carelessness.

If you admit personal carelessness the optician may proceed at once with the work at your expense.

If you do not admit personal carelessness, the optician cannot proceed at once with the work unless you pay him a deposit equal to the full cost of replacement or repair. The back of the receipt which the optician will give you in acknowledgement of the deposit may be used by you to ask the Ophthalmic Services Committee whether they will refund the amount you have paid. If you do not wish to pay a deposit, the approval of the Committee must be obtained before the work can be undertaken without charge. In this case the optician will ask you for a written statement of the cause of the loss or damage, and he will send your statement with this form to the Ophthalmic Services Committee who will notify you of their decision.

PART II

If glasses of a special type are to be replaced or if parts of a special type are to be fitted at the request of the applicant, to be completed :—

(a) by the optician

(b) by or on behalf of the applicant

(a) My charge to the applicant, in addition to the charge, if any, to the Ophthalmic Services Committee is £ : : for glasses of a special type replaced or parts of a special type fitted at the request of the applicant.
Signature of optician [jointly on his own behalf and on behalf of

.....]

Signature .....

O.S.C. List No. .....

Date .....

(b) I undertake to pay the optician £ : : for glasses of a special type replaced or parts of a special type fitted at my request.

Signature of applicant (or in the case of a child or invalid, the signature of a parent, guardian or other person in charge)

.....

Date .....

PART III

If personal carelessness is admitted or determined, to be completed :—

(a) by the optician

(b) by or on behalf of the applicant

(a) My charge to the applicant for replacements or repairs necessitated by personal carelessness is £ .
Signature of optician [jointly on his own behalf and on behalf of

.....]

Signature .....

O.S.C. List No. .....

Date. .....

(b) I undertake to pay the optician £ : : for replacements or repairs necessitated by personal carelessness.

Signature of applicant (or in the case of a child or invalid, the signature of a parent, guardian, or other person in charge)

.....

Date. .....

Form O.S.C. 2A.

[Please see overleaf

PART IV

To be completed by the optician

PRESCRIPTION (where appropriate)

RIGHT						LEFT				
Sph.	Cyl.	Axis	Prism	Base		Sph.	Cyl.	Axis	Prism	Base
					Distance					
					Reading					

DETAILS OF REPLACEMENTS OR REPAIRS
Description of frames *(if supplied)*

Description of lenses

NAME AND ADDRESS OF OPTICIAN TO WHOM PAYMENT SHOULD BE MADE *(Rubber stamp or block letters)*

PART V

If personal carelessness is not admitted

To be completed by the optician

I submit this form to the Ophthalmic Services Committee for a decision

The applicant has paid £ : : as a deposit*

Signature of optician [jointly on his own behalf and on behalf of .....
.....]

Signature ..... Date .....

O.S.C. List No. .....

** Delete if not applicable*

PART VI

For official use

PART VII

To be completed by the optician

I have supplied the replacements or carried out the repairs described in Part IV above (and I claim payment of £ : : from the Ophthalmic Services Committee. This sum does not include any amount due from the applicant.)†

Signature of optician [jointly on his own behalf and on behalf of .....
.....]

Signature ..... Date .....

O.S.C. List No. .....

† Delete words in brackets if not applicable

PART VIII

To be completed by or on behalf of the applicant

The replacements have been supplied or the repairs have been carried out as described in Part IV above.

Signature of applicant ..... Date .....
(or in the case of a child or invalid, the signature of a parent, guardian or other person in charge)

PART IX

For official use

Amount authorised		
£ : :		
Authorised for payment		

FORM NO. 3

SUPPLEMENTARY OPHTHALMIC SERVICE

Replacement or Repair of Glasses for Schoolchildren

Part I. To be completed by the parent or guardian

Name of child.....

Address .....

National Registration Identity No.....

Cause of loss or damage :—

Signed.....

Date.....

Part II. To be completed by the medical officer or ophthalmic surgeon or other duly authorised officer of the Local Education Authority

To AN OPTICIAN providing Supplementary Ophthalmic Services :

You are authorised to proceed with the $\frac{\text{replacement*}}{\text{repair*}}$ of the glasses of the above named child without seeking the prior approval of the Ophthalmic Services Committee and without asking for the payment of a deposit by the parent or guardian provided you submit this form to the Ophthalmic Services Committee with your claim for payment after completion of the work.

Signature .....

On behalf of .....L.E.A.

Date ..... [2623]

*Delete whichever is not applicable.

FOURTH SCHEDULE

RULES OF PROCEDURE UNDER REGULATION 17

Procedure

1. Where under the provisions of the regulations any question or matter is required to be investigated by an Ophthalmic Services Committee, the following procedure shall be adopted :—

(*a*) If in the opinion of the chairman of the Committee the statement made by the complainant discloses no prima facie ground of complaint, or is frivolous or vexatious, the clerk of the Committee shall so inform the complainant and shall invite him within seven days to submit a further statement. If no further statement is submitted by the complainant within that period, or if the statement so submitted does not in the opinion of the chairman render a hearing of the case necessary, the case shall be brought before the Committee which shall have power to dispense with a hearing and to report on the matter forthwith.

(*b*) The clerk of the Committee shall, as soon as practicable, send to the chairman of the Committee and to the ophthalmic medical practitioner or optician concerned a copy of the complainant's statement and any ensuing correspondence on the matter.

(*c*) Except in cases dealt with under subparagraph (*a*) without a hearing the clerk shall give to both parties not less than fourteen days' notice of the meeting at which the case will be heard.

(*d*) The chairman may, upon the application of either party, postpone the hearing if he is satisfied that the attendance of the party or any witness

on the date fixed for the hearing is not reasonably practicable, or if for any other reason he thinks fit.

(*e*) The complainant may subject to the consent of the chairman withdraw his statement of complaint at any stage of the proceedings.

(*f*) The clerk shall three clear days before the hearing supply to each member of the Committee copies of the statement and the reply, if any, thereto, and of any further correspondence relating to the matter which has taken place between the clerk and either party.

(*g*) Either party shall be entitled to be present at the hearing and to give and call such evidence as the Committee may think relevant to the matters at issue, and may put questions relevant to the matter in dispute to the other party or to any witness called by him, either directly, or, if the Committee so direct, through the chairman of the Committee. Subject as aforesaid, the procedure at the hearing shall be such as the Committee may determine.

(*h*) If either party fails to appear at the hearing, and the Committee are satisfied that his absence is due to illness or other reasonable cause, or if for any other reason the Committee think fit, they may adjourn the hearing.

(*i*) If in the course of a hearing the complainant introduces any issue which in the opinion of the chairman was not sufficiently disclosed in the written statement or statements sent to the respondent, it shall be within the discretion of the chairman to admit or exclude such issue as he thinks fit, but if the issue is admitted, the hearing shall be adjourned if the respondent desires an opportunity of producing further evidence, and desires an adjournment for that purpose.

(*j*) The chairman, one lay member and one professional member shall form a quorum.

Adjourned meetings

2. Where a case has been opened before any Committee and the meeting is adjourned for the purpose of hearing further evidence or of preparing or considering the report, a member of the Committee who was not present at the meeting shall not be entitled to be present or take part in the proceedings at the adjourned meeting, and it shall not be necessary for the clerk to send him notice of such meeting.

Interpretation

3. In these rules, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them :—

" chairman " includes a deputy chairman acting in his place.

" lay member " means a member appointed to the Committee by the Council from among the members of the Council other than those appointed by the Local Medical Committee.

" professional member " means a member belonging to the same branch of the service as the respondent. [2624]

FIFTH SCHEDULE

FORM 1

Notice to the respondent of intention to hold inquiry

In the matter of a*

and

In the matter of the National Health Service Act, 1946.

To of

Take notice that a representation has been made by

of to the Tribunal

that your continued inclusion in the list of the Ophthalmic Services Committee of [medical practitioners] [ophthalmic opticians] [dispensing opticians] undertaking to provide supplementary ophthalmic services would be prejudicial to the efficiency of the said services, and that it is proposed to hold an inquiry with respect to the above representation.

A statement of the alleged facts and grounds on which the above representation is based will be sent to you as soon as possible, and notice of the date appointed for the holding of the inquiry will follow in due course.

A copy of the National Health Service (Supplementary Ophthalmic Services) Regulations, 1948, is enclosed herewith for your information.

Signed

Clerk of the Tribunal.

Dated.....

---

* State whether respondent is an ophthalmic medical practitioner, ophthalmic optician or dispensing optician.

FORM 2

Notice to complainant of intention to hold inquiry

In the matter of a*

and

In the matter of the National Health Service Act, 1946

To of

Take notice that it is proposed to hold an inquiry with respect to the representation dated the day of 19 , made by you to the Tribunal to the effect that the continued inclusion of the above-named* in the list of the Ophthalmic Services Committee of [medical practitioners] [ophthalmic opticians] [dispensing opticians] undertaking to provide supplementary ophthalmic services would be prejudicial to the efficiency of the said services.

You are hereby required within days after receipt of this notice to set out on the accompanying form—

(*a*) a concise statement of the alleged facts and grounds on which your said representation is based ; and

(*b*) a list of all the documents (if any) which you propose to put in evidence at the inquiry,

and to forward the form to the Clerk of the Tribunal [ ].

Notice of the day appointed for the holding of the inquiry will be sent to you in due course.

A copy of the National Health Service (Supplementary Ophthalmic Services) Regulations, 1948, is enclosed herewith for your information.

Signed

Clerk of the Tribunal.

Dated.....

---

* State whether respondent is an ophthalmic medical practitioner, ophthalmic optician or dispensing optician.

FORM 2A

Statement of Complaint

In the matter of a*

and

In the matter of the National Health Service Act, 1946.

To the Clerk of the Tribunal, [ ].

The facts and grounds on which the representation made by me with respect to the above-named is based, are as follows :—

[Here set out concise statement of facts and grounds.]

The following is a list of all the documents which I propose to put in evidence :—

[Here set out list of documents].

Signed

Dated.....

---

* State whether respondent is an ophthalmic medical practitioner, ophthalmic optician or dispensing optician.

FORM 3

Notice to respondent of alleged facts and grounds on which representation is based

In the matter of a*

and

In the matter of the National Health Service Act, 1946.

To of

With reference to the representation made by of concerning you (of which representation due notice was given to you dated the day of) I am directed by the Tribunal to send you a copy of the statement of complaint received by the Tribunal from the said setting out the alleged facts and grounds on which the said representation is based, together with a list of all documents proposed to be put in evidence by him.

You may if you so desire, inform the Tribunal, by statement in writing addressed to me at [ ] within days after receipt of this notice, whether you admit or dispute the truth of all or any of the allegations appearing in the statement of complaint.

You are further entitled to inspect any of the documents mentioned in the above list, either personally or by an agent authorised in writing, on giving due notice to the above-named and, by applying to the Tribunal for that purpose, to receive copies of any of the said documents.

Signed

Clerk of the Tribunal.

Dated.....

---

* State whether respondent is an ophthalmic medical practitioner, ophthalmic optician or dispensing optician.

FORM 4

Notice to complainant or respondent of day appointed for holding of inquiry

In the matter of a*

and

In the matter of the National Health Service Act, 1946.

To of

With further reference to the representation made by you with respect to the above-named [or by of with respect to you.]

Take notice that the Tribunal will on day the day of . 19 , at a.m. p.m. at hold an inquiry to investigate the said representation.

You are hereby informed that if you do not attend on the date at the time and place appointed for the inquiry, the Tribunal may proceed to hold the inquiry in your absence.

Signed

Clerk of the Tribunal.

Dated.....

---

* State whether respondent is an ophthalmic medical practitioner, ophthalmic optician or dispensing optician.

FORM 5

Notice of inquiry to be sent to any Executive Council which is not the complainant

In the matter of a*

and

In the matter of the National Health Service Act, 1946.

To the Executive Council for

Take notice that a representation has been made by of to the Tribunal to the effect that the continued inclusion of the above-named respondent in the list of the Ophthalmic Services Committee of [medical practitioners] [ophthalmic opticians] [dispensing opticians] undertaking to provide supplementary ophthalmic services would be prejudicial to the efficiency of the said services.

You are hereby informed that an inquiry to investigate the said representation will be held by the Tribunal on day the day of 19 , at a.m. / p.m. at and that you are entitled to appear and take such part in the proceedings as the Tribunal shall think proper.

A copy of the statement of complaint is enclosed for your information.

Signed

Clerk of the Tribunal.

Dated.....

---

* State whether respondent is an ophthalmic medical practitioner, ophthalmic optician or dispensing optician. [2625]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

The regulations provide for the arrangements which Executive Councils through Ophthalmic Services Committees are required to make under Part IV of the National Health Service Act 1946 *for the provision of Supplementary Ophthalmic Services. The regulations also provide for disciplinary matters relating to the provision of supplementary ophthalmic services and prescribe the procedure to be followed in the hearing of representations for the removal of medical practitioners, ophthalmic opticians and dispensing opticians providing supplementary ophthalmic services from a list under section* 42 *of the Act.*

NATIONAL HEALTH SERVICE (DISSOLVED AUTHORITIES) REGULATIONS, 1948

S.I. 1948 *No.* 1292

June 16, 1948

The Minister of Health, in exercise of the powers conferred upon him by section 78 of the National Health Service Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

1. These regulations may be cited as the National Health Service (Dissolved Authorities) Regulations, 1948, and shall come into operation on the twenty-first day of June, 1948. [2626]

2.—(1) In these regulations, unless the context otherwise requires the following expressions have the meanings hereby assigned to them :—

" the Act " means the National Health Service Act, 1946 ;

" the appointed day " means the fifth day of July, 1948 ;

" dissolved authority " means a body, other than a committee constituted under section 28 of the Mental Deficiency Act, 1913, for the care of the mentally defective, which by virtue of section 78 of the Act will be dissolved as from the appointed day ;

" successors of the dissolved authority " means, in relation to any property or liability transferred by virtue of these regulations, the person or persons to whom the property or liability is transferred ;

and other expressions used in these regulations have the same meaning as in the Act.

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [2627]

3. Every dissolved authority shall before the appointed day liquidate as far as possible all its current debts and liabilities. [2628]

4.—(1) The accounts of every dissolved authority and of the committees, sub-committees and officers of every such authority shall be made up to the appointed day and shall be audited in manner following :—

(*a*) in case of a dissolved authority whose accounts before the appointed day are subject to district audit, by the district auditor in accordance with the provisions of the Local Government Act, 1933, as modified and set out in the Schedule hereto ;

(*b*) in case of a dissolved authority which is the governing body of a voluntary hospital, by an auditor or auditors appointed by that body, or, failing any such appointment, by an auditor appointed by the Minister ;

(*c*) in case of any other dissolved authority, in like manner and subject to the like incidents and consequences as if the Act had not been passed.

(2) For the purpose of the audit of accounts under the foregoing paragraph of this regulation every dissolved authority shall before the appointed day nominate a person to be responsible for making up the accounts to the appointed day in manner hereinafter mentioned and submitting them to audit and for the performance of such other duties in relation to the audit as would, if the authority had continued in existence after the appointed day, have been performed by the authority or the appropriate officer or officers of the authority.

(3) The accounts to be made up to the appointed day in accordance with the last preceding paragraph shall include a revenue account on an income

and expenditure basis and a balance sheet showing the assets and liabilities of the dissolved authority as at the appointed day.

(4) The name and address of the person nominated by a dissolved authority in pursuance of paragraph (2) of this regulation shall be notified in writing by the authority to the Minister and, in the case of an authority to which paragraph (1) (*a*) of this regulation applies, to the district auditor for the district.

(5) If a dissolved authority fails to nominate a person in accordance with the requirements of paragraph (2) of this regulation or if the person nominated by the authority fails, or for any reason is unable, to carry out the duties required of him in relation to the audit, the Minister may appoint a person to act in his place.

(6) Any expenses properly incurred in connection with the audit by the person nominated by a dissolved authority or appointed by the Minister shall be reimbursed by the Minister.

(7) Regulations and rules made under Part X of the Local Government Act, 1933, with respect to district audit and to appeals and applications to the High Court shall apply (with such modifications as may be necessary) to the audit of accounts under paragraph (1) (*a*) of this regulation. [2629]

5. Any person who holds any moneys on behalf of a dissolved authority shall so far as is reasonably practicable pay such moneys to the treasurer of the authority in time for him to bank them before the close of business on the third day of July, 1948. The treasurer shall at the same time bank any other moneys held by him on behalf of the authority. [2630]

6. Save as otherwise expressly provided by the Act or by regulations made under the Act—

(*a*) all contracts, deeds, bonds, agreements and instruments subsisting in favour of or against a dissolved authority in relation to property or liabilities transferred by these regulations shall be of full force and effect, as the case may require, in favour of or against the successors of the dissolved authority ;

(*b*) if immediately before the appointed day any action or proceeding or any cause of action or proceeding is pending or existing by or against a dissolved authority the same shall not be prejudicially affected by reason of the Act but may be continued, prosecuted and enforced by or against, as the case may require, the successors of the dissolved authority ;

(*c*) all legal proceedings pending immediately before the appointed day may be amended in such manner as may be necessary or proper for enabling them to be prosecuted and enforced by or against the successors of the dissolved authority or in relation to any interest of the dissolved authority whether vested or contingent in any property. [2631]

7.—(1) Subject to the provisions of regulation 10, all property and liabilities held by a dissolved authority or to which such an authority is subject immediately before the appointed day, and for the transfer and vesting of which no other provision is made by the Act or by regulations made under the Act, shall be dealt with in the following manner :—

(*a*) the local authority, other than a joint board or joint committee, which appointed a visiting committee constituted under section 7 of the Mental Treatment Act, 1930, shall, as from the appointed day, by virtue of these regulations be entitled to the property and subject to the liabilities of that committee ;

(*b*) property and liabilities of a joint visiting committee constituted under section 253 of the Lunacy Act, 1890, shall, on the appointed day,

by virtue of these regulations be transferred to and vest in or attach to the transferee authority (as hereinafter defined) and shall thereafter be subject to apportionment and adjustment in accordance with the provisions with respect thereto contained in the agreement to unite or, in the absence of any such provisions, be apportioned among the constituent authorities in such manner as they may agree or, in default of agreement, as may be determined by the Minister;

(*c*) property and liabilities of a joint mental hospital board constituted under any local Act or of a joint board or joint committee constituted under section 29 of the Mental Deficiency Act, 1913, or of a joint board constituted under the Public Health Act, 1936, or any enactment repealed by that Act, shall, on the appointed day, by virtue of these regulations be transferred to and vest in or attach to the transferee authority (as hereinafter defined) and shall thereafter be subject to apportionment and adjustment in accordance with the provisions with respect thereto contained in the Act or instrument constituting the joint board or joint committee or, in the absence of any such provisions, be apportioned among the constituent authorities in such manner as they may agree or, in default of agreement, as may be determined by the Minister:

Provided that, nothing in this paragraph shall authorise any apportionment or adjustment in respect of property which, immediately before the appointed day, is held by a dissolved authority as trustee upon any charitable trust, and any such property shall be held by the authority to which by virtue of these regulations it is transferred upon and subject to the trust applicable to the property immediately before the appointed day.

(2) For the purposes of this regulation "transferee authority" in relation to a joint board or joint committee means the constituent authority whose district is shown by the census of 1931 to have had at that time the largest population, or such other constituent authority as the Minister may, on the application of all the constituent authorities, specify for the purpose of this regulation. [2632]

8. Where by these regulations or by any apportionment or adjustment made under these regulations the liability for the repayment of the whole or any part of a debt secured by a mortgage of the property of a dissolved authority is transferred to a local authority, the mortgage shall thenceforth, to the extent of the transferred liability, take effect in all respects as a mortgage by the local authority of their revenues to secure the transferred debt and the interest thereon, and the covenants contained in the mortgage so far as they relate to the transferred debt or the interest thereon, shall be enforceable against the local authority. [2633]

9.—(1) Where any property transferred by virtue of these regulations consists of stock standing, immediately before the appointed day, in the books of a company, in the name of a dissolved authority, it shall be obligatory upon the company, on production to it of a certificate signed by the Minister, or by a person authorised to act on his behalf, to transfer the stock into the name of, and to pay the dividends in respect thereof to, the authority named in the certificate as the authority entitled to that property.

(2) In this regulation the expression:—

"company" includes the Bank of England and any company or person keeping books in which any stock is registered or inscribed;

"stock" includes any share, annuity or other security. [2634]

10. Any property or liabilities (whether vested or contingent) of a dissolved authority, other than the governing body of a voluntary hospital,

under any enactment, scheme or contract providing for the payment of or contribution towards superannuation benefits in respect of officers employed by that authority (including rights and liabilities arising in respect of officers who have ceased to be so employed before the appointed day) shall as from that day be transferred to the local authorities by which the dissolved authority was appointed or, in the case of a joint committee or joint board, be apportioned as follows :—

(*a*) if the Act or instrument constituting the joint board or joint committee provides for the dissolution thereof and the apportionment of the property or liabilities of the joint board or joint committee among the constituent authorities, the property and liabilities aforesaid shall be apportioned accordingly ;

(*b*) if such Act or instrument contains no such provision the said property and liabilities shall be apportioned among the constituent authorities in such manner as they may agree or in default of agreement as may be determined by the Minister. [2635]

11. The affairs of a committee constituted under section 28 of the Mental Deficiency Act, 1913, for the care of the mentally defective shall be wound up in such manner as the authority by which the committee was constituted may determine. [2636]

SCHEDULE

MODIFIED PROVISIONS OF THE LOCAL GOVERNMENT ACT, 1933, APPLIED TO THE AUDIT OF ACCOUNTS OF A DISSOLVED AUTHORITY UNDER REGULATION 4 (1) (*a*) OF THE REGULATIONS

1. In this Schedule, unless the context otherwise requires

(*a*) " dissolved authority " means a body which by virtue of section 78 of the Act will be dissolved as from the appointed day and whose accounts before that date are subject to district audit ;

(*b*) " appropriate officer " means the person nominated by a dissolved authority under paragraph (2) of regulation 4, or appointed by the Minister under paragraph (5) of that regulation ;

(*c*) other expressions have the meaning assigned to them in the Local Government Act, 1933.

2.—(1) The appropriate officer shall prepare and submit to the district auditor a financial statement of the accounts of the dissolved authority, in duplicate, in the prescribed form, and containing the prescribed particulars.

(2) The district auditor, at the conclusion of the audit, shall certify on each copy of the financial statement, in the prescribed form, the amount of the expenditure so audited and allowed, and further, that the regulations with respect to the statement have been duly complied with, and that he has ascertained by the audit the correctness of the statement.

(3) The district auditor shall, immediately after the conclusion of the audit, send one copy of the financial statement to the Minister.

3.—(1) A copy of every account which is subject to audit by a district auditor, duly made up and balanced, and all books, deeds, contracts, accounts, vouchers and receipts relating to the accounts shall be deposited in the office of the appropriate officer or at such other place within the district of the dissolved authority as may be convenient, and shall for seven clear days before the audit be open at all reasonable hours to the inspection of all persons interested, and any such person shall be at liberty to make copies of or extracts from the deposited documents without payment.

(2) Before each audit the appropriate officer, on receiving from the auditor the requisite appointment, shall, by advertisement in one or more local newspapers circulating in the district, give at least fourteen days' notice of the deposit of accounts required by this paragraph, and the production of the newspaper containing such notice shall be sufficient proof of such notice in any legal proceeding.

4. A district auditor may by writing under his hand require the production before him of all books, deeds, contracts, accounts, vouchers, receipts and other documents which he may deem necessary for the purpose of the audit, and may require any person holding or accountable for any such document to appear before him at the audit or any adjournment thereof, and may require any such person to make and sign a declaration as to the correctness of the document.

5.—(1) A local government elector for the area to the accounts of which the audit relates may be present or may be represented at the audit and may make any objection to the accounts before the auditor.

(2) The district auditor shall, on the application of any person who is aggrieved by his decision on any matter with respect to which that person has made an objection, or of any person aggrieved by a disallowance or surcharge made by the auditor, state in writing the reasons for his decision.

6. Within fourteen days after the completion of the audit of the accounts of a dissolved authority the auditor shall report on the accounts audited and examined, and shall send a copy of the report to the Minister and to every authority appearing to the auditor to be interested.

7.—(1) It shall be the duty of the district auditor at every audit held by him—

(*a*) to disallow every item of account which is contrary to law ;

(*b*) to surcharge the amount of any expenditure disallowed upon the person responsible for incurring or authorising the expenditure ;

(*c*) to surcharge any sum which has not been duly brought into account upon the person by whom that sum ought to have been brought into account ;

(*d*) to surcharge the amount of any loss or deficiency upon any person by whose negligence or misconduct the loss or deficiency has been incurred ;

(*e*) to certify the amount due from any person upon whom he has made a surcharge ;

(*f*) to certify at the conclusion of the audit his allowance of the accounts, subject to any disallowances or surcharges which he may have made :

Provided that no expenses paid by an authority shall be disallowed by the auditor, if they have been sanctioned by the Minister.

(2) Any loss represented by a charge for interest or any loss of interest shall be deemed to be a loss within the meaning of this paragraph, if it arises from failure through wilful neglect or wilful default to issue such precepts as are necessary to cover the expenditure of the authority for any financial year (including any expenditure incurred in any previous year and not covered by precepts previously issued), or to collect other revenues.

8.—(1) Any person who is aggrieved by a decision of a district auditor on any matter with respect to which he made an objection at the audit, and any person aggrieved by a disallowance or surcharge made by a district auditor may, where the disallowance or surcharge or other decision relates to an amount exceeding five hundred pounds, appeal to the High Court, and may in any other case appeal either to the High Court or to the Minister.

(2) The Court or Minister on such an appeal shall have power to confirm, vary or quash the decision of the auditor, and to remit the case to the auditor with such directions as the Court or Minister thinks fit for giving effect to the decision on appeal, and if the decision of the auditor is quashed, or is varied so as to reduce the amount of the surcharge to five hundred pounds or less, the appellant shall not be subject to the disqualification by reason of the surcharge imposed by Part II of the Local Government Act, 1933, or by the corresponding provision of any enactment relating to London.

(3) Where an appeal is made to the Minister under this paragraph, he may at any stage of the proceedings, and shall, if so directed by the High Court, state in the form of a special case for the opinion of the Court any question of law arising in the course of the appeal, but save as aforesaid the decision of the Minister shall be final.

9.—(1) In the case of a surcharge, the person surcharged may, whether or not he appeals under the preceding paragraph, apply to the tribunal (whether the High Court or the Minister) to whom he appeals or, if he does not appeal, to the

tribunal (whether the High Court or the Minister) to whom he might have appealed, for a declaration that in relation to the subject matter of the surcharge he acted reasonably or in the belief that his action was authorised by law, and the Court or Minister, if satisfied that there is proper ground for doing so, may make a declaration to that effect.

(2) Where such a declaration is made the person surcharged, if by reason of the surcharge he is subject to the disqualification imposed by Part II of the Local Government Act, 1933, or by the corresponding provision of any enactment relating to London, shall not be subject to that disqualification, and the Court or Minister may, if satisfied that the person surcharged ought fairly to be excused, relieve him either wholly or in part from personal liability in respect of the surcharge, and the decision of the Court or Minister under this paragraph shall be final.

10. Where under this Schedule an appeal or application is made to the Minister, the appellant or applicant shall be entitled, if he so desires, to a personal hearing by a person appointed for the purpose by the Minister.

11.—(1) Every sum certified by a district auditor to be due from any person shall, within the period specified in sub-paragraph (2) of this paragraph, be paid by that person to the Minister or other person to whom the sum would have been transferred by or under the Act if it had been paid immediately before the appointed day.

(2) Every sum certified as aforesaid shall be paid within fourteen days after it has been so certified, or, if an appeal or application with respect to that sum has been made, within fourteen days after the appeal or application is finally disposed of or abandoned or fails by reason of the non-prosecution thereof.

12.—(1) Any sum which is certified by a district auditor to be due and has become payable shall, on complaint made or action taken by or under the direction of the district auditor, be recoverable either summarily or otherwise as a civil debt.

(2) In any proceedings for the recovery of such a sum, a certificate signed by a district auditor shall be conclusive evidence of the facts certified.

Unless the contrary is proved, a certificate purporting to be signed by a district auditor shall be deemed to have been signed by such auditor.

(3) Notwithstanding anything in the Summary Jurisdiction Acts, proceedings before a court of summary jurisdiction to recover sums certified by a district auditor to be due may be commenced at any time before the expiration of nine months from the date of the disallowance or surcharge, or, in the event of an appeal or application being made to the High Court or to the Minister, before the expiration of nine months from the date on which the appeal or application is finally disposed of or abandoned or fails by reason of non-prosecution thereof.

13.—(1) Any expenses incurred by a district auditor in the defence of any allowance, disallowance or surcharge made by him shall, so far as not recovered from any other party and except as may otherwise be ordered by the Court or the Minister, as the case may be, be reimbursed to him out of the fund to which the accounts subject to the audit relate, and the Court or Minister may make such order as may seem fit in regard to the payment out of that fund of the expenses incurred by the appellant or applicant or any other party to the proceedings.

(2) Subject to the approval of the Minister, the expenses incurred by a district auditor in any legal proceedings taken by him or under his direction shall, so far as not recovered from any other source, be paid out of the fund to which the accounts subject to the audit relate, and any expenses so payable shall include reasonable compensation for loss of time incurred by the district auditor in the proceedings.

14. Where an officer of a dissolved authority receives any money or property on behalf of the authority, or receives any money or property for which he ought to account to the authority, the accounts of the officer shall be audited by the auditor of the accounts of the authority, with the same powers, incidents and consequences as in the case of those accounts. [2637]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

The Regulations provide for the winding up of bodies dissolved by section 78 of the National Health Service Act, 1946, and for the vesting of the property and liabilities of those bodies, subject to the provisions of the Act, in the appropriate authorities.

NATIONAL HEALTH SERVICE (GENERAL DENTAL SERVICES) FEES REGULATIONS, 1948

S.I. 1948 *No.* 1297

June 17, 1948

General note.—These regulations have been amended as from July 5, 1948, by S.I. 1948 No. 1507, *post.* They were further amended, while this volume was in the press, as from February 1, 1949, by S.I. 1948 No. 2803 (as itself amended by S.I. 1949 No. 48) and as from April 1, 1949, by S.I. 1949 No. 564.

The Minister of Health, in exercise of the powers conferred upon him by sections 40 and 44 of the National Health Service Act, 1946, and of all other powers enabling him in that behalf hereby makes the following regulations :—

PART I

General

1.—(1) These regulations may be cited as the National Health Service (General Dental Services) Fees Regulations, 1948, and shall come into operation on the fifth day of July, 1948.

(2) The National Health Service (General Dental Services) Regulations, 1948 (hereinafter referred to as the principal regulations), and these regulations may be cited together as the National Health Service (General Dental Services and Fees) Regulations, 1948. [2638]

2.—(1) Expressions used in these regulations shall, except so far as the context otherwise requires, have the same respective meaning as in the principal regulations.

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [2639]

PART II

Remuneration of Dental Practitioners

3. Practitioners practising elsewhere than at a health centre.—(1) The Board on receipt of a dental estimate form duly completed in the manner provided in the principal regulations shall, in approving the estimate, authorise in accordance with the scale of fees set out in the first schedule to these regulations the fees payable to the practitioner in respect of the treatment specified in Part 8 of the form.

(2) Subject to the provisions of paragraph (4) of regulation 21 of the principal regulations, the Board on receipt of an estimate on the form set out in Part III of the fourth schedule to the principal regulations shall authorise—

(*a*) the additional charges payable by a person provided with a service under paragraph (1) (*a*) or (*b*) of regulation 21 of the principal regulations by subtracting from the fees approved by the Board in accordance with the scale of fees set out in Part II of the first

schedule to these regulations the fees payable for the corresponding service specified in Part I of the said schedule ;

(*b*) the special charges payable by a person provided with a service under paragraph (1) (*c*) of regulation 21 of the principal regulations by subtracting from the fees approved by the Board in accordance with the scale of fees set out in Part II of the first schedule to these regulations, the fees which would have been payable for suitable alternative treatment in accordance with the scale set out in Part I of the schedule. [2640]

4. Conditions of payment.—The fees and charges provided for in the last preceding regulation shall be payable only if the practitioner complies with the conditions set out in Part III of the first schedule to these regulations. [2641]

5. Drugs.—The fees payable by a Council to a practitioner in respect of drugs supplied by him either in pursuance of regulation 5 of the principal regulations or in pursuance of sub-paragraph (1) of paragraph 9 of Part I of the first schedule to the principal regulations for use before a supply can be obtained otherwise under the regulations shall be calculated in accordance with the provisions of the Drug Tariff referred to in regulation 28 of the National Health Service (General Medical Pharmaceutical Services) Regulations, 1948. [2642]

General note.—A new reg. 5A has been inserted after this regulation by S.I. 1948 No. 1507, *post.*

6. Special charges at a health centre.—The charges payable to a practitioner practising at a health centre by a person provided with a service specified in regulation 21 of the principal regulations shall be such sum as would have been payable by the person in accordance with the provisions of paragraph (2) of regulation 3 of these regulations, if the service had been provided by a practitioner practising elsewhere than at a health centre. [2643]

7. The principal regulations shall be amended as follows :—

(1) In paragraph (1) of regulation 21 the words " or in the case of repair treatment at a cost not exceeding £2 " shall be inserted after the words " emergency treatment ".

(2) After paragraph 11 of Part I of the first schedule there shall be inserted the following paragraph :—

" 11A. **Fair wages for dental technicians.**—A dental practitioner who employs a dental technician or dental technicians shall pay rates of wages and observe hours and conditions of work not less favourable than those approved for the time being by the National Joint Council for the Craft of Dental Technicians."

(3) In sub-paragraph (1) of paragraph 11 of Part II of the first schedule there shall be substituted the words " or otherwise " for the words " made under section 40 of the Act ".

(4) In the second schedule item VII (Repairs of Dentures) shall be deleted and the following item shall be substituted.

" vii. Repairs	Repairs to plastic and vulcanite dentures, orthodontic appliances, obturators, splints and radium applicators. Repairs to metal dentures at a cost not exceeding £2.	Repairs to metal dentures at a cost exceeding £2."

[2644]

FIRST SCHEDULE

SCALE OF FEES

PART I

1. Clinical Examination and Report	10s. 0d.—but not chargeable in respect of repairs for dentures for edentulous patients or where the dental practitioner has been paid or is entitled to payment of a similar fee for an examination within the preceding six months in the case of a person 21 years of age or over or four months in the case of a person under 21 years of age.
2. Normal Scaling and Gum Treatment—per individual.	16s. 6d., but not chargeable where the estimate includes subsequent extraction of the teeth charted for scaling unless the Dental Estimates Board approve.
3. Fillings—per filling :—	
(i) Amalgam	
(*a*) Involving one surface.	£1 0s. 0d., with a maximum fee of £1 10s. 0d. per tooth.
(*b*) Involving more than one surface.	£1 10s. 0d.
(ii) Silicates.	£1 5s. 0d., with a maximum fee of £1 17s. 6d. per tooth.
4. Conservation of deciduous teeth	
Fee per tooth	10s. 6d.
5. Root treatment (per tooth)—	
(*a*) Single rooted (non-septic)	£2 0s. 0d.
(*b*) Multi-rooted and all septic teeth.	£3 0s. 0d
6. *Extractions—	
1 or 2 teeth	10s. 0d.
3, 4 or 5 teeth	15s. 0d.
6, 7 or 8 teeth	£1 0s. 0d.
9, 10 or 11 teeth	£1 5s. 0d.
12, 13 or 14 teeth	£1 10s. 0d.
15, 16 or 17 teeth	£1 15s. 0d.
18, 19 or 20 teeth	£2 0s. 0d.
over 20	£2 7s. 6d.
7. Administration of general anaesthetic : fee per visit in connection with the extraction of :—	
1–3 teeth	10s. 0d.
4–11 teeth	£1 0s. 0d.
12–19 teeth	£1 10s. 0d.
20 teeth or over	£2 0s. 0d.

Provided that no fee in excess of 10s. shall be payable unless a doctor or dentist, other than the dentist carrying out the extraction administers the anaesthetic and no fee shall exceed £2 0s. 0d. per individual case

8. *Dentures—	
(i) Full upper and full lower	£10 10s. 0d.
(ii) Per denture—	
1, 2 or 3 teeth	£4 17s. 6d.
4–8 teeth	£5 15s. 0d.
9–14 teeth	£6 1s. 6d.
Provided that no fee for both upper and lower denture shall exceed £10 10s. 0d.	
(iii) Lingual bar	Such additional fee as the Dental Estimates Board may approve.
9. Relining of Dentures— per denture	£2 5s. 0d.
10. Repairs—	
(i) vulcanite or plastic denture :—	
(*a*) Cracks or fractures of a denture.	18s. 0d.
(*b*) Replacing of a loosened tooth, or loosened band or wire.	18s. 0d.
(*c*) Addition of teeth or bands or wires, Maximum fee for each denture.	£1 8s. 0d. £2 0s. 0d.
(ii) orthodontic appliances, obturators, splints, radium applicators.	Such fee as the Dental Estimates Board may approve.
11. *Apicectomy—per tooth (including root treatment).	Such fee as the Dental Estimates Board may approve within a range of £4 0s. 0d. to £5 0s. 0d.
12. *Gingivectomy (including any scaling).	Such fee as the Dental Estimates Board may approve within a range of £1 17s. 6d. to £15 0s. 0d. Based upon a minimum of up to 4 teeth (£1 17s. 6d.) and rising by successive units of 4 teeth.
13. *Prolonged Gum Treatment (*including deep scaling, correction of traumatic occlusion and oral hygiene instruction etc.*).	Such fee as the Dental Estimates Board may approve within a range of £2 0s. 0d. to £4 0s. 0d. or such other fee as they may, in special circumstances, approve.
14. *Alveolectomy—*for upper or lower jaw.*	Such fee as the Dental Estimates Board may approve up to a maximum of £4 0s. 0d. or such other fee as they may, in special circumstances, approve.
15. Radiological Examination—	
(*a*) Intra-oral films :—	
First film	10s. 0d.
Each additional film ..	7s. 6d., *up to a maximum of £3 0s. 0d.
(*b*) Extra-oral films :—	
Each film	£1 1s. 0d., *up to a maximum of £5 5s. 0d.
16. *Obturators—	
Fee per case in addition to appropriate denture fee.	Such fee as the Dental Estimates Board may approve within a range of £3 7s. 6d. to £5 15s. 0d. or such additional fee as they may, in special circumstances, approve.
17. *Orthodontic Treatment ..	Such fee as the Dental Estimates Board may approve.
18. *Treatment involving a special appliance, radium applicators, splints.	Such fee as the Dental Estimates Board may approve.

19. *Removal of Cysts, Buried Roots, Impacted Teeth.	Such fee as the Dental Estimates Board may approve up to a maximum of £7 15s. 0d., together with a special anaesthetic fee, where necessary, up to £2 0s. 0d., or such higher anaesthetic fee as they may, in special circumstances, approve.
20. *Backing and Tagging— Fee per tooth in addition to appropriate fee for non-metallic base denture—	
(a) Gold	£1 4s. 0d.
(b) White Gold	16s. 0d.
(c) Stainless Steel	12s. 0d.
21. Fee per case for the treatment of sensitive cementum, the taking of material for pathological or bacteriological examination, etc.	10s. 0d.
22. Fee per case for arrest for bleeding.	£1 0s. 0d.
23. Domiciliary visits	10s. 0d. per journey to one or more patients.
24. *Fee for any other treatment not included in this scale.	Such fee as the Dental Estimates Board may approve. [2645]
PART II	
25. *Metal dentures—Fee per denture.	Such fee as the Dental Estimates Board may approve within the range of :—
(a) Gold	£8 17s. 6d. to £18 5s. 0d.
(b) White gold	£8 12s. 6d. to £14 5s. 0d.
(c) Stainless Steel	£7 10s. 0d. to £10 15s. 0d.
26. *Repairs of Metal Dentures ..	The appropriate fee for a normal repair together with such additional or special charge as the Dental Estimates Board may approve.
27. *Gold filling—per filling ..	Such fee as the Dental Estimates Board may approve within a range of £2 0s. 0d. to £5 10s. 0d.
28. *Inlays :—	Such fee as the Dental Estimates Board may approve within a range of :—
(a) Involving one surface ..	£4 2s. 6d. to £5 0s. 0d.
(b) Involving two surfaces ..	£5 7s. 0d. to £6 10s. 0d.
(c) Involving three surfaces ..	£5 17s. 6d. to £7 2s. 6d.
29. *Crowning :—	
(a) Shell Crown—excluding any necessary root treatment.	£4 7s. 6d.
(b) Post Crown—including root treatment.	£5 15s. 0d.
(c) Jacket Crowns	Such fee as the Dental Estimates Board may approve within a range of £7 10s. 0d. to £9 7s. 6d. or such higher fee as the Dental Estimates Board may, in special circumstances approve. [2646]

* Treatment for which the prior approval of the Dental Estimates Board is required, except that—

(a) extractions not necessitating the supply of dentures ;
(b) treatment for relief of pain or other urgent symptoms ;
(c) radiological examination up to a fee of £2 2s. 0d. and
(d) repairs to metal dentures up to a fee of £2 0s. 0d.

may be carried out without prior approval.

PART III

CONDITIONS

I.—Conditions with respect to items of the Scale of Fees

Item 2.—*Normal Scaling and Gum Treatment*

The fee is to cover the removal of calculus and other deposits from the teeth, and the provision of necessary treatment for all ordinary or simple disorders of the gums.

Item 3.—*Fillings*

Fillings to which this fee applies are to be permanent in character.

Item 4.—*Conservation of Deciduous Teeth*

Treatment to which this fee applies is to include silver nitrate applications as well as fillings appropriate to deciduous teeth.

Item 5.—*Root Treatment*

Root treatment includes the filling of each root of the tooth, but does not include the insertion of any filling in the tooth itself.

Items 8, 9 *and* 25.—*Dentures*

An estimate for the provision of a metal denture is to specify the materials to be used.

All necessary adjustments of dentures within a reasonable time after completion are to be made without additional charge.

All necessary bands, wires and fastenings are to be supplied without extra charge.

Items 28 *and* 29.—*Crowning and Inlays*

The nature of the material to be used to be indicated on the estimate.

II.—Conditions with respect to Materials

(1) All filling materials shall be of first-grade quality and suitable for each individual cavity. Except in special circumstances (which must be stated to the Board) cements, guttapercha and copper amalgam are not to be regarded as permanent filling materials, though they may be used without reference to the Board for the conservation of deciduous teeth. Translucent silicate cements may be used in anterior teeth but are not to be used for fillings in teeth posterior to the canines except in buccal cavities. For the purposes of this paragraph cements are to be taken to include all filling materials which consist of powders in combination with liquids other than mercury.

(2) Where pin teeth are used for vulcanite or other plastic base dentures, all pins shall be of platinum, or nickel cased with gold or other precious metal or nickel alloy cased with gold or other precious metal. Pins sheathed with gold or platinum anchored within the porcelain are within this specification. The teeth, whether porcelain or acrylic shall be of first-grade quality.

(3) Diatoric teeth may only be used for the anterior teeth in vulcanite base dentures when artificial gum is necessary.

(4) Metal strengtheners shall be compatible with vulcanite or other base material used and not liable to corrode in the mouth.

(5) All materials used in dentures shall be of first-grade quality. A plastic base material other than vulcanite shall be used only if it is an approved acrylic resin (that is, a brand of acrylic resin approved for the time being by the Minister for use in the making of dentures).

(6) Bands and clasps shall be of either—

(*a*) alloys containing not less than 40 per cent. of gold, platinum or palladium (including not less than 15 per cent. of gold, and not more than 20 per cent. of base metal), or

(*b*) stainless steel, or

(*c*) such other material as may be approved by the Minister.

Bands shall be not less than No. 7 gauge in thickness.

(7) In cases of close bite where porcelain teeth cannot be used, cusps of—

(*a*) alloys containing not less than 33⅓ per cent. of gold, platinum or palladium and not more than 20 per cent. of base metal, or

(*b*) stainless steel, or

(*c*) such other material as may be approved by the Minister,

may be used.

(8) Metal used, after approval by the Board of an estimate for denture plates, lingual or palatal bars, backings and tags, spiral springs, bolts and swivels, shall be—

(*a*) alloys containing not less than 33⅓ per cent. of gold, platinum or palladium and not more than 20 per cent. of base metal, or

(*b*) stainless steel, or

(*c*) such other materials as may be approved by the Minister,

and shall be of adequate strength. [2647]

General note.—A Sched. II to the present regulations has been inserted after Sched. 1, *supra*, by S.I. 1948 No. 1507, *post*.

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Regulations, but is intended to indicate their general purport.*)

The regulations provide for the fees and remuneration which are to be paid to dental practitioners practising elsewhere than at a health centre for the provision of general dental services. The regulations also prescribe the charges payable by persons in respect of the supply, replacement or repair of dental appliances of a more expensive type than the standard type and in respect of special dental treatment. The regulations amend the National Health Service (General Dental Services) Regulations, 1948, by providing that the remuneration of dental practitioners at a health centre shall be such as the Minister may from time to time determine by regulation or otherwise.

NATIONAL HEALTH SERVICE (JOINT PRICING COMMITTEE FOR ENGLAND) ORDER, 1948

S.I. 1948 *No.* 1301

June 14, 1948

Whereas it appears to the Minister of Health to be expedient in the interests of the efficiency of the Services provided under Part IV of the National Health Service Act, 1946, that a Joint Committee should be established for the areas of all Executive Councils of England for the purpose of exercising the functions of Executive Councils which are hereinafter mentioned :—

Now, therefore, the Minister of Health in exercise of the powers conferred upon him by section 31 of the said Act hereby makes the following order :—

Short title and commencement

1. This Order may be cited as the National Health Service (Joint Pricing Committee for England) Order, 1948, and shall come into operation on the date hereof. [2648]

Interpretation

2.—(1) In this Order, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them—

" The Act " means the National Health Service Act, 1946.
" The appointed day " means the 5th day of July, 1948.
" Council " means an Executive Council.
" The Minister " means the Minister of Health.

(2) The Interpretation Act, 1889, applies to the interpretation of this Order as it applies to the interpretation of an Act of Parliament. [2649]

Constitution of Committee and Functions

3. A Joint Committee to be known as " the Joint Pricing Committee for England " (hereinafter referred to as " the Committee ") shall be constituted for the areas of all the Councils of England for the purpose of exercising the functions of the Councils in regard to the examination, checking and pricing of prescriptions for drugs, medicines and appliances supplied under the arrangements made by those Councils for the provision of pharmaceutical services. [2650]

Membership

4. The Committee shall consist of 18 members of whom 13 shall be persons appointed in the manner provided in article 5 hereof, 4 shall be registered pharmacists appointed by the Minister after consultation with such organisation as the Minister may recognise as representative of persons providing pharmaceutical services and one shall be a medical practitioner appointed by the Minister after consultation with such organisation as the Minister may recognise as representative of the general body of medical practitioners. [2651]

5. The appointment of the 13 members referred to in Article 4 shall be made in the following manner—

(*a*) 1 member shall be appointed by each of the Councils or groups of Councils specified in Part I of the Schedule hereto and 2 members by the group of Councils specified in Part II of the said Schedule.
(*b*) A person so appointed shall be a member or officer of the Council or of one of the Councils in the group by which the appointment is made.
(*c*) Such Association of Executive Councils as the Minister may recognise as representative of the Councils of England shall determine the method of appointment of the members and shall forthwith inform the Minister of the names and addresses of any member so appointed. [2652]

Chairman and Vice-Chairman

6.—(1) The Committee shall appoint a member of the Committee to be chairman and may appoint another to be vice-chairman. The chairman and vice-chairman shall continue in office until the termination of their membership of the Committee. For the purpose of this paragraph reappointment to membership of the Committee shall not be deemed to constitute a continuation of membership.

(2) The clerk of the Committee shall inform the Minister of the name and address of the chairman. [2653]

Term of Office of Members

7. Subject as hereinafter provided original members of the Committee shall hold office until the 31st day of March, 1950, and thereafter the term

of office shall be for one year commencing on the 1st day of April in any year and ending on the 31st day of March in the following year: Provided that at the expiration of his term of office a member shall be eligible for reappointment. [2654]

Resignation or Removal of Members

8.—(i) A member of the Committee who desires to resign his membership shall give notice in writing to the clerk of the Committee.

(ii) If a member has not attended any meeting of the Committee for a period of six months the clerk of the Committee shall inform the Committee and unless the Committee are satisfied that his absence was due to illness or other reasonable cause, they shall declare that his seat on the Committee has become vacant. [2655]

Vacation of Office

9. If a member of the Committee who is appointed in accordance with the provisions of article 5 hereof ceases to be a member or officer of a Council, he shall also cease to be a member of the Committee. [2656]

Disqualification for Membership

10. Subject to paragraphs (ii), (iii) and (v) of the proviso to subsection (i) of Section 59 of the Local Government Act, 1933, the provisions of paragraphs (*b*) and (*e*) of that subsection (which disqualify a person for being elected or being a member of a local authority if he has been adjudged bankrupt or made a composition or arrangement with his creditors or has been sentenced to imprisonment for not less than 3 months without the option of a fine) shall apply as if the Section related to membership of the Committee. [2657]

Casual Vacancies

11.—(1) If a casual vacancy occurs by reason of the death, vacation of office or disqualification of a member of the Committee the clerk of the Committee shall forthwith inform the Minister and if the person whose seat is vacated was other than one appointed by the Minister he shall also inform the Secretary of the above-mentioned Association of Executive Councils.

(2) A person who is eligible for appointment as a member of the Committee under article 5 shall be appointed by the Committee to fill any casual vacancy occurring among the members appointed under that regulation and in the case of any other casual vacancy a person shall be appointed by the Minister as if he was making an appointment under article 4.

(3) A person appointed to fill a casual vacancy shall hold office for the remainder of the term of office of his predecessor. [2658]

Procedure

12.—(1) The provisions of Regulations 10 (meetings), 11 (minutes), 12 (officers), 13 (committees) and 14 (power to make standing orders) of the National Health Service (Executive Councils) Regulations, 1947, shall apply for the purposes of this Order as if for any reference therein to a Council there were substituted a reference to the Committee and as if for any reference to a Committee of a Council there were substituted a reference to a subcommittee.

(2) The proceedings of the Committee shall not be invalidated by any vacancy in the membership of the Committee or by any defect in the appointment or qualification of any member thereof. [2659]

Reports by Committee

13. The Committee shall make reports to the Councils at such times and in such manner as they or the Minister may require and shall furnish to the Minister such information as he may from time to time require. [2660]

Expenses

14. Any expenses incurred by the Committee shall be defrayed by the Councils of England in such proportions as the Minister may determine. [2661]

Accounts

15. The provisions of regulations 4 (advances of funds by Minister), 5 (banking accounts), 6 (financial officers), 7 (receipt of moneys) and 8 (payment of moneys) of the National Health Service (Executive Councils and Dental Estimates Board) Financial Regulations, 1948, shall apply to the Committee in the same way as they apply to Councils, with the following modifications :—

1. The word "Committee" shall be substituted for the word "Council."
2. References to the finance committee shall be construed as references to the Committee or, if a finance sub-committee is appointed, to that sub-committee.
3. References to the Ophthalmic Services Committee shall be omitted. [2662]

Annual and Supplementary Estimates

16.—(1) It shall be the duty of the financial officer to prepare and submit to the Committee not later than the 30th day of September of each year an estimate (hereinafter referred to as "the annual estimate") of the administration expenses of the Committee during the next financial year.

(2) If at any time it appears to be necessary to make additional payments for which provision has not been included in the annual estimate the financial officer shall as soon as may be prepare and submit to the Committee an estimate (hereinafter referred to as "a supplementary estimate") of such additional payments.

(3) The Committee shall consider the annual and any supplementary estimate submitted to them by the financial officer and subject to such amendments therein, if any, as they may think fit to make, shall adopt such estimates as estimates of the Committee and shall transmit them to the Minister in a form to be approved by him, in the case of the annual estimate not later than the 15th day of October in each year and in the case of a supplementary estimate within 14 days of its adoption by the Committee.

(4) No expenses shall be incurred by or on behalf of the Committee unless provision for such expenses has been included in the annual or supplementary estimates of the Committee. [2663]

17.—(1) The Committee shall record their transactions in such books and accounts as may from time to time be approved by the Minister.

(2) The accounts of the Committee shall be posted from time to time and made up and balanced at the end of the financial year. As soon as may be after the close of the financial year and in any case not later than the 30th day of April the financial officer shall prepare a statement in a form to be approved by the Minister and shall certify the same to be correct. He shall submit the statement to the Committee for their approval and adoption,

which shall be signified by the signature of the chairman thereon, and to the auditor.

(3) The provisions of paragraphs (3) and (5) of Regulation 9 of the National Health Service (Executive Councils and Dental Estimates Board) Financial Regulations, 1948, with the substitution of the word "Committee" for the word "Council" shall apply to the Committee. [2664]

Audit

18. The Committee shall prepare and transmit to the Minister in respect of each financial year annual accounts in such form as the Minister may direct and such accounts shall be audited by an auditor appointed by the Minister. [2665]

Payment of Expenses of Members

19. The Committee may make to their members or the members of any sub-committee appointed by them payments in respect of loss of remunerative time, and in respect of travelling and subsistence expenses in accordance with the rates prescribed under, and as though the Committee were a Council for the purposes of, paragraph 3 (*c*) of the fifth Schedule to the Act. [2666]

Transfer of Officers

20. Any officer who immediately before the appointed day was employed by an Insurance Committee or by a Joint Committee constituted under Section 94 of the National Health Insurance Act, 1936, solely for the purposes of functions similar to those transferred to the Committee by virtue of this Order and who by virtue of the regulations made under Section 68 (2) of the Act is transferred to a Council, shall immediately after such transfer be transferred from that Council to, and become an officer of, the Committee. [2667]

Transfer of Property and Liabilities

21. All property other than land, and liabilities which were held by an Insurance Committee or a Joint Committee constituted under Section 94 of the National Health Insurance Act, 1936, or to which an Insurance Committee or Joint Committee so constituted were subject, immediately before the appointed day solely for the purposes of functions similar to those transferred to the Committee by virtue of this Order, and which are transferred to and vested in a Council by virtue of regulation 3 of the National Health Service (Transfer of Property and Liabilities of Insurance Committees, etc.) Regulations, 1948, shall immediately after such vesting be transferred to and vest in the Committee. [2668]

22. The Committee shall deal with any moneys or fund transferred by the last preceding article in such manner as the Minister may, with the approval of the Treasury, determine. [2669]

SCHEDULE

PART I

Council or Group of Councils	*Constituent Councils*
No. 1 (London	London.
No. 2 (Central)	Berkshire, Birmingham, Buckinghamshire, Oxfordshire and Oxford, Reading and Stoke-on-Trent.

Council or Group of Councils	*Constituent Councils*
No. 3 (East Anglian)	Bedfordshire, Cambridge, East Ham, Essex, Great Yarmouth, Hertfordshire, Huntingdonshire, Ipswich, Isle of Ely, Lincolnshire (Holland), Lincolnshire (Kesteven), Norfolk, Norwich, Soke of Peterborough, Southend-on-Sea, Suffolk East, Suffolk West and West Ham.
No. 4 (N.E. Midland)	Barnsley, Derby, Derbyshire, Grimsby, Halifax, Huddersfield, Lincoln, Lincolnshire (Lindsey), Nottinghamshire and Nottingham, Rotherham and Sheffield.
No. 5 (West Riding)	Bradford, Dewsbury, Doncaster, Leeds, Wakefield, Yorkshire (West Riding).
No. 6 (North of England)	Carlisle, Cumberland, Darlington, Durham, Gateshead, Kingston-upon-Hull, Middlesbrough, Newcastle-upon-Tyne, Northumberland, South Shields, Sunderland, Tynemouth, West Hartlepool, York, Yorkshire (East Riding), Yorkshire (North Riding).
No. 7 (Lancashire No. 1)	Barrow, Blackburn, Blackpool, Bolton, Burnley, Bury, Manchester, Oldham, Preston, Rochdale, Salford and Westmorland.
No. 8 (Lancashire No. 2)	Lancashire.
No. 9 (S.W. Lancashire and Cheshire) ..	Birkenhead, Bootle, Cheshire, Chester, Liverpool, St. Helens, Southport, Stockport, Wallasey, Warrington and Wigan.
No. 10 (West Midland)	Burton - upon - Trent, Coventry, Dudley, Herefordshire, Leicester, Leicestershire and Rutland, Northampton, Northamptonshire, Salop, Smethwick, Staffordshire, Walsall, Warwickshire, West Bromwich, Wolverhampton, Worcester and Worcestershire.
No. 11 (South Western)	Bath, Bournemouth, Bristol, Cornwall, Devon and Exeter, Dorset, Gloucestershire and Gloucester, Hampshire, the Isles of Scilly, Plymouth, Somerset, Southampton and Wiltshire. [2670]

PART II

Council or Group of Councils	*Constituent Councils*
No. 12 (South Eastern)	Brighton, Croydon, Eastbourne, Hastings, Isle of Wight, Kent and Canterbury, Middlesex, Portsmouth, Surrey, Sussex (East) and Sussex (West). [2671]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

The order provides for the constitution of a Joint Committee to carry out the duties of the Executive Councils of England with respect to the checking and pricing of the prescriptions for drugs, medicines and appliances supplied as pharmaceutical services under section 38 of the National Health Service Act, 1946. The order further provides for the procedure of the Committee and for the transfer to it of the officers of Insurance Committees and Joint Committees constituted under the National Health Insurance Act, 1936, who were engaged for the purposes of similar functions and the property and liabilities of such committees held or incurred for such functions.

DEFENCE REGULATIONS (NO. 5) ORDER, 1948

S.I. 1948 *No.* 1332

June 22, 1948

His Majesty, in pursuance of section three of the Supplies and Services (Transitional Powers) Act, 1945, as extended by the Supplies and Services (Extended Purposes) Act, 1947, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. Regulation sixty-eight E of the Defence (General) Regulations, 1939 (which empowers welfare authorities to provide domestic help) is hereby revoked. [2672]

2. This Order may be cited as the Defence Regulations (No. 5) Order, 1948, and shall come into operation on the fifth day of July, nineteen hundred and forty-eight. [2673]

* * * * *

EXPLANATORY NOTE

(This Note does not form part of the Order, but is intended to indicate its general purport.)

Regulation 68 E of the Defence (General) Regulations, 1939, which is revoked by this Order, conferred powers on local authorities in England and Scotland to provide domestic help. Similar provisions are contained in s. 29 of the National Health Service Act, 1946, and in s. 28 of the National Health Service (Scotland) Act, 1947. These sections will come into operation on the 5th July, 1948.

NATIONAL HEALTH SERVICE (EXPENSES IN ATTENDING HOSPITALS) REGULATIONS, 1948

S.I. 1948 *No.* 1413

June 25, 1948

The Minister of Health, in exercise of his powers under section 3 of the National Health Service Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

1. These regulations may be cited as the National Health Service (Expenses in attending Hospitals) Regulations, 1948, and shall come into operation on the fifth day of July, 1948. [2674]

2.—(1) In these regulations, unless the context otherwise requires—

" the Minister " means the Minister of Health ;

" Hospital Authority " means, in relation to a hospital or clinic of the Minister of Pensions, that Minister ; in relation to a hospital or clinic controlled and managed by the Board of Governors of a teaching hospital or Hospital Management Committee, that Board or Committee ; and in relation to any hospital or clinic receiving patients under arrangements made between the governing body and a Regional Hospital Board, the Regional Hospital Board.

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [2675]

3. The Minister shall pay the travelling expenses necessarily incurred or to be incurred by a person (including the travelling expenses of a companion) in attending a hospital or clinic for the purpose of availing himself of hospital and specialist services if the Hospital Authority determine that, in the circumstances of the case, the payment of such expenses by the patient would involve hardship :

Provided that—

(*a*) If the Hospital Authority determine that the patient may reasonably be required to bear a part of such expenses the balance only shall be payable by the Minister ; and

(*b*) The travelling expenses of a companion shall not be payable by the Minister if the Hospital Authority determine that, having regard to the age or health of the patient or other relevant circumstances, it was unnecessary for the patient to be accompanied. [2676]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations provide for the payment in certain circumstances of the travelling expenses of persons attending hospitals and clinics for the purpose of obtaining hospital and specialist services.

NATIONAL HEALTH SERVICE (HOSPITAL ACCOUNTS AND FINANCIAL PROVISIONS) REGULATIONS, 1948

S.I. 1948 *No.* 1414

June 24, 1948

The Minister of Health, in exercise of the powers conferred upon him by sections 54 and 55 of and the Third Schedule to the National Health Service

Act, 1946, and of all other powers enabling him in that behalf and with the approval of the Treasury hereby makes the following regulations :—

PART I

Citation and Interpretation

1. These regulations may be cited as the National Health Service (Hospital Accounts and Financial Provisions) Regulations, 1948, and shall come into operation on the fifth day of July, nineteen hundred and forty-eight. [2677]

2.—(1) In these regulations, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them :—

" the Act " means the National Health Service Act, 1946 ;

" auditor " means an auditor appointed by the Minister ;

" financial year " means the period of twelve months ending on the 31st day of March ;

" Board of Governors " means a Board of Governors of a teaching hospital ;

" chief financial officer " means the treasurer or other officer charged with the duty of keeping the accounts of a Regional Hospital Board, Hospital Management Committee or Board of Governors.

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [2678]

APPROVAL OF EXPENDITURE

Capital Expenditure

3. Each Board of Governors and Regional Hospital Board shall, not later than the 15th day of October in each year submit to the Minister an estimate in the form set out in the First Schedule to these regulations, of expenditure during the following financial year on works of construction, reconstruction or alteration and associated purchases of furniture and equipment. [2679]

4. The Minister may approve the estimate with or without modification but such approval shall not imply that specific schemes are approved if the consent of the Minister thereto is otherwise required by the National Health Service (Functions of Regional Hospital Boards, etc.) Regulations, 1948. [2680]

5. Not later than the 1st day of December in each year each Board of Governors and Regional Hospital Board shall furnish the Minister with revised estimates in the form set out in the First Schedule to these regulations and regulation 4 shall apply thereto. On receipt of the summary of annual accounts showing the capital expenditure of a Board for the year and after consideration of any report by the auditor thereon the Minister may approve the said expenditure with or without modification. [2681]

Maintenance Expenditure and Income

6. Each Board of Governors shall, not later than the 15th day of October in each year submit to the Minister an estimate of expenditure and income during the following financial year in the form set out in the Second Schedule to these regulations. The estimate shall show the amounts of hospital maintenance expenditure and income related to each unit comprising the teaching hospital group, together with totals for the group. The Minister may approve the estimate with or without modification and shall notify the

Board of the approved gross and net expenditure for the teaching hospital group and, separately, of the approved amounts to be expended under the following sub-heads of expenditure :—

Administration	.. ..	central expenses of Board.
Hospital maintenance	..	salaries and wages provisions uniforms and clothing drugs, dressings, medical and surgical appliances and equipment fuel, light, power, water and laundry maintenance of buildings, plant and grounds domestic repairs, renewals and replacements all other expenses.
Other expenditure	.. ..	all expenses other than on administration or hospital maintenance. [2682]

7. Not later than the 1st day of December in each year each Board of Governors shall furnish to the Minister statements showing the estimated expenditure for the current financial year compared with the amount approved by the Minister under each sub-head, together with an estimate of total income for the year. The Minister may approve savings anticipated under one or more sub-heads being used to meet excess expenditure under other sub-heads but if the total gross expenditure is expected to exceed the amount approved, the Board shall forthwith submit a revised estimate for all sub-heads under which excess expenditure is anticipated together with a statement of savings. Any such revised estimate shall be in like form to the original estimate and may be approved by the Minister in like manner. On receipt of the summary of annual accounts showing the maintenance expenditure of the Board for the year and after consideration of any report by the auditor thereon the Minister may approve the said expenditure with or without modification. [2688]

8. Each Hospital Management Committee shall, not later than the 1st day of September in each year submit to the Regional Hospital Board an estimate of expenditure and income during the following financial year in the form set out in the Second Schedule. The estimate shall show the amount of hospital maintenance expenditure and income related to each unit for which the Committee is responsible together with the totals for the Committee as a whole. The Board shall examine the detailed estimate and shall, not later than the 15th day of October, submit it, with any modification or explanation it thinks fit, to the Minister together with a summary for all the Committees for which it is responsible and an estimate, in the form set out in the Second Schedule, of the Board's administration and other expenditure, and income (if any). [2684]

9. The Minister may approve the estimates of a Regional Hospital Board with or without modification and shall notify the Board of (*a*) the approved amount of central administration expenses of the Board, (*b*) the approved amount of expenditure by the Board other than on administration or hospital maintenance, (*c*) the approved gross and net expenditure of each Committee, and (*d*) separately, for each Committee, the approved amount to be expended under the following sub-heads of expenditure :—

Administration	.. ..	central expenses of Committee.
Hospital maintenance	..	salaries and wages provisions uniforms and clothing drugs, dressings, medical and surgical appliances and equipment fuel, light, power, water and laundry maintenance of buildings, plant and grounds domestic repairs, renewals and replacements all other expenses.
Other expenditure	.. ..	all expenses other than on administration or hospital maintenance.

On receipt of the Minister's approval the Board shall forthwith notify each Committee of the gross and net approved expenditure and the amount approved under each of the above-mentioned sub-heads. [2685]

10. Not later than the 1st day of November in each year each Hospital Management Committee shall furnish to the Regional Hospital Board a statement showing the estimated expenditure for the current financial year compared with the amount approved by the Minister under each sub-head together with an estimate of total income for the year. The Board may, on behalf of the Minister, approve savings anticipated under one or more sub-heads being used to meet excess expenditure under other sub-heads but if the total gross expenditure is expected to exceed the amount approved, the Committee shall forthwith submit a revised estimate for all sub-heads under which excess expenditure is anticipated together with a statement of savings. The Board shall, not later than the 1st day of December, furnish the Minister with a summary showing, for the Board as a whole, the estimated expenditure and income for the current financial year together with the revised estimates of Committees (if any) where an excess over the approved gross expenditure is anticipated. If the Board anticipate that its expenditure will exceed the amounts approved under either (*a*) or (*b*) of regulation 9 it shall submit a revised estimate. Any such revised estimate shall be in like form to the original estimate and may be approved by the Minister in like manner. [2686]

11. On receipt of the summary of annual accounts showing the expenditure of a Hospital Management Committee for the year and after consideration of the report by the auditor thereon the Minister may approve the said expenditure with or without modification. The Minister may likewise approve the expenditure of a Regional Hospital Board under (*a*) and (*b*) of regulation 9. [2687]

FINANCE COMMITTEE AND SUB-COMMITTEE

12. Each Board of Governors and Regional Hospital Board shall appoint a finance committee and each Hospital Management Committee shall appoint a finance sub-committee which, notwithstanding anything contained in regulation 4 (i) of the National Health Service (Regional Hospital Boards, etc.) Regulations, 1947, shall consist wholly of members of the appointing body. [2688]

ADVANCES, PAYMENTS AND RECEIPTS

13. Each Board of Governors and Regional Hospital Board shall furnish to the Minister each month on a form to be supplied by him, an estimate of net cash requirements together with a statement of receipts and payments and the Minister shall make advances to each Board at monthly intervals of such amount as appears to him to be necessary to meet the expenses of the Board :

Provided that nothing in this regulation shall prevent the Minister from making additional advances to meet an emergency or for other sufficient reason. [2689]

14. Each Hospital Management Committee shall furnish to the Regional Hospital Board each month an estimate of net cash requirements together with a statement of receipts and payments in such form as the Board may require, and the Board shall make advances to the Committee at intervals not exceeding one month of such amount as appears to it to be necessary to meet the expenses of the Committee. [2690]

15.—(1) No payments shall be made by or on behalf of a Board of Governors, Regional Hospital Board or Hospital Management Committee unless authorised by a prior resolution of the Board or Committee, or of its finance committee or sub-committee, as the case may be : Provided that payments made under the proviso to the next following paragraph may subsequently be ratified by the Board or Committee, or its finance committee or sub-committee, as the case may be.

(2) All payments by or on behalf of a Board or Committee shall be made by cheque or other order drawn on the bankers of the Board or Committee : Provided that the chief financial officer or his authorised deputy may make payments otherwise than by cheque or other order as aforesaid in respect of the remuneration of officers or servants falling due for payment at intervals of less than one month, the payment of accounts not exceeding £2, and payments of an urgent nature.

(3) All cheques or other orders for the payment of money by the bankers of a Board or Committee shall be signed by a member of the finance committee or sub-committee, as the case may be, and countersigned by the chief financial officer or his authorised deputy.

(4) A Board or Committee may advance to the chief financial officer or other officer approved by the Board or Committee a sum of money not exceeding such amount as it may fix from time to time for the purpose of making the payments mentioned in the proviso to paragraph (2) but for no other purpose. Any moneys so advanced which are not required for immediate use may be deposited with the bankers of the Board or Committee in a separate account and may from time to time be withdrawn by cheque signed by the said officer.

(5) The Minister may, on the application of a Board, approve any variation of the system of payment. [2691]

16. Every officer who receives money on behalf of a Board or Committee shall keep and punctually enter up a cash account and receipt books and shall pay to the bankers of the Board or Committee or to the chief financial officer, all moneys received by him at such times and in such manner as the Board or Committee may direct but in no case less frequently than once a week. [2692]

ACCOUNTS

Ledger System

17. The chief financial officer of a Board of Governors, Regional Hospital Board or Hospital Management Committee shall be responsible to the Board or Committee for the punctual keeping of a balancing system of double-entry ledger accounts recording all the transactions of the Board or Committee on an income and expenditure basis. The title of each ledger account shall be such as to define its purpose and, in the case of personal accounts, shall bear the name of the person or group of persons whose account with the Board or Committee it presents. Each item entered in a ledger account shall be adequately described and referenced to its corresponding debit or credit, and a statement of the reasons and authority for each item relating to adjustment, allocation, transfer of charge or other special matter shall be given by entry or by reference. [2693]

18. The ledger accounts shall be arranged and grouped with due regard to their nature, and to the bringing together of the totals required for entry in the annual accounts required to be furnished to the Minister under these regulations. They shall include the following personal, impersonal and final accounts :—

(a) *Personal Accounts.*

(i) Cash Book.—An account or accounts of the sums received on behalf of the Board or Committee and of the payments ordered to be made in respect of which a cheque or other authority has been issued to the payee, and, at each date when the account is balanced, a statement reconciling the balance with that appearing in the bank account or pass book.

Officers.—An account for each officer who collects or receives money on behalf of the Board or Committee, each officer who disburses money on behalf of the Board or Committee, and each officer charged with the receipt and issue of stores or material.

Debtors.—An account for each person or group of persons from whom money is due and owing to the Board or Committee during the year.

Creditors.—An account for each person or group of persons to whom money is due and owing by the Board or Committee during the year.

(ii) (*a*) Where the items of which account has to be taken in a personal account are duly classified and summarised in a primary account, the entries in the ledger personal account may be confined to the classified totals periodically shown in the primary account, and ledger personal accounts thus kept are in these regulations referred to as " control accounts ".

(*b*) Where two or more officers have similar transactions to be brought into account, their accounts may be aggregated in one control account.

(*c*) The balance shown on each control account shall be identified with the corresponding balance or balances appearing in the primary accounts.

(*d*) Where a control account relates to transactions of more than one person the balance thereof shall be analysed either in the ledger or in the primary account in such manner as to show the part thereof due from or to each person concerned.

(b) *Impersonal Accounts.*

Expenditure.—An account of the expenditure under each head of account relevant to the Board or Committee which appears in the form set out in Tables A, B and C of the Third Schedule or is needed for the purposes of preliminary classification together with such further classification under sub-heads as may be deemed necessary by the Board or Committee, or as may be required by the Minister.

Income.—An account of the income under each head of account relevant to the Board or Committee which appears in Table D of the form set out in the said Schedule together with such further classification under sub-heads as may be deemed necessary by the Board or Committee, or as may be required by the Minister.

(c) *Final Accounts.*

Capital.—A summary account by Boards only, of expenditure in respect of works of construction, reconstruction or alteration and associated purchases of furniture and equipment together with a summary of income of a capital nature.

Revenue.—An account bringing out a balance between the income and expenditure of the Board or Committee.

Balances.—A statement bringing together the balances on the several personal accounts in order to disclose the assets and liabilities of the Board or Committee at the close of the financial year. [2694]

Form of Annual Accounts

19. As soon as may be after the close of a financial year and in any case not later than the 31st day of August, the chief financial officer of a Hospital Management Committee shall prepare statements in the form set out in Tables A to D, X and Y of the Third Schedule together with a statement in such form as the Minister may specify, reconciling revenue and cash balances and after certifying the same to be correct shall submit them to the Committee for approval which shall be signified by the signature of the secretary thereon, and to the auditor. After completion of the audit, the auditor shall certify the accounts and the said statements with or without reservation and shall transmit the statements to the Minister with his report. The Committee shall transmit a copy of the audited statements and the auditor's certificate to the Regional Hospital Board for their information. [2695]

20. The preceding regulation, other than the last sentence, shall apply in the case of Boards of Governors and Regional Hospital Boards except that statements in the form set out in Tables A to E, X and Y shall be completed by Boards of Governors, and statements in the form set out in Tables A, C, D, E, X and Y by Regional Hospital Boards. [2696]

Cost Accounts

21. Each Board of Governors and Hospital Management Committee shall prepare annual cost accounts in such form as the Minister may require in respect of each hospital under its control and shall transmit a copy to the Minister; and a Committee shall also furnish copies to the Regional Hospital Board for their information. [2697]

Store Accounts and Inventories

22. The chief financial officer of a Board of Governors, Regional Hospital Board or Hospital Management Committee shall be responsible to the Board or Committee for the maintenance of proper records relating to articles, materials and provisions required for the hospital, specialist and ancillary services and in particular for—

(*a*) store accounts showing the quantities of the several articles, materials or provisions received into store, issued from store, returned into store, and remaining in store ;

(*b*) stock-taking returns showing side by side the quantity of the several articles, materials or provisions found in store and the quantity which according to the store account should be in store at the time of the stock-taking ;

(*c*) a summary account showing the total cost of articles, materials and provisions received into store, issued from store and remaining in store. [2698]

23. Each Board of Governors, Regional Hospital Board and Hospital Management Committee shall maintain inventories of such articles of equipment, not held on store charge, and in such form as the Minister may from time to time require. [2699]

GENERAL

24. The Minister may to such extent as he considers necessary or expedient dispense with any of the requirements of these regulations in respect of the financial year ending on the 31st day of March, 1949. The Minister may also, with the consent of the Treasury, amend from time to time any of the forms set out in the Schedules to these regulations. [2700]

25. The chief financial officer of a Board of Governors, Regional Hospital Board or Hospital Management Committee shall be responsible to the Board or Committee for the proper collection of all moneys due and the prompt payment of all debts, for the maintenance and completion of all financial records and returns required by the Board or Committee, or by the Minister, and for the submission of accounts to the auditor at such times and for such period as the auditor may require. [2701]

26. The auditor shall have a right of access at all reasonable times to the books, accounts and vouchers of a Board of Governors, Regional Hospital Board or Hospital Management Committee and their officers. He may, by writing under his hand, require the production before him of all books, deeds, contracts, accounts, vouchers, receipts and other documents, and shall be entitled to require from the members and officers of the Board or Committee such information or explanation as he may deem necessary for the purpose of the audit. [2702]

27. These regulations, other than regulations 19, 20 and 26 shall not apply to property or liabilities held, acquired or incurred by a Board of Governors, Regional Hospital Board or Hospital Management Committee under sections 7, 59 or 60 of the Act, but those bodies shall at the end of each financial year prepare an account of cash receipts and payments in respect thereof together with a statement of balances at the end of the year. [2703]

SCHEDULES

FIRST SCHEDULE

ESTIMATE OF CAPITAL EXPENDITURE FOR THE YEAR ENDING.....

Name and address of hospital, etc., and nature of works	Item or job number	Total estimate			Amount approved to end of current year	Probable expenditure to end of current year	Amount required for year (as above)	Further amount required for completion
		Building	Engineering services and equipment	Furniture and other equipment				
1.	2.	3.	4.	5.	6.	7.	8.	9.
I. Works in progress ..		£	£	£	£	£	£	£
II. Proposed Works ..								
TOTALS								[2704]

SECOND SCHEDULE

ESTIMATE OF MAINTENANCE EXPENDITURE AND INCOME FOR THE YEAR ENDED 31ST MARCH, 194

Expenditure	Estimate for year above	Estimate for previous year	Notes
	£	£	
Administration			
1. Members of the Board/Committee—travelling and subsistence expenses: payments for loss of remunerative time.			
2. Salaries and wages (including employer's and employees' contributions to National Insurance and Superannuation)—staff.			
3. Fuel, light, water and cleaning			
4. Structural repairs and renewals			
5. Furniture and equipment			
6. Rents and rates			
7. Printing, stationery, postages and telephones.			
8. Travelling and subsistence expenses—staff			
9. Miscellaneous :—			
(i) *			
(ii) *			
(iii) *			
(iv) other miscellaneous expenses ..			
(* Major items to be denoted)			
TOTAL ADMINISTRATIVE EXPENDITURE ..			

NOTE.—Items 2 to 9 are to be read as applying only to expenses specifically incurred for the purposes of central administration.

Expenditure	Estimate for year above	Estimate for previous year	Notes
	£	£	
Hospital Maintenance			
1. Salaries and wages (including employer's and employees' contributions to National Insurance and Superannuation)—			
(i) Medical			
(ii) Nursing			
(iii) Other officers and employees ..			
2. Provisions			
3. Staff uniforms and clothing			
4. Patients' clothing			
5. Drugs and dressings			
6. Medical and surgical appliances and equipment.			
7. Fuel, light and power			

Expenditure	Estimate for year above	Estimate for previous year	Notes
	£	£	
Hospital Maintenance—continued			
8. Water			
9. Laundry			
10. Maintenance of buildings, plant and grounds.			
11. Domestic repairs, renewals and replacements—			
(i) Furniture and furnishings ..			
(ii) Hardware and crockery			
(iii) Bedding and linen			
(iv) Cleaning and chandlery			
12. Rents and rates—			
(i) Rents			
(ii) Rates			
13. Printing, stationery, etc.			
14. Ambulance and other transport			
15. Canteens and shops			
16. Farms and gardens			
17. Occupational therapy			
18. Miscellaneous—			
(i) expenditure under user agreements with local authorities (Sixth Schedule, National Assistance Act).			
(ii) *			
(iii) *			
(iv) other miscellaneous expenses ..			
(* Major items to be denoted)			
TOTAL HOSPITAL MAINTENANCE EXPENDITURE.			
Other Expenditure			
1. Cost of maintaining patients in hospitals not vesting in the Minister.			
2. Salaries and wages of Regional officers (including employer's and employees' contributions to National Insurance and Superannuation) of—			
(*a*) officers of the Blood Transfusion Service.			
(*b*) medical specialists			
(*c*) other non-administrative officers ..			
3. Blood Transfusion Service—expenses other than salaries and wages (Regional Hospital Boards).			
4. Miscellaneous :—			
(i) Travelling and subsistence allowances of Regional officers—item 2 above.			
(ii) *			
(iii) *			
(iv) other miscellaneous expenses ..			
(* Major items to be denoted)			
TOTAL OTHER EXPENDITURE			

Income	Estimate for year above	Estimate for previous year	Notes
	£	£	
1. From patients—appliances (Sec. 3 (2)) ..			
2. From patients—single rooms, etc. (Sec. 4)			
3. From private patients (Sec. 5)			
4. From local health authorities :— supplies of blood, etc. (Sec. 18) .. midwives (Sec. 23 (2))			
5. From local education authorities and voluntary organisations — special schools (Sec. 62)			
6. Under Road Traffic Acts, 1930 and 1934 (Tenth Schedule).			
7. From staff—rent, board, lodging, supplies and services.			
8. From—			
(i) canteens and shops			
(ii) farms and gardens			
(iii) occupational therapy			
(iv) other trading services			
9. Miscellaneous :—			
(i) income from local authorities under user agreements (Sixth Schedule, National Assistance Act).			
(ii) *			
(iii) *			
(iv) other miscellaneous income ..			
(* Major items to be denoted)			
TOTAL INCOME			
Total administration expenditure			
Total hospital maintenance expenditure ..			
Total other expenditure			
Gross expenditure			
Deduct—total income			
NET EXPENDITURE			

THIRD SCHEDULE

TABLE A

CENTRAL ADMINISTRATION EXPENDITURE

	£ s. d.
1. Members of the Board (or Committee)—travelling and subsistence expenses; payments for loss of remunerative time	
2. Salaries and wages (including employer's and employees' contributions to National Insurance and Superannuation) —staff	
3. Fuel, light, water and cleaning	
4. Structural repairs and renewals	
5. Furniture and equipment	
6. Rents and rates	
7. Printing, stationery, postages, telephones	
8. Travelling and subsistence expenses—staff	
9. Miscellaneous—	
(i)*	
(ii)*	
(iii)*	
(iv) Other miscellaneous expenses	
Total	£

(* Major items to be denoted)

NOTE.—Items 2 to 9 are to be read as applying only to expenses specifically incurred for the purposes of central administration.

TABLE B

HOSPITAL MAINTENANCE SERVICE EXPENDITURE

	General Hospitals	Isolation Hospitals	Maternity Homes	Tuberculosis Sanatoria	Convalescent Homes	Mental Hospitals	Mental Deficiency Institutions	Other Institutions	TOTALS
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
1. Salaries and wages (*including employer's* and employees' contributions to National Insurance and Superannuation)—									
(i) medical									
(ii) nursing									
(iii) other officers and employees									
2. Provisions									
3. Staff uniforms and clothing									
4. Patients' clothing									
5. Drugs and dressings									
6. Medical and surgical appliances and equipment									
7. Fuel, light and power									
8. Water									
9. Laundry									
10. Maintenance of *buildings*, plant and grounds									
11. Domestic repairs, *renewals* and replacements—									
(i) furniture and furnishings									
(ii) hardware and crockery									
(iii) bedding and linen									
(iv) cleaning and chandlery									

12. Rents and rates—													
(i) rents													
(ii) rates													
13. Printing, stationery, etc.													
14. Ambulance and other transport													
15. Canteens and shops													
16. Farms and gardens													
17. Occupational therapy													
18. Miscellaneous—													
(i) expenditure under user agreements with local authorities (Sixth Schedule, National Assistance Act)													
(ii) †													
(iii) †													
(iv) other miscellaneous expenses													
TOTALS ..													

(† Major items to be denoted.)

TABLE C

OTHER EXPENDITURE

	£ s. d.
1. Cost of maintaining patients in hospitals not vesting in the Minister	
2. Salaries and wages (including employer's and employees' contributions to National Insurance and Superannuation) of—	
(*a*) officers of the Blood Transfusion Service	
(*b*) medical specialists	
(*c*) other non-administrative officers	
3. Blood Transfusion Service—expenses other than salaries and wages	
4. Miscellaneous :—	
(*a*) travelling and subsistence allowances of Regional officers—item 2 above	
(*b*)*	
(*c*)*	
(*d*) Other miscellaneous expenses	
Total	£

(* Major items to be denoted.)

TABLE D

INCOME

	General Hospitals	Isolation Hospitals	Maternity Homes	Tuberculosis Sanatoria	Convalescent Homes	Mental Hospitals	Mental Deficiency Institutions	Other Institutions	TOTALS
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
1. From patients—supply and repair of appliances [Sec. 3 (2)]									
2. From patients—accommodation in single rooms or small wards [Sec. 4]									
3. From patients—private accommodation and treatment [Sec. 5]									
4. From local health authorities, etc.— supplies of blood, etc. [Sec. 18] midwives [Sec. 23 (2)]									
5. From local education authorities and voluntary organisations—special schools [Sec. 62]									
6. Under the Road Traffic Acts, 1930 and 1934 [Tenth Sch.]									
7. From staff—rent, board and lodging, supplies and services									
8. From—									
(i) canteens and shops									
(ii) farms and gardens									
(iii) occupational therapy									
(iv) other trading services									
9. Miscellaneous—									
(i) income from local authorities under user agreements [Sixth Sch., National Assistance Act]									
(ii) *									
(iii) *									
(iv) other miscellaneous income ..									
TOTALS ..									

(* Major items to be denoted.)

TABLE E

SUMMARY OF CAPITAL ACCOUNT

	£ s. d.		(1) Works—new building	(2) Works—conversions, etc.	(3) Furniture and equipment	(4) Totals
			£ s. d.	£ s. d.	£ s. d.	£ s. d.
1. Advances (cash) from Minister		5. Hospitals—under schemes providing for additional patients* :—				
2. From sales, etc.		(i) at hospitals vested in the Minister on the appointed day				
3. Furniture and equipment supplied centrally (without payment)†		(ii) at new hospitals				
		6. Hospitals—under other schemes :—				
		(i) staff quarters and amenities				
		(ii) other alterations, improvements and expansions				
		7. Administrative offices separate from hospitals				
TOTAL		TOTAL				
4. Cash in hand at beginning of period		8. Cash in hand at end of period				
TOTAL OF TABLE E		TOTAL OF TABLE E				

* Expansion of staff quarters, laboratories, plant, amenities, etc., consequential to schemes providing for additional patients should be included in this item and not in item 6. Schemes providing for additional patients include schemes to relieve overcrowding. Patients include out-patients.

† Included per contra under heading (3).

TABLE X

ENDOWMENT AND OTHER FUNDS

Abstract of Cash Receipts and Payments

RECEIPTS	Capital*	Revenue
	£ s. d.	£ s. d.
1. From dividends, interest, etc., on invested funds and endowment property		
2. From Minister under Section 7 (5)** ..		
3. From realisation of investments and endowment property		
4. From other sources—		
(i) under Section 59		
(ii) under Section 60		
5. Other receipts—		
(i) ***		
(ii) ***		
6. Cash in hand at beginning of period ..		
TOTALS		

PAYMENTS	Capital	Revenue
	£ s. d.	£ s. d.
7. For investment		
8. For purposes relating to hospital services or research†		
9. Other payments—		
(i) ††		
(ii) ††		
10. Cash in hand at end of period ..		
TOTALS		

* Including receipts on revenue account treated as capital.
** Not applicable to Teaching Hospitals.
*** Items to be denoted.

† To be accompanied by a schedule analysing these payments.
†† Items to be denoted.

TABLE Y

ENDOWMENT AND OTHER FUNDS

Statement of Balances as at 31st March, 19

SURPLUSES AND LIABILITIES	£ s. d.	£ s. d.	ASSETS	£ s. d.
1. Funds transferred to Board of Governors/Hospital Management Committee under Section 7 (1) and (4)—			7. Land held as investment (other than land held as security for money advanced on mortgage) .. [aggregate of book or estimated values as at 4th July, 1948 in the case of interests transferred under Section 7 (1) and (4) and of estimated value at date of conveyance to the local hospital body in other cases. Any alteration of value brought to account subsequently should be denoted. Provision to maintain the capital value of a leasehold interest, etc. should be disclosed in the footnotes.]	
(i) capital account				
(ii) revenue account, including income balances				
2. Funds transferred to Regional Hospital Board/Hospital Management Committee under Section 7 (5) (*c*)—			8. Investments (including investments on mortgage of real estate) authorised as trustee securities by public general Act .. .. [aggregate of book values as at 4th July, 1948 in the case of securities transferred under Section 7 (1) and (4) and of cost in other cases. Securities acquired by gift after 4th July, 1948 should be brought in at mean Stock Exchange value at the date of the conveyance.]	
unexpended balance, including income balances				
3. Funds transferred to Regional Hospital Board/Hospital Management Committee under Section 7 (5) (*d*)—				
unexpended balance, including income balances				
4. Funds held under Section 59—			9. Investments—other securities .. .. .. [aggregate of book values as at 4th July 1948 in the case of securities transferred under Section 7 (1) and (4) and of cost in other cases. Securities acquired by gift after 4th July 1948 should be brought in at mean Stock Exchange value at the date of the conveyance. Any alteration of value brought to account subsequently should be denoted.]	
(i) of which the income but not the capital is expendable				
(ii) wholly expendable				
5. Funds held by Board of Governors/Regional Hospital Board/Hospital Management Committee under Section 60—				
(i) capital account				

(ii) revenue account, including income balances		10. Other property held by way of investment .. .. [valuation or estimated value as at 4th July 1948 or date of gift as the case may be. Any alteration of value brought to account subsequently should be denoted.]	
6. Sundry creditors .. .. [major items to be denoted]		11. Sundry debtors .. .. [major items to be denoted]	
		12. Cash at Bank, etc.	
TOTAL OF TABLE Y		TOTAL OF TABLE Y	

NOTES: (1) Gains (losses) aggregating £..... net have been brought to account within the period/year ended 31st March, 19 on maturity or sale of investments and on sale of property held as investment. In the case of non-trustee securities the net gain (loss) so brought to account was £.....

(2) Land, buildings, equipment, etc. held otherwise than as investment are excluded.

(3) The securities included in item 9 are all authorised by the relevant trust instruments.

(4) [Note as to leasehold, etc. redemption provision: Item 7]. [2706]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

The Regulations provide for the submission of estimates of income and expenditure by Regional Hospital Boards, Hospital Management Committees and Boards of Governors of Teaching Hospitals and for their approval by the Minister of Health, for the accountancy methods to be used and for incidental matters.

L.G.L.—60

NATIONAL HEALTH SERVICE (QUALIFICATIONS OF HEALTH VISITORS AND TUBERCULOSIS VISITORS) REGULATIONS, 1948

S.I. 1948 *No.* 1415

June 25, 1948

The Minister of Health, in exercise of his powers under section 66 of the National Health Service Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

1. These regulations may be cited as the National Health Service (Qualifications of Health Visitors and Tuberculosis Visitors) Regulations, 1948, and shall come into force on the fifth day of July, 1948. [2707]

2.—(1) In these regulations, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them :—

" health visitor " means a woman employed by a local health authority for the visiting of persons in their homes for the purpose of giving advice as to the care of young children, persons suffering from illness, and expectant or nursing mothers, and as to the measures necessary to prevent the spread of infection and also includes a woman so employed by a voluntary organisation under arrangements with a local health authority ;

" tuberculosis visitor " means a woman employed by a local health authority for the visiting of the homes of persons suffering from tuberculosis for the purpose of giving advice as to the care of such persons and as to measures necessary to prevent the spread of infection and also includes a woman so employed by a voluntary organisation under arrangements with a local health authority ;

" the Minister " means the Minister of Health ;

" regulations of 1930 " means the Local Government (Qualifications of Medical Officers and Health Visitors) Regulations, 1930, as amended by the Local Government (Qualifications of Medical Officers and Health Visitors) (Amendment) Regulations, 1933.

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [2708]

3. Any person employed as a health visitor shall be a woman who—

(*a*) has been qualified prior to the 5th July, 1948, to hold the appointment of health visitor under the regulations of 1930, otherwise than in virtue of a dispensation given under regulation 10 thereof ; or

(*b*) has obtained the health visitors certificate issued by the Royal Sanitary Institute under conditions approved by the Minister ; or

(*c*) has obtained the health visitors certificate issued by the Royal Sanitary Association of Scotland under conditions approved by the Secretary of State for Scotland and duly endorsed by the Association as rendering the holder eligible for appointment as a health visitor in England and Wales as well as in Scotland. [2709]

4. Any person employed as a tuberculosis visitor shall be a woman who—

(*a*) is qualified for employment as a health visitor under the immediately preceding regulation ; or

(*b*) has been qualified prior to the 5th July, 1948, to hold the appointment of tuberculosis visitor under the regulations of 1930, otherwise than in virtue of a dispensation given under regulation 10 thereof; or

(*c*) is a nurse whose name is entered on the general part of the register kept under the Nurses Registration Act, 1919, or of the list kept under section 18 of the Nurses Act, 1943, and who has had at least three months' experience at a sanatorium or hospital for the treatment of tuberculosis or at a tuberculosis dispensary. [2710]

5. The Minister may dispense with any of the requirements of these regulations in any case in which it appears to him desirable to do so on such terms and conditions as he thinks fit. [2711]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Regulations, but is intended to indicate their general purport.*)

The Regulations prescribe the qualifications to be held by health visitors and tuberculosis visitors employed by local health authorities or employed by voluntary organisations under arrangement with local health authorities. Power is taken to dispense with the requirements of the regulations in order to enable persons now employed as visitors to continue to serve until the supply of fully qualified visitors becomes adequate.

NATIONAL HEALTH SERVICE (APPOINTMENT OF SPECIALISTS) REGULATIONS, 1948

S.I. 1948 *No.* 1416

June 25, 1948

The Minister of Health, in exercise of his powers under section 14 of the National Health Service Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following regulations:—

1. These regulations may be cited as the National Health Service (Appointment of Specialists) Regulations, 1948, and shall come into operation on the 29th day of June, 1948. [2712]

2. The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [2713]

3. These regulations apply to the appointment by a Regional Hospital Board or by the Board of Governors of a teaching hospital of any medical or dental officer, whether whole-time or part-time, to the staff of any hospital providing hospital and specialist services, being an officer appointed for the purpose of practising a special branch of medicine or dentistry, with full responsibility for the treatment of patients or the carrying out of clinical, pathological or ancillary methods of investigation, and the words "officer" and "office" shall be construed accordingly. [2714]

4. For the purpose of these regulations an advisory appointments committee shall be constituted on the occasion of each vacancy in an office, which for this purpose includes a new office which the Board propose to fill. The Committee shall be constituted, where an appointment to the office is to be made by a Regional Hospital Board, in accordance with the provisions in Part I of the schedule hereto, and where the appointment is to be made by a Board of Governors of a teaching hospital, in accordance with the provisions of Part II of the schedule. [2715]

5.—(1) Any vacancy in an office which it is proposed to fill shall be advertised in two or more journals circulating throughout England and Wales, being journals commonly used for advertisements of a similar kind relating to the profession concerned.

(2) The vacancy may also be advertised in such other journals or newspapers as the Board think fit. [2716]

6. The advertisement shall state—

(i) the nature of the appointment;
(ii) Whether the appointment is for whole-time or part-time service; if part-time the approximate length of time per week which will be required;
(iii) The duration of the appointment;
(iv) The remuneration;
(v) The closing date for the receipt of applications; and
(vi) That canvassing of members of the Board or Advisory Appointments Committee will lead to disqualification. [2717]

7. The Advisory Appointments Committee shall consider all applications submitted to the Board before the closing date specified in the advertisement and may if they think fit require an applicant to attend before them for the purpose of an interview. After considering all the applications the Committee shall select from the applicants such persons as they think suitable for the appointment and submit their names to the Board together with any comments they may wish to make. If they are of opinion that none of the applicants is suitable for the appointment they shall so inform the Board. [2718]

8. No appointment shall be made by the Board except from applicants selected in the manner aforesaid. [2719]

9. The Board may make to the members of an Advisory Appointments Committee constituted by them, payments in respect of travelling and subsistence expenses in accordance with the scales set out in Parts II and III of the schedule to the National Health Service (Travelling Allowances, etc.) Regulations, 1947, and subject to the conditions set out in regulation 5 of those regulations. [2720]

SCHEDULE

PART I

Non-Teaching Hospitals

1. The Advisory Appointments Committee shall consist of seven members appointed by the Regional Hospital Board of whom one shall be selected by the Board to act as chairman.

2. Two of the members, of whom at least one shall be a medical practitioner in the case of the appointment of a medical officer or a dental practitioner in the case of the appointment of a dental officer shall be appointed on the nomination of the Hospital Management Committee concerned or if two or more Hospital Management Committees are concerned, on the nomination of those Committees jointly.

3. Of the other five members four at least shall be medical practitioners in the case of the appointment of a medical officer or dental practitioners in the case of the appointment of a dental officer and at least one shall be appointed after consultation with the University with which the provision of hospital and specialist services in the area of the Board is associated.

4. Of the members who are medical or dental practitioners at least two shall be, or shall have been, engaged in the practice of the special branch of medicine or dentistry concerned and at least one shall be so engaged outside the area of the Board. [2721]

PART II

Teaching Hospitals

1. The Advisory Appointments Committee shall consist of seven members appointed by the Board of Governors of whom one shall be selected by the Board to act as chairman.

2. Two of the members shall be appointed on the nomination of the University with which the hospital is associated and at least one of such members shall be a medical practitioner in the case of the appointment of a medical officer or a dental practitioner in the case of the appointment of a dental officer.

3. Of the five members appointed otherwise than on the nomination of the University at least four shall be medical practitioners in the case of the appointment of a medical officer or dental practitioners in the case of the appointment of a dental officer and at least one shall be a person appointed after consultation with the Regional Hospital Board of the area in which the teaching hospital is situated or if the hospital is situated in the area of more than one Regional Hospital Board after consultation with both or all of such Boards.

4. Of the members who are medical or dental practitioners at least two shall be, or shall have been, engaged in the practice of the special branch of medicine or dentistry concerned and at least one shall be so engaged at some other teaching hospital. [2722]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

The regulations make provision with respect to the appointment of certain classes of medical and dental officers to the Hospital and Specialist Services. They require the advertising of posts to be filled and provide for the setting up of Advisory Appointments Committees to select and submit to the appointing body the names of the suitable applicants.

NATIONAL HEALTH SERVICE (GENERAL MEDICAL AND PHARMACEUTICAL SERVICES) AMENDMENT REGULATIONS, 1948

S.I. 1948 *No.* 1448

June 28, 1948

General note.—These regulations amend S.I. 1948 No. 506, *ante*.

The Minister of Health, in exercise of his powers under sections 32, 33 and 38 of the National Health Service Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

1. These regulations may be cited as the National Health Service (General Medical and Pharmaceutical Services) Amendment Regulations, 1948, and shall come into operation on the fifth day of July, 1948. [2723]

2. The National Health Service (General Medical and Pharmaceutical Services) Regulations, 1948, shall be amended as follows :—

(1) In paragraph (1) of regulation 2 the definition of " maternity medical services " shall be modified by the deletion of the words " having obstetric experience ", and the definition of " treatment " shall be modified by the addition of the words " in accordance with these regulations " after the word " services " at the end of the definition.

(2) For regulation 19 there shall be substituted the following regulation :—

19. "Application for Services.—A person who, after diagnosis of pregnancy by a medical practitioner, requires the provision of maternity medical services may arrange for the provision of such services either—

(*a*) with any practitioner on a medical list having obstetric experience or

(*b*) with the practitioner in whose list her name is included ".

(3) in paragraphs (1) and (2) of regulation 20 the words " in accordance with the last preceding regulation " shall be substituted for the words " with a practitioner having obstetric experience " and the words " with another practitioner having obstetric experience ".

(4) In sub-paragraph (2) of paragraph 3 and in (*c*) of sub-paragraph (1) of paragraph 6 of Part I of the first schedule the words " having obstetric experience " shall be deleted.

(5) For sub-paragraph (2) of paragraph 6 of Part I of the first schedule, there shall be substituted the following sub-paragraph :—

" (2) In the case of maternity medical services all proper and necessary treatment shall include an initial medical and obstetric examination and an examination at or about the 36th week of pregnancy together with such other examination and ante-natal care as the practitioner thinks necessary ; attendance at an abortion or other emergency in connection with a pregnancy if the practitioner is summoned on behalf of the patient ; attendance at the confinement after the twenty-eighth week of pregnancy, if in the opinion of the practitioner it is required or if he is summoned to the confinement by the midwife in attendance ; a medical and pelvic examination of the mother at or about six weeks after confinement, together with such medical care of the mother and child for a period of 14 days after the confinement as may be required, and where the practitioner is not the general practitioner in whose list the name of the person is included, maternity medical services shall also include compliance with any request made by the general practitioner to examine or give any other assistance to that person and her child if, in the opinion of the practitioner having obstetric experience, it is necessary :

Provided that nothing in this sub-paragraph shall affect the responsibility of the practitioner in whose list the name of the person is included for treatment of a kind usually provided by general medical practitioners which is necessary for her general health."

(6) In sub-paragraph (7) of paragraph 7 of Part I of the first schedule the words " or their personal representatives " shall be inserted after the words " patients ".

(7) In sub-paragraph (1) of paragraph 10 of Part I of the first schedule the words " (which for the purpose of this paragraph shall include maternity medical services) " shall be inserted after the words " medical treatment ".

(8) The following sub-paragraph shall be substituted for sub-paragraph (i) of paragraph 1 of Part II of the first schedule :—

" (i) A fixed annual payment of £800 as part of the remuneration in respect of any practitioner who claims such payment, subject to the consent of the Council, who shall, before giving such consent, consult the Local Medical Committee, or, on appeal, of the Minister :

Provided that :—

(*a*) after such period as the scheme shall specify a practitioner shall not be entitled to receive a fixed annual payment, unless he has the minimum number of patients on his list specified by the scheme, or the Minister, in view of special circumstances, approves its continuance.

(*b*) a practitioner whose name is included in more than one medical list shall not be entitled to receive a fixed annual payment from more than one Council.

(*c*) a practitioner who is receiving a fixed annual payment shall be entitled to give to the Council not less than three months' notice expiring on 31st March, 30th June, 30th September, or 31st December in any year, that the payment shall be discontinued."

(*d*) the Council, if they think fit, shall be entitled to give to a practitioner who is receiving a fixed annual payment not less than three months' notice expiring on the 31st March, 30th June, 30th September, or 31st December, in any year that the payment shall be discontinued unless the Minister, on appeal, otherwise determines.

(9) In sub-paragraph (iii) of paragraph 3 of Part II of the first schedule the words "in accordance with the regulations" shall be substituted for the words "by practitioners having obstetric experience".

(10) The following paragraph shall be added in Part I of the fourth schedule after paragraph 8 :—

"8A. A chemist shall, in respect of the categories of staff whose wages and conditions of work are approved by the National Joint Industrial Council for Retail Pharmacy, pay rates of wages and observe conditions not less favourable than those for the time being so approved." [2724]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Regulations, but is intended to indicate their general purport.*)

These regulations amend the National Health Service (General Medical and Pharmaceutical Services) Regulations, 1948, *for two main purposes : first to extend the arrangements for maternity medical services to enable a payment to be made to a woman's own doctor to provide her with maternity medical services notwithstanding that he is not possessed of qualifications recognised by the Local Obstetric Committee, and secondly to enable a doctor to claim to be paid partly by a fixed annual payment of* £300 *at his option, subject to the Executive Council agreeing or, on appeal, the Minister.*

NATIONAL HEALTH SERVICE (SUPERANNUATION) (AMENDMENT) REGULATIONS, 1948

S.I. 1948 *No.* 1474

June 30, 1948

The Minister of Health, in exercise of the powers conferred on him by subsection (1) of section 67 of the National Health Service Act, 1946, hereby

makes the following regulations in the terms of a draft duly approved by resolution of each House of Parliament :—

1.—(1) These regulations may be cited as the National Health Service (Superannuation) (Amendment) Regulations, 1948, and shall come into force on the first day of July, 1948.

(2) These regulations and the National Health Service (Superannuation) Regulations, 1947, shall be construed as one, and may be cited together as the National Health Service (Superannuation) Regulations, 1947 and 1948.

(3) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

(4) In these regulations, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them :—

" the principal regulations " means the National Health Service (Superannuation) Regulations, 1947 ; and

" regulation " means regulation contained in the principal regulations. [2725]

2. A person who by virtue of any employment would be an officer within the meaning of the principal regulations shall not be treated as such if he is a Chaplain to whom the Clergy Pensions Measure, 1948, applies. [2726]

3. In regulation 1, in paragraph (3) thereof—

(*a*) in the definition of " mental health officer ", there shall be added the words " and any officer employed as the Regional Psychiatrist by a Regional Hospital Board who immediately before entering their employment as such, whether before or after the date of these regulations, was such an officer as aforesaid or was an officer to whom the Superannuation (Prison Officers) Act, 1919, applied and had been such an officer for an aggregate period of not less than ten years " ; and

(*b*) in the definition of " national service ", there shall be added the words " but does not include, in a case where a person continues his national service otherwise than in pursuance of a legal obligation so to do arising otherwise than by reason of a voluntary undertaking by him to continue it, and the employing authority by whom he was employed immediately before he undertook his national service has notified him in writing that his national service for the purposes of these regulations will be deemed to cease on the expiration of a period of three months after the date of the service of the notification, any part of his national service after the expiration of the said period." [2727]

4. In regulation 2, in proviso (ii) (*i*) to paragraph (1) thereof, there shall be substituted for the words " local authority or governing body of a voluntary hospital " the words " authority or body from which functions are transferred by the Act, or under an officer of such an authority or body, or at or for the purposes of any hospital ". [2728]

5. In regulation 4—

(*a*) in paragraph (3) thereof, the words " otherwise than by reason of illness or injury " shall be omitted and the following proviso shall be added :—

" Provided that where the absence from duty is by reason of illness or injury the provisions of this paragraph shall not apply, unless the officer's remuneration is reduced solely by reason of his having become entitled to benefit under the National Insurance Acts, 1946 " ; and

(*b*) in paragraph (7) thereof, for the words " an officer ", there shall be substituted the words " a person ", after the word " reckon " there shall be inserted the words " any of ", the words " if his service pay equals or exceeds the remuneration of his former employment " shall be omitted, and there shall be substituted for the words " as if " the words " (if any) as he would have been liable to make if ". [2729]

6. In regulation 6, in proviso (*c*) to paragraph (2) thereof, and in regulation 10, in proviso (iv) thereto, there shall be substituted for the words " being reckoned at double its actual length " the words " being reckoned as contributing service." [2730]

7. In regulation 6, in proviso (i) to paragraph (3) thereof, and in the substituted regulation 6 as set out in regulation 38 (3) (*e*), in proviso (ii) to paragraph (1) thereof, there shall be substituted for all words after the words " forty years " the words " the pension shall be calculated by reference to the last forty years actual service, any non-contributing service within that period being reckoned as contributing service." [2731]

8. In regulation 6, in proviso (iii) to paragraph (4) thereof, and in the substituted regulation 6 as set out in regulation 38 (3) (*e*), in proviso (iv) to paragraph (2) thereof, there shall be substituted for all words after the words " forty years " the words " the amount of the allowance shall be calculated by reference to the last forty years actual service, any non-contributing service within that period being reckoned as contributing service." [2732]

9. In regulation 8, the words " more than " and the words " unless he is entitled to a retiring allowance " shall be omitted, and the following proviso shall be added :—

" Provided that if the officer is also entitled to a retiring allowance, the short service gratuity shall be reduced by the amount of the said allowance." [2733]

10. In regulation 10, in proviso (iii) thereto, and in regulation 38, in proviso (*ii*) to sub-paragraph (*f*) of paragraph (3) thereof, there shall be substituted for all words after the words " forty years " the words " the sum shall be obtained by reference to the last forty years actual service, any non-contributing service within that period being reckoned as contributing service." [2734]

11. In regulation 13—

(*a*) in proviso (*a*) to paragraph (2) thereof, there shall be inserted after the word " officer " the words " (not being an officer transferred under the Act) " ;

(*b*) in proviso (*d*) to paragraph (2) thereof, there shall be inserted after the words " established civil servant " where they first occur, the words " the foregoing provision shall apply as if for the reference to employment or war service or national service which would have been reckonable for the purpose of determining whether a person was entitled to receive a superannuation benefit, there were substituted a reference to employment or war service or national service which would have been reckonable for the purpose of determining whether the officer had served for the minimum period prescribed by the Superannuation Acts as necessary for the grant of any retiring award to him and " ;

(*c*) the following new paragraph shall be inserted :—

" (6A) Where a person in the employment of an employing authority, not being an officer, ceases to be employed in order to undertake national service, then, if on the termination of that

service or within six months thereafter he returns to the employment of any employing authority, the period of his national service shall be taken into account for the purposes of these regulations in the same manner and to the same extent as it would have fallen to be taken into account if he had continued to follow his former employment throughout the period of his national service "; and

(*d*) in paragraph (8) thereof, there shall be inserted after the words " transferred by the Act " the words " or by the National Health Service (Scotland) Act, 1947," and after the words " by the Minister under the Act " wherever they occur, the words " or by the Secretary of State under the said Act of 1947 ". [2735]

12. In regulation 14, the following new paragraph shall be inserted :—

" (2A) Any part of any national service which is reckonable as a period of service under regulation 13 (6A) in relation to any office, being a part in respect of which contributions have been made pursuant to regulation 4 (7), shall be reckonable as a period of contributing service." [2736]

13. In regulation 15, the following new paragraphs shall be added :—

" (6) Where a person becomes or has become an officer of an employing authority within twelve months after ceasing to be a contributory employee or local Act contributor in the employment of any local authority, the local authority may, within three months after the date on which the person becomes such an officer or if he has become such an officer before the date of the coming into operation of these regulations within three months after that date, exercise in relation to him any power which would have been exercisable in relation to him under paragraph (1) or (2) of this regulation had he been transferred under the Act.

(7) A person in relation to whom a resolution to add years has been passed or a discretion has been exercised pursuant to paragraph (6) of this regulation shall be entitled to reckon as contributing service in relation to his employment as such officer as aforesaid any number of years in respect of which the resolution was passed or the discretion was exercised." [2737]

14. In regulation 18—

(*a*) in proviso (*b*) to paragraph (1) thereof, there shall be inserted after the words " those contributions " the words " would not have been returnable or "; and

(*b*) in paragraph (2) thereof, there shall be omitted—

(i) sub-paragraph (*b*);

(ii) the words " in the case mentioned in sub-paragraph (*a*) of this paragraph "; and

(iii) all words (including the proviso) after the words " compound interest thereon " in line 11. [2738]

15. The following new regulation shall be inserted after regulation 18 :—

" *Officers ceasing to be employed in consequence of the Act.*

18A.—(1) Where an officer ceases to be employed by an employing authority in consequence of the Act without having become entitled to any benefit under these regulations other than a return of his contributions, and no transfer value is payable in respect of him, then, if compensation would be payable to him under regulations made by the Minister under section 68 of the Act but for the fact that he had not been employed in manner thereby prescribed for a period thereby prescribed, he shall be entitled to receive from the Minister a sum equal to the accrued value of his prospective rights under these regulations,

less the amount of any contributions and interest to which he has become entitled pursuant to these regulations.

(2) For the purposes of the last preceding paragraph, the accrued value of an officer's prospective rights under these regulations shall be treated as being an amount equal to the amount of the transfer value which would have been payable in respect of him under regulation 49 had that regulation become applicable or, if he was a person to whom regulation 24 applied, such a sum as the Minister may consider reasonable:

Provided that no account shall be taken of any rights secured by a policy of insurance.

(3) For the purposes of these regulations, any sum received by a person under this regulation shall be treated as if it were a sum paid to him by way of a return of contributions.

(4) Where a person who has received a sum under this regulation gives notice to an employing authority under paragraph (9) of regulation 13 that he intends to make payments in accordance with that paragraph, he shall not be entitled to make such payments unless forthwith on giving such notice he pays to the employing authority an amount equal to the said sum, together with compound interest thereon, at the rate of two and one half per cent. per annum, calculated, with half yearly rests, as from the date on which the said sum was received." [2739]

16. In regulation 20, the following new paragraph shall be added—

" (5) The proceedings on any reference to a referee or board of referees under the last preceding paragraph shall not be deemed to be an arbitration to which anything in the Arbitration Acts, 1889–1934, applies." [2740]

17. In regulation 22, in paragraph (2) thereof, the words " or who attains pensionable age on, or within three months after, being so transferred " shall be omitted. [2741]

18. In regulation 24—

(*a*) in paragraph (2) thereof, there shall be added at the end of the paragraph the words " and in regulation 18A " ; and

(*b*) in paragraph (3) thereof, there shall be added at the end of the paragraph the words " regulation 18A and the next succeeding regulation ". [2742]

19. In regulation 28, the words " other than mental health officers " shall be omitted. [2743]

20. In regulation 29—

(*a*) the words " attained the age of fifty-five years and " shall be omitted, and there shall be inserted after the word " applied " where it occurs for the second time the words " or, if the Minister so directs, as a person subject to a scheme approved by the Minister under regulation 13 (3) (*d*) (v) " ; and

(*b*) the following new paragraphs shall be inserted—

" (2) These regulations, in their application to any mental health officer (not being an officer to whom the last preceding paragraph applies) who has been employed for an aggregate period of at least twenty years as such an officer and before he became such an officer as a person on the staff of a hospital used wholly or partly for the treatment of mental patients or an institution so used for the treatment of defectives devoting the whole or substantially the whole of his time to the treatment or care of such

patients or defectives, shall have effect subject to the following modifications :—

(*a*) in regulations 5 and 20 (1), fifty-five years shall be substituted for sixty years ; and

(*b*) for the purposes of regulations 6, 9 (2) and 10, the proviso to regulation 11 (1) and regulations 30 (3) and 30 (4), account shall be taken as if it were two years of every year of contributing service as a mental health officer rendered after attainment of the age of fifty years or after the date on which this paragraph becomes applicable, whichever is the later.

(3) In reckoning the aggregate period of a mental health officer's employment for the purpose of this regulation account shall be taken as if it were a period of employment of any period of service which he is entitled to reckon by virtue of the exercise in relation to him of the power conferred by regulation 15 (3) ". [2744]

21. In regulation 30—

(*a*) the following new provision shall be substituted for proviso (*a*) to paragraph (2) thereof—

" (*a*) in the case of a mental health officer who by virtue of regulation 29 becomes entitled to reckon any year of contributing service as such officer as if it were two years, the amount of the reductions shall be doubled ; " ; and

(*b*) in paragraph (3) (*b*) thereof, the words " on being transferred under the Act or " shall be omitted, there shall be inserted after the words " date of acquisition " the words " or was such a person as is mentioned in paragraph (9) of this regulation ", there shall be inserted after the words " his age " the words " at the appointed day or ", and there shall be inserted after the words " on which he became an officer " where those words first occur the words " whichever is the later ". [2745]

22. The following new regulations shall be inserted after regulation 33 :—

" *Application to officers formerly employed in hospitals vested in or requisitioned by the Crown.*

33A. For the purposes of these regulations a person who immediately before the appointed day was solely or mainly employed at or for the purposes of any hospital which would have been transferred to the Minister by virtue of the Act but for the fact that the hospital or any interest therein was vested in or requisitioned by the Crown shall, if he becomes on the appointed day an employee of any employing authority, be treated as if he had been transferred under the Act, and employment at or for the purposes of any such hospital shall be treated as if it were employment at or for the purposes of a hospital transferred to the Minister under the Act.

Application to officers formerly employed in the Blood Transfusion Service.

33B. For the purposes of these regulations, a person who enters the employment of an employing authority on the appointed day, having immediately before that day been in employment under the Crown in the Blood Transfusion Service, shall be deemed to have been transferred under the Act to the employment of the employing authority, and the said employment under the Crown shall be deemed to be employment under a body from which functions are transferred by the Act ". [2746]

23. In regulation 34, there shall be inserted after the word " person " where it first occurs the words " (other than a person engaged wholly or mainly on clerical duties) ", there shall be substituted for the word " officer " the word " employee " and there shall be substituted for the words " left employment as an established civil servant and entered the employment of the Board " the words " been transferred under the Act to the employment of an employing authority immediately before the date on which this regulation became operative, and as if his former employment had been employment under any authority or body from which functions are transferred by the Act ". [2747]

24. In regulation 38—

(*a*) in paragraph (1) thereof, there shall be inserted after the word " practitioner " the words " other than a person rendering specialist services pursuant to section 3 of the Act " ;

(*b*) in paragraphs (2) and (3) thereof, the words " subject to the provisions of paragraph (5) of this regulation " shall be omitted ;

(*c*) in proviso (ii) to paragraph (2) of the substituted regulation 6, as set out in sub-paragraph (*e*) of paragraph (3) of regulation 38, there shall be inserted after the words " a practitioner who is " the words " a widower or " ;

(*d*) sub-paragraph (*l*) of paragraph (3) thereof shall be omitted ;

(*e*) the following new sub-paragraph shall be inserted in paragraph (3) thereof—

" (*jj*) the proviso to regulation 16 shall not apply in the case of a practitioner " ; and

(*f*) for paragraph (5) thereof, there shall be substituted the following paragraph :—

" (5) These regulations in their application to a person who is a practitioner by virtue of being a person rendering specialist services pursuant to section 3 of the Act shall have effect subject to the modifications contained in paragraph (3) of this regulation other than the modifications contained in sub-paragraphs (*h*), (*k*) and (*m*) thereof." [2748]

25. In regulation 39—

(*a*) in paragraph (1) (*c*) thereof, after the word " person " there shall be inserted the words " (other than such a person as is mentioned in either of the two preceding sub-paragraphs) " ; and

(*b*) the proviso to paragraph (1), and paragraph (2), shall be omitted. [2749]

26. In regulation 40—

(*a*) in paragraph (1) thereof, for the words " and any " there shall be substituted the words " or relevant ", the words " extend and " shall be omitted, and after the words " to whom this part applies " there shall be inserted the words " by virtue of his being such a person as is mentioned in sub-paragraph (*a*) or (*b*) of regulation 39 (1) " ;

(*b*) the following new paragraph shall be substituted for paragraph (2) :—

" (2) The Act of 1937 or relevant local Act scheme shall be further modified in relation to any such officer as aforesaid who is in the employment of a local health authority on the appointed day, and who immediately before that day was a contributory employee or local Act contributor, so as to confer on him rights corresponding to those conferred by regulations 22 and 23, and

those regulations shall apply accordingly, with the modification that references to employing authorities in regulation 22 shall be read as references to local health authorities, and with any other necessary modifications "; and

(*c*) the following new paragraph shall be inserted after paragraph (4) :—

" (5) The Act of 1937 or relevant local Act scheme shall, if not otherwise applicable, apply in relation to any officer to whom this part applies by virtue of his being such a person as is mentioned in sub-paragraph (*c*) of regulation 39 (1), and in its application to any such officer, whether as so applied or otherwise, shall be modified so as to confer upon him a right corresponding to that conferred by regulation 22, and that regulation shall apply accordingly, with the modification that references to employing authorities shall be read as references to local health authorities, and with any other necessary modifications ". [2750]

27. After regulation 40, there shall be inserted the following new regulation—

" 40A.—(1) Where a person, being a contributory employee or local Act contributor in the employment of any local authority, will, if he remains in their employment, be transferred under the Act to the employment of a local health authority, the local authority may at any time before the date of transfer, or within three months thereafter if he is so transferred, exercise in relation to him the power conferred on them by regulation 15 in relation to any person to whom that regulation applies, and that regulation shall apply accordingly for the purpose, with any necessary modifications.

(2) Any number of years added to a person's service under the last preceding paragraph shall be deemed to be a number of years which was reckonable immediately before the date of transfer as contributing service for the purposes of the Act of 1937 or as service for the purposes of the local Act scheme.

(3) Where the amount of any transfer value is increased in consequence of the exercise by a local authority of any power conferred upon them by paragraph (1) of this regulation, the local authority shall repay the amount of the said increase to the superannuation fund out of which the transfer value is payable." [2751]

28. In regulation 42, there shall be substituted for the words " an officer falling within the class mentioned in regulation 39 (1) (*a*) " the words " a contributory employee or local Act contributor on the medical or nursing staff of the authority ". [2752]

29. In regulation 43, in paragraph (1) thereof, there shall be inserted after the words " school health service " the words " and he is not a person who has exercised such option as is mentioned in regulation 40 (2) or the proviso to regulation 42." [2753]

30. In regulation 47, the following new paragraphs shall be inserted—

" (8A) In the calculation of any transfer value under paragraph (1) or (5) of this regulation, or in the certification under paragraph (2) thereof of any liability of which any superannuation fund has been relieved, account shall be taken of any number of years that may have been added to a person's service under the provisions of regulation 15 as if that number of years had been reckonable as a number of years of contributing service or service, as the case may be, for the purposes of the Act of 1937, the local Act scheme or the Act of 1909 immediately before he ceased to be a contributory employee, local Act contributor or person subject to the Act of 1909.

(8B) Where before the coming into operation of these regulations any transfer value has been paid in respect of a person who has become an officer of an employing authority, and the local authority under whom he was a contributory employee or local Act contributor exercise any power conferred on them by paragraph (6) of regulation 15, the transfer value shall be re-calculated to take account of any years added or any service converted into contributing service by virtue of the exercise of that power.

(8C) Where the amount of any transfer value payable out of a superannuation fund under paragraph (1) of this regulation or the amount of any liability to be certified under paragraph (2) thereof is increased in consequence of the exercise by a local authority of any power conferred upon them by regulation 15, the local authority, or if that authority has been dissolved, the local authorities who appointed that authority, shall repay the amount of the said increase to the superannuation fund out of which the transfer value is payable or in relation to which the liability is to be certified." [2754]

31. The following new regulation shall be substituted for regulation 53—

"53. Any question arising under these regulations as to the rights or liabilities of an officer or retired officer of an employing authority, or of a person claiming to be treated as such or of the widow, any dependant or the legal personal representatives of an officer or retired officer shall be determined by the Minister." [2755]

32. In the Fourth Schedule to the principal regulations—

(*a*) in the 3rd column of Table V, there shall be substituted for the figures "£10 8s." the figures "£10 18s."; and

(*b*) in sub-paragraph (3) of paragraph 6 thereof, there shall be inserted a reference to Table IA, in addition to the references to the Tables there mentioned, and the following new Table shall be inserted after Table I—

"TABLE IA

SERVICE OF A MALE MENTAL HEALTH OFFICER

Age	Amount appropriate in respect of each £100 of remuneration
	£ s. d.
Under 36	8 9 0
36 and under 37	8 10 0
37 ,, ,, 38	8 11 0
38 ,, ,, 39	8 12 0
39 ,, ,, 40	8 13 0
40 ,, ,, 41	8 14 0
41 ,, ,, 42	8 16 0
42 ,, ,, 43	8 17 0
43 ,, ,, 44	8 18 0
44 ,, ,, 45	9 0 0
45 ,, ,, 46	9 2 0
46 ,, ,, 47	9 3 0
47 ,, ,, 48	9 5 0
48 ,, ,, 49	9 7 0
49 ,, ,, 50	9 10 0

Age	Amount appropriate in respect of each £100 of remuneration
	£ s. d.
50 and under 51	9 13 0
51 ,, ,, 52	9 17 0
52 ,, ,, 53	10 2 0
53 ,, ,, 54	10 7 0
54 ,, ,, 55	10 12 0
55 ,, ,, 56	10 12 0
56 ,, ,, 57	10 7 0
57 ,, ,, 58	10 2 0
58 ,, ,, 59	9 17 0
59 ,, ,, 60	9 11 0
60 and over	£9 5s. 0d. less six shillings for each completed year by which the officer's age exceeds sixty years. [2756]

33. In the Fifth Schedule to the principal regulations, in paragraph 1 thereof, there shall be inserted after the words " before that day ", the words " (including any number of years service that may have been added under the provisions of regulation 15)." [2757]

34. The principal regulations, as amended by these regulations, shall apply in the Isles of Scilly as they apply in England and Wales. [2758]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These regulations amend the National Health Service (Superannuation) Regulations, 1947. *They correct certain anomalies in the principal regulations and make various drafting and minor amendments. In addition the regulations confer additional rights on persons subject to the provisions of the principal regulations and extend those regulations to additional classes of persons.*

The benefits conferred upon mental health officers are extended to Regional Psychiatrists employed by Regional Hospital Boards (regulation 3). *Employees who undertake national service and who were not superannuable when they left their employment are now enabled to become superannuable during their national service, if they would have done so had they continued in their employment (regulation* 11 *(c)). By regulation* 15 *of the principal regulations local authorities are given power to add years of service or to convert non-contributing service into contributing service in the case of such of their superannuable employees as are transferred under the Act to the central health service. This power is now to be exerciseable by them in relation to their employees who transfer at any time (regulation* 13). *The power conferred by regulation* 15 *of the principal regulations is now extended to transfers of employees under the Act from minor local authorities to local health authorities (regulation* 27). *Consequential provisions in respect of transfer values, etc., are made in regulations* 27 *and* 30. *Where a person ceases to be employed in consequence of the National Health Service Act, and he had not completed a sufficient number of years service to entitle him to compensation under regulations made under section* 68 *of the Act, he is to be entitled under the principal regulations to receive the accrued value of his superannuation rights instead of merely a return of the contributions to which he might otherwise*

be entitled (regulation 15). Certain mental health officers are entitled under the principal regulations to reckon part of their service at twice its actual length. The class of employment which qualifies an officer for this right is extended (regulation 20). Transferred officers enjoy certain special rights under the principal regulations, for example an option to retain pre-transfer superannuation rights. These rights are extended to persons employed in hospitals already vested in the Crown and therefore not transferred to the Minister by virtue of the Act, and to persons employed under the Crown in the Blood Transfusion Service (regulation 22). Persons in the employment of a local health authority on the appointed day are given an option to retain rights corresponding with those enjoyed immediately before the appointed day instead of becoming subject to Part III of the principal regulations (regulation 26).

NATIONAL HEALTH SERVICE (TRANSFER OF OFFICERS AND COMPENSATION) REGULATIONS, 1948

S.I. 1948 *No.* 1475

June 30, 1948

The Minister of Health, in exercise of the powers conferred on him by section 68 of the National Health Service Act, 1946, as amended by sub-paragraph (4) of paragraph 7 of the Sixth Schedule to the National Assistance Act, 1948, hereby makes the following regulations in the terms of a draft duly approved by resolution of each House of Parliament :—

PART I

Citation and Interpretation

1. These regulations may be cited as the National Health Service (Transfer of Officers and Compensation) Regulations, 1948, and shall come into operation on the fifth day of July 1948. [2759]

2. In these regulations, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

" accrued pension ", in relation to a pensionable officer who has suffered loss of employment, means—

(*a*) if the pension scheme to which the officer was last subject before losing his employment consisted of arrangements for the provision of superannuation benefits in which he had no right to participate but had reasonable expectations of participating, such proportion of the pension of which he had reasonable expectations as the compensating authority considers equitable, having regard to his age, the length of this employment at the date of loss and all the other circumstances of the case ; and

(*b*) in any other case the pension to which he would have become entitled in respect of his pensionable service according to the method of calculation, as modified by paragraph 18 of the schedule to these regulations, prescribed by the pension scheme to which he was last subject before losing his employment, if at the date on which he ceased to be subject thereto he had attained normal retiring age and complied with any requirement of the said scheme as to a minimum period of qualifying service or contribution,

and includes the annual value as ascertained by an actuary of any contingent right under the scheme in respect of widow's pension or any

other benefit which might have become payable to his widow or to his legal personal representatives on his death had he not lost his employment, but does not include any part of such pension as aforesaid which is attributable to any remuneration enjoyed, whether before or after the appointed day, in consequence of an increase between the 19th day of March, 1946, and the appointed day in the remuneration of any employment, if it can be shown that the increased remuneration was not granted in the ordinary course of that employment or in consideration of the person's assumption of increased responsibilities or new duties in connexion with the discharge of the existing functions of the body employing him;

"accrued incapacity pension" has the same meaning as "accrued pension" except that the reference to a person's having attained normal retiring age shall be construed as a reference to his having become incapable of discharging efficiently the duties of his employment by reason of permanent ill-health or infirmity of mind or body;

"accrued retiring allowance", in relation to a pensionable officer who has suffered loss of employment, means any lump sum payment to which he would have become entitled in respect of his pensionable service according to the method of calculation, as modified by paragraph 18 of the schedule to these regulations, prescribed by the pension scheme to which he was last subject before losing his employment, if at the date on which he ceased to be subject thereto he had attained normal retiring age and complied with any requirement of the said scheme as to a minimum period of qualifying service;

"the Act" means the National Health Service Act, 1946;

"actuary" means a Fellow of the Institute of Actuaries or of the Faculty of Actuaries in Scotland;

"appointed day" means the fifth day of July, 1948;

"compensating authority" means—

(*a*) in relation to a person who was or is an officer of a county or county borough council, not being a person transferred from their employment by virtue of these regulations, or an officer of any other local authority who suffers loss of employment or diminution of emoluments by reason of the transfer of functions from that authority to a county or county borough council as local health authority in consequence of the Act, the county or county borough council;

(*b*) subject as hereinafter provided, in relation to a person who was or is an officer of a local authority, not being a person transferred from their employment by virtue of these regulations, who suffers loss of employment or diminution of emoluments by reason of the cesser of any functions of that authority in consequence of the Act, that authority;

(*c*) in relation to a person who was or is an officer of any such body as is mentioned in paragraph (*a*) or (*b*) of subsection (1) of section 78 of the Act which is dissolved as from the appointed day by virtue of that section, not being a person transferred from the employment of that body by virtue of these regulations, the local authority by whom the said body was appointed or, in the case of a joint committee or joint board, such one of its constituent authorities as may be agreed between them or, in default of agreement, as may be determined by the Minister; and

(*d*) in any other case, the Minister;

"emoluments" means all salary, wages, fees and other payments paid or made to an officer as such for his own use, and includes the money

value of any apartments, rations or other allowances in kind appertaining to his employment, but does not include payments for overtime or any allowances payable to him to cover the cost of providing office accommodation or clerical or other assistance, or any travelling or subsistence allowance or other moneys to be spent, or to cover expenses incurred by him, for the purposes of his employment, and also does not include any remuneration enjoyed, whether before or after the appointed day, in consequence of an increase between the 19th day of March, 1946, and the appointed day in the remuneration of any employment, if it can be shown that the increased remuneration was not granted in the ordinary course of that employment or in consideration of the person's assumption of increased responsibilities or new duties in connection with the discharge of the existing functions of the body employing him;

"existing officer" means a person who immediately before the appointed day—

(*a*) devoted the whole of his time to any of the following employments or to any combination of such employments, namely employment in Great Britain by the governing body of a voluntary hospital, a local authority, an insurance committee, the Ophthalmic Benefit Approved Committee, the Dental Benefit Council, or by any other body for the purposes of the local government service or by the Crown; and

(*b*) was employed for at least part of his time for the purposes of any hospital transferred to the Minister by virtue of the Act or for the purposes of functions which cease, or are transferred from the employing authority or body, in consequence of the Act;

and who had devoted the whole of his time for a period of not less than eight years before the appointed day after attaining the age of eighteen years without a break of more than twelve months at any one time to employment by any such authority or body as aforesaid, or employment under an officer of any such authority or body for the purposes of the functions of such authority or body, or employment by any voluntary organisation which provided services similar to those which local authorities may be required to provide in the discharge of their functions under Part III of the Act or under the Mental Deficiency Acts, 1913–1938, or to any combination of the said employments or to war service undertaken on ceasing to follow any of the said employments or any combination thereof;

"net emoluments", in relation to any officer who suffers loss of employment or diminution of emoluments, means the annual rate of his emoluments immediately before such loss or diminution, after deducting therefrom the like percentage thereof as the percentage of his emoluments which he was then liable to contribute under any pension scheme associated with his employment:

Provided that—

(*a*) if, for the purposes of the foregoing definition, account is required to be taken of any fees payable to a person as part of his emoluments, the amount thereof shall be taken to be the annual average of the fees paid to him during the three years immediately preceding the loss of employment or diminution of emoluments, or, if the fees were payable in respect of a shorter period, such shorter period; and

(*b*) any amount by which the annual rate of his emoluments exceeds £4,000 shall be disregarded; and

(*c*) if the officer was not a pensionable officer, no deduction shall be made on account of pension contributions;

" normal retiring age " means, in relation to an officer in whose case an age of compulsory retirement applied by virtue of any pension scheme associated with the employment he has lost or the emoluments of which have been diminished or by virtue of the conditions of that employment, that age, and, in any other case, the age of sixty-five years if the officer is a male, or sixty years if the officer is a female ;

" office " means any place, situation or employment, and the expression " officer " shall be construed accordingly ;

" pensionable officer ", in relation to an officer who has suffered loss of employment, means an officer who immediately before the appointed day was subject to a pension scheme ;

" pension scheme " means a scheme or arrangements for the payment of superannuation benefits to a person as part of the terms and conditions of any employment held by him, and includes arrangements for the provision of superannuation benefits in which by virtue of any employment held by him a person had reasonable expectations of participating on the 19th day of March, 1946, and immediately before the appointed day ;

" service " in relation to a person means any period of whole-time or part-time employment in Great Britain, after attaining the age of eighteen years, under a Regional Hospital Board, a Board of Governors of a teaching hospital, an Executive Council, a joint committee of Executive Councils, or under any such authority or body as is mentioned in Section 67 (1) (*c*) (i) of the National Health Service (Scotland) Act, 1947, or under any authority or body functions of which cease or are transferred in consequence of the Act or the National Health Service (Scotland) Act, 1947, or under the Crown or any other body for the purposes of the local government service, or under an officer of any such authority or body for the purposes of the functions of that authority or body, or at or for the purposes of any hospital transferred to the Minister by virtue of the Act, or any hospital transferred to the Secretary of State by virtue of the National Health Service (Scotland) Act, 1947, or under the Ophthalmic Benefit Approved Committee or the Dental Benefit Council, and includes any period of war service undertaken on the person's ceasing to hold any such employment as aforesaid, but does not include employment of which account has been taken, or is required to be taken, in calculating the amount of any superannuation benefits to which the person has become entitled ;

" tribunal " means such referee or board of referees appointed by the Minister of Labour and National Service, after consultation with the Lord Chancellor, as has jurisdiction in respect of the district in which a claimant for compensation is or was last employed ;

" war service " in relation to any person means war service within the meaning of the Local Government Staffs (War Service) Act, 1939, or employment for war purposes within the meaning of the Superannuation Schemes (War Service) Act, 1940. [2760]

3. The Interpretation Act, 1889, shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [2761]

PART II

Transfer of Officers

4. All officers who immediately before the appointed day were employed solely or mainly at or for the purposes of any hospital which is transferred to the Minister by virtue of the Act or of any such premises as are mentioned in paragraph 7 (1) of the Sixth Schedule to the National Assistance Act, 1948, shall on that day be transferred to and become officers of the Regional

Hospital Board for the area in which the hospital or premises is situated or in the cases of a teaching hospital the Board or Governors of that hospital:

Provided that any officer employed as aforesaid for the purposes of two or more hospitals, not all of which will be administered by the same Regional Hospital Board or Board of Governors, shall be transferred to such Board as the Minister shall determine. [2762]

5. All officers who immediately before the appointed day were employed solely or mainly at or for the purposes of a medical or dental school for which a new governing body is constituted under Part II of the Act shall on that day be transferred to and become officers of that governing body. [2763]

6. All officers who immediately before the appointed day were employed by the Common Council of the City of London, the council of a metropolitan borough or the council of a county district solely or mainly for the purposes of functions transferred from that council in consequence of the Act to a local health authority shall on that day be transferred to and become officers of that authority. [2764]

7. All officers who immediately before the appointed day were employed by an insurance committee for any county or county borough shall on that day be transferred to and become officers of the Executive Council for the area comprising that county or county borough. [2765]

8. Any officer who immediately before the appointed day was employed by a joint insurance committee constituted under section 94 of the National Health Insurance Act, 1936, shall on that day be transferred to and become an officer of such Executive Council as the Minister shall determine. [2766]

9. Any question arising under any of the five last preceding regulations shall be determined by the Minister. [2767]

PART III

Compensation of Officers who suffer Loss of Employment or Diminution of Emoluments which is attributable to the passing of the Act

10. Subject to the provisions of the next succeeding regulation, every person who was an existing officer and who suffers loss of employment or diminution of emoluments which is attributable to the passing of the Act shall be entitled to have his case considered for the receipt of compensation under these regulations, such compensation to be determined in accordance with the provisions of the schedule hereto:

Provided that a person shall not be entitled to compensation for loss of employment at or for the purposes of a medical or dental school or for the diminution of the emoluments of any such employment. [2768]

11. Nothing in the last preceding regulation shall entitle a person to have his case considered for compensation unless—

(*a*) the cause of the claim to compensation arises not later than ten years after the appointed day, and the claim is made not later than two years after the date on which the cause of claim arises; and

(*b*) (i) his office is abolished and he is not offered a reasonably comparable office in the Government service or the local government service or under any body constituted under the Act; or

(ii) his appointment is determined because his services are not required or because his duties are diminished (no misconduct being established); or

(iii) his emoluments are diminished:

Provided that for the purposes of this regulation a person shall not be deemed to have been offered an office which is not reasonably comparable with an office which is abolished by reason only of the fact that the duties of the office offered are duties in relation to the administration of a different service from that in connection with which his office was held or are duties which involve a transfer of his employment from one place to another within England or Wales. [2769]

12. If a person who has claimed compensation under these regulations is aggrieved by the refusal of the compensating authority to accept his claim or by their failure to come to a decision on his claim within three months after the date on which it was received by them, or by a decision that no compensation should be paid to him or by the amount of compensation awarded, he may, within three months after the refusal or failure or after the date on which he received notice of the decision, as the case may be, refer the matter to the tribunal, and the tribunal shall consider any matter so referred in accordance with the provisions of these regulations and determine accordingly whether any, and if so what, compensation ought to be awarded to the claimant, and the compensating authority shall give effect to the decision of the tribunal. [2770]

13.—(1) Any compensation to which an officer becomes entitled under these regulations shall be paid by the compensating authority and shall be payable to, or in trust for, the person who is entitled to receive it, and shall not be assignable.

(2) Any sum payable as compensation to a person by a local authority shall be recoverable as a debt due from the authority.

(3) Where the compensating authority is a constituent authority of a body which is dissolved as from the appointed day by virtue of section 78 of the Act, the other constituent authorities shall contribute towards the payment of any compensation payable by the first mentioned authority in such proportions as may be agreed between the constituent authorities or, in default of agreement, as may be determined by the Minister. [2771]

PART IV

Officers on War Service on the Appointed Day

14. Any person (hereinafter referred to as an "officer on war service") who is engaged in war service, immediately before the appointed day and who, if he had continued to be employed until the appointed day in the capacity in which he was employed before becoming engaged in war service, would have been an existing officer, shall be deemed to be an existing officer within the meaning of these regulations, and if at the date on which he ceased to be so employed he was subject to a pension scheme, and his war service or any part thereof would be reckonable for the purposes of that scheme if he again became subject thereto on the termination of his war service, he shall also be deemed to be a pensionable officer within the meaning of these regulations. [2772]

15.—(1) Subject to the provisions of the next succeeding regulation, if an officer on war service ceases to be engaged in war service and in consequence of the Act—

(*a*) is not given or offered re-employment in his former office or in any reasonably comparable office, or is not employed or offered employment in any office to which, but for his war service, he would have been transferred by these regulations, or in any reasonably comparable office; or

(*b*) is so re-employed or employed with reduced emoluments,

he shall be deemed for the purposes of these regulations, in the former case, to have suffered loss of employment which is attributable to the Act owing to the abolition of his office at the date of the refusal to re-employ him or employ him as aforesaid, and, in the latter case, to have suffered diminution of emoluments which is attributable to the Act.

(2) If an officer on war service to whom the preceding paragraph applies would, but for his war service, have been transferred by these regulations, the compensating authority in relation to him shall, if he would have been transferred to a local health authority, be that authority, and shall, in any other case, be the Minister. [2773]

16. No person shall, by virtue of the last preceding regulation, be entitled to have his case considered for compensation for any loss suffered by him by reason of his not being re-employed or employed as therein mentioned unless within a period of two months after the date on which he ceased to be engaged in war service he gives notice in writing to his former employer or to the authority to whom he would have been transferred by these regulations, as the case may be, that he is available for employment:

Provided that if the person is prevented from giving notice within the said period by his sickness or other reasonable cause, the notice may be given as soon as reasonably may be after the expiration of that period. [2774]

17. For the purpose of ascertaining the net emoluments of a person to whom regulation 15 applies such person shall be deemed to have continued to follow his former employment until the cause of claim arose and to have been entitled to the emoluments thereof. [2775]

18. In relation to a pensionable officer to whom sub-paragraph (*a*) of paragraph (1) of regulation 15 applies, the expression "accrued pension" means the pension to which he would have become entitled according to the method of calculation, as modified by paragraph 18 of the schedule to these regulations, prescribed by the pension scheme to which he was subject before becoming engaged in war service, if at the date on which he ceased to be engaged in war service he had been serving in his civil capacity and had attained normal retiring age, having complied with any requirement of the said pension scheme as to a minimum period of qualifying service. [2776]

SCHEDULE

DETERMINATION OF COMPENSATION

I. *General*

1. A person desiring to make a claim for compensation under these regulations shall make his claim in a form approved by the Minister for the purpose, and shall deliver his claim to the compensating authority. The claim shall be accompanied by a statutory declaration as to the truth of the statements contained therein.

2.—(1) Where the compensating authority are a local authority, a claimant, if so required by the local authority, by notice sent through the clerk of the authority, shall attend at a meeting of the authority, or of any committee appointed by the authority for the purpose, and answer all questions asked by any member of the authority or committee touching the matters set forth in his claim, and shall further produce all books, papers and documents in his possession or under his control relating to the claim.

(2) Where the compensating authority is the Minister a claimant, if so required by the Minister, shall attend before a person appointed by him for the purpose, and answer all questions asked by that person touching the matters set forth in his claim, and shall further produce all such books, papers and documents as aforesaid.

(3) A claimant required to attend at a meeting pursuant to sub-paragraph (1) of this paragraph or before a person appointed by the Minister pursuant to sub-paragraph (2) thereof may further be required to make a statutory declaration as

to the truth of any of the answers given by him to questions asked on the occasion of such attendance touching the matters set forth in his claim.

(4) Such a claimant as aforesaid may be accompanied by a representative who shall be entitled to address the authority, committee or person before whom the claimant is required to attend touching the matters set forth in his claim.

II. *Compensation for Loss of Employment*

3. On receipt of a claim for compensation in respect of loss of employment, the compensating authority shall consider forthwith whether the claimant satisfies the conditions of eligibility for the payment of compensation set out in regulations 10 and 11 and if they are satisfied that these conditions are not fulfilled, shall reject the claim and advise the claimant in writing accordingly within one month after the receipt of the claim.

A. *Interim payments of Compensation*

4. If the compensating authority accept the claim, then, unless they are satisfied that the claimant has substantially made good his loss by virtue of having obtained other employment, they shall forthwith commence to make interim payments of compensation to the claimant subject to and in accordance with the provisions of the next succeeding paragraph, and shall continue to make such payments until, in accordance with paragraph 6 of this schedule, they decide whether any further compensation is payable to him under these regulations.

5.—(1) Interim compensation shall be payable as from the date of claim, and shall be at a rate not exceeding two-thirds of the net emoluments of the employment which the claimant has lost, less two-thirds of any unemployment benefit to which the claimant may be entitled, and less any sum to which the claimant may be entitled by way of compensation under the Reinstatement in Civil Employment Act, 1944.

(2) In determining the amount of interim compensation, the compensating authority shall have regard to any payments to which the claimant becomes entitled in consequence of the loss of his employment under any contract or arrangement with the authority or body by whom he was employed (other than payments by way of a return of contributions under a pension scheme).

(3) The payments shall be made at intervals equivalent to those at which the said emoluments were previously payable, and the payments shall be reduced or terminated if the claimant obtains other employment or the compensating authority are satisfied that he is not actively seeking employment or has unreasonably refused suitable employment which has been offered to him.

(4) If the claimant obtains other employment, he shall immediately notify the compensating authority in writing accordingly.

(5) The compensating authority may require, as a condition of making or continuing to make interim payments, that the claimant should be registered for employment at an Employment Exchange, or the Appointments Department of the Ministry of Labour and National Service, at the option of the claimant.

B. *Assessment of Compensation*

6. Having determined the amount of the interim payments (if any) to be made under the preceding provisions of this schedule to a claimant whose claim has been accepted, the compensating authority shall, within a period of three months after the date of receipt of the claim, assess the just amount (if any) of the compensation payable under the succeeding provisions of this schedule, and shall forthwith notify the claimant in writing of their decision.

7.—(1) The compensating authority shall, within a period of two years after the date on which any decision is notified to a claimant under paragraph 6 of this schedule, or if the claimant has referred any such decision to the tribunal under regulation 12, within a period of two years after the date of the decision of the tribunal, review their decision or the decision of the tribunal, as the case may be, at intervals of not more than six months, and on any review the compensating authority may, in the light of any material change in the circumstances of the case, award compensation or increase or reduce the amount of any compensation awarded.

(2) If the claimant obtains other employment within the said period of two

years, he shall immediately notify the compensating authority in writing accordingly.

(3) A claimant to whom a decision under paragraph 6 of this schedule has been notified may, within the like period as is mentioned in sub-paragraph (1) of this paragraph, require the compensating authority to review their decision or the decision of the tribunal, as the case may be, if he considers that there has been a material change in the circumstances of his case.

(4) The compensating authority shall forthwith notify the claimant in writing of their decision on any review under the preceding provisions of this paragraph, and if the claimant is aggrieved by such decision he may refer the matter to the tribunal within three months after the date on which he receives notice of the decision, and the tribunal shall determine any matter so referred, and the compensating authority shall give effect to the determination of the tribunal.

Compensation payable, subject to earlier cesser in certain cases, until normal retiring age

8. For the purpose of determining whether any compensation, apart from any interim compensation paid under paragraphs 4 and 5 of this schedule, is payable to any person for loss of employment, and if so the amount of the compensation to be paid, subject to the provisions of paragraph 11 of this schedule, until normal retiring age, the compensating authority shall have regard to—

(*a*) the conditions upon which his appointment was made ;

(*b*) the nature of his office ;

(*c*) the extent to which he has sought suitable alternative employment ; and

(*d*) all the other circumstances of the case.

9.—(1) Compensation for loss of employment shall be an annual sum, calculated in accordance with the provisions of sub-paragraph (2) of this paragraph, and shall be payable, subject to the provisions of paragraph 11 of this schedule, until normal retiring age, as from the date of loss, if the claim was made within three months thereafter, and in any other case, as from the date on which the claim was made or from such earlier date, not being more than three months before the date on which the claim was made, as the compensating authority may in their discretion allow.

(2) The said annual sum shall, subject as hereinafter provided, be the aggregate of the following sums, namely—

(*a*) for every completed year of the claimant's service, one-sixtieth of the net emoluments of the employment he has lost ; and

(*b*) in the case of a claimant over the age of forty-five years at the date of loss, a further one-sixtieth of the said net emoluments for every completed year of service since he attained the age of forty-five :

Provided that—

(i) where the claimant has undertaken or obtained other work or employment in place of the employment he has lost or has been offered other suitable employment, the said annual sum shall be calculated by reference only to the amount (if any) by which the annual rate of the emoluments of the employment he has lost exceeds the annual rate of the emoluments of the work or employment undertaken, obtained or offered to him as aforesaid ;

(ii) if the said annual sum is required to be calculated in accordance with proviso (i) to this sub-paragraph, it shall be reduced or increased by such amount (if any) as the compensating authority think fit, having regard to the relative security of tenure of the employment lost and the work or employment undertaken, obtained or offered as aforesaid, so however that the said annual sum shall not by virtue of any such increase as aforesaid be greater than if it were calculated without reference to proviso (i) and this proviso ;

(iii) the said annual sum shall also be reduced by such an amount (if any) as the compensating authority think fit having regard to the matters to which they are required to have regard by the last preceding paragraph and to any compensation payable to the claimant under the Reinstatement in Civil Employment Act, 1944, or under or in pursuance of any other enactment ; and

(iv) the said annual sum shall in no case exceed two-thirds of the net emoluments of the employment which the claimant has lost.

10. There shall be deducted from any payments made under paragraph 9 of this schedule in respect of any period in respect of which interim payments have been made under paragraphs 4 and 5 the amount of such payments, so far as they do not exceed the payments due under paragraph 9 in respect of that period.

Compensation payable to pensionable officer on his becoming incapacitated or reaching pensionable age

11.—(1) If the claimant was a pensionable officer, and before attaining normal retiring age—

(*a*) he become incapacitated in circumstances in which if he had continued in the employment he has lost he would have become entitled to a pension under the pension scheme to which he was last subject before losing his employment ; or

(*b*) he attains an age at which had he continued to serve in the employment he has lost he would have become entitled to retire with a pension on the ground of having attained that age and completed a prescribed period of service.

and compensation is not then payable to him under these regulations, or compensation by way of an annual sum equal to the amount of his accrued incapacity pension or his accrued pension, as the case may be, together with the annual value of his accrued retiring allowance (if any), would be greater than the annual amount of any compensation to which he may then be entitled under these regulations, he shall be entitled, if he so requests at any time thereafter by notice in writing to the compensating authority, as from the date on which the compensating authority receive such notice, in lieu of any compensation to which he would otherwise be entitled under these regulations—

(i) in the case mentioned in head (*a*) of this sub-paragraph, to an annual sum equal to the amount of his accrued incapacity pension, and a lump sum equal to the amount of his accrued retiring allowance (if any) ; and

(ii) in the case mentioned in head (*b*) of this sub-paragraph, to an annual sum equal to the amount of his accrued pension and a lump sum equal to the amount of his accrued retiring allowance (if any) :

Provided that if in calculating the amount of compensation payable to a person who has given such notice as aforesaid, the compensating authority, by virtue of paragraph 20 of this schedule, have credited him with additional years of service or contributions, no account shall be taken for the purpose of the foregoing provision of any number of such additional years beyond the number of years which he could have served, had he not lost his employment, before the date on which such notice as aforesaid was received by the compensating authority.

(2) On receipt of a notice under the last preceding sub-paragraph, the compensating authority shall consider forthwith whether the person giving the notice is a person to whom that sub-paragraph applies, and within three months after the date of the receipt of the notice—

(*a*) if they are satisfied that he is not such a person, they shall notify him in writing accordingly ; and

(*b*) if they accept the notice, they shall assess the amount of compensation payable to the person and notify him in writing accordingly,

and any such notification shall, for the purposes of these regulations, be deemed to be a notification by the authority of a decision on a claim to compensation.

(3) A compensating authority may require any such person as is mentioned in head (*a*) of sub-paragraph (1) of this paragraph, who gives a notice under that sub-paragraph, to submit himself to a medical examination by a registered medical practitioner selected by that authority, and, if they do so, they shall also offer the person an opportunity of submitting a report from his own medical adviser as a result of an examination by him, and the authority shall take that report into consideration, together with the report of the medical practitioner selected by them.

Compensation payable to a pensionable officer on attainment of normal retiring age

12. Subject as hereinafter provided, the compensation payable to a claimant who was a pensionable officer (not being a person to whom paragraph 11 has been applied) on his attaining normal retiring age shall be—

(*a*) an annual sum equal to the amount of his accrued pension ; and

(*b*) a lump sum equal to the amount of his accrued retiring allowance (if any).

Supplementary provisions as to compensation payable to pensionable officer

13.—(1) Where a claimant, after suffering loss of employment, enters employment in which he participates in the benefits of the pension scheme associated with the employment he has lost, or becomes entitled to participate in any other pension scheme, in circumstances in which he is entitled to reckon for the purposes thereof service which falls to be taken into account for the purpose of assessing compensation under paragraph 11 or 12 of this schedule, no compensation under either of those paragraphs shall be payable unless the amount of the annual rate of the emoluments of the employment he has lost exceeds the amount of the annual rate of the emoluments to which he becomes entitled on entering such employment as aforesaid by more than 5 per cent. of the first-mentioned amount, and any compensation payable thereunder shall be calculated by reference only to the amount of the difference.

(2) If a claimant has unreasonably refused a suitable offer of such employment as is mentioned in the preceding sub-paragraph, he shall be deemed for the purposes of that sub-paragraph to have entered the employment so offered to him.

14. The provisions of paragraphs 11 and 12 of this schedule shall not apply to a person who had been participating in a scheme for providing superannuation benefits by means of contracts or policies of insurance, and who, on losing his employment, continued to participate in that scheme, or became entitled to a benefit or prospective benefit thereunder other than a return of contributions.

15.—(1) If the claimant was a person in respect of whose service a widow's pension might have become payable under the pension scheme to which he was last subject before losing his employment, then, if he so desires and informs the compensating authority by notice in writing accordingly when making his claim, he may surrender so much of any annual sum which may become payable to him as compensation under paragraph 11 or 12 of this schedule as represents the annual value of the contingent right in respect of widow's pension, in consideration of the payment by the compensating authority to the person who as his widow might have become entitled to such widow's pension as aforesaid in the event of her surviving him—

(*a*) if he dies before attaining normal retiring age, and without having given a notice pursuant to the provisions of paragraph 11 of this schedule, of an annual sum equal to the amount of the pension to which she would have become entitled had he, immediately before he died, become entitled to a pension under the pension scheme on grounds of ill-health of an amount equal to the amount of his accrued incapacity pension, less the part thereof surrendered under the provisions of this paragraph and any part thereof surrendered under the provisions of paragraph 17 ; and

(*b*) if he dies on or after attaining normal retiring age, or after giving a notice pursuance to the provisions of paragraph 11 of this schedule, of an annual sum equal to the amount of the pension to which she would have become entitled in accordance with the method of calculation prescribed by the pension scheme had he, at the date on which he attained normal retiring age, or gave the said notice, become entitled to a pension under the pension scheme of an amount equal to the amount of his accrued pension or accrued incapacity pension, as the case may be, less the part thereof surrendered under the provisions of this paragraph and any part thereof surrendered under the provisions of paragraph 17.

(2) In the calculation of the amount of the annual sum payable to a widow under the preceding sub-paragraph, account shall be taken of any additional years of service or additional contributions credited to the claimant under paragraph 20 of this schedule :

Provided that no account shall be taken of any number of such additional years of service or contributions beyond the number of years which the claimant could have served before his death had he not lost his employment.

(3) Any sum payable to a widow under this paragraph shall cease to be payable or shall be suspended in any circumstances in which a widow's pension under the aforesaid pension scheme would have ceased to be payable or would have been suspended.

16. If under the pension scheme to which he was last subject before losing his employment, the claimant would have been entitled to surrender a proportion of any pension which might have become payable to him in favour of his spouse or any dependent, then, if he so desires and informs the compensating authority in writing accordingly within one month after becoming entitled to compensation under paragraph 11 or 12 of this schedule, he may surrender a proportion of so much of the said compensation as is payable by way of an annual sum on the like terms and conditions and in consideration of the like payments by the compensating authority as if the said annual sum were a pension to which he had become entitled under the said pension scheme.

17.—(1) If the claimant was a person in respect of whose service a death benefit might have become payable to his legal personal representatives under the pension scheme to which he was last subject before losing his employment, then, if he so desires, and informs the compensating authority in writing accordingly when making his claim, he may surrender so much of any annual sum which may become payable to him as compensation under paragraph 11 or 12 of this schedule as represents the annual value of the contingent right in respect of the said benefit, in consideration of the payment by the compensating authority to his legal personal representatives—

(*a*) if he dies before attaining normal retiring age, and without having given a notice pursuant to the provisions of paragraph 11 of this schedule, of a sum equal to the amount of any death benefit which would have become payable in accordance with the method of calculation, as modified by the next succeeding paragraph, prescribed by the pension scheme to which he was last subject before losing his employment, had he died immediately before the date on which he lost his employment and complied with any requirement of the said scheme as to a minimum period of qualifying service ; or

(*b*) if he dies on or after attaining normal retiring age or after giving a notice pursuant to the provisions of paragraph 11 of this schedule, of a sum equal to the amount of any such death benefit as aforesaid, less a sum equal to the aggregate amount of any payments made to him by way of compensation under paragraph 11 or 12 of this schedule.

(2) In the calculation of the amount of the sum payable under the preceding sub-paragraph, account shall be taken of any additional years of service or additional contributions credited to the claimant under paragraph 20 of this schedule :

Provided that no account shall be taken of any number of such additional years of service or contributions beyond the number of years which the claimant could have served before his death had he not lost his employment.

18. For the purposes of these regulations—

(*a*) the amount of any accrued pension or accrued incapacity pension, if the number of years of service by reference to which the pension is to be calculated is less than any minimum number of years of qualifying service prescribed by the pension scheme, shall, notwithstanding any minimum benefit prescribed by the pension scheme, not exceed such proportion of such minimum benefit as the number of years of pensionable service bears to the minimum number of years of qualifying service ; and

(*b*) if the amount of any death benefit falls to be ascertained, by virtue of any pension scheme, wholly or partly by reference to the emoluments or average emoluments of a pensionable officer, and the number of years of his pensionable service is less than any minimum number of years of qualifying service prescribed by the pension scheme for the receipt of a death benefit, the said amount shall not exceed such proportion of the

emoluments or average emoluments of the officer as the number of years of pensionable service bears to the minimum number of years of qualifying service.

19. If under the pension scheme to which the claimant was last subject before suffering loss of employment the amount of any pension to which he might have become entitled might have been increased at the discretion of the authority administering the pension scheme or of any other body or if under the said pension scheme any additional or supplementary payments might have been made to the claimant on his becoming entitled to a pension, the compensating authority may increase the compensation payable under paragraph 11 or 12 of this schedule by an annual sum not exceeding the amount by which his accrued incapacity pension or accrued pension might have been increased or the annual value of the payments which might have been made to him by way of addition to or supplementation of his accrued pension.

20. If the claimant had attained the age of forty years at the date on which he lost his employment, the compensating authority in calculating the amount of the compensation payable to him under paragraph 11 or 12 of this schedule may credit him with additional years of service or additional contributions not exceeding one year of service or one year's contributions for each completed year between the date on which he attained the age of forty years and the date on which he lost his employment, but not in any case exceeding ten years or such number of years as the claimant could have served had he continued in his employment until attaining normal retiring age, whichever is the less.

21. In deciding whether to add any number of years under the last preceding paragraph, the compensating authority shall have regard to the considerations set out in paragraph 8 of this schedule, and also to the claimant's rights under any pension scheme associated with any employment which he may have obtained in place of the employment he has lost.

22.—(1) If the claimant was such an officer as is mentioned in paragraph 14 of this schedule, the compensating authority may make such payments to or in respect of him, whether by way of the payment of premiums or otherwise, as are actuarially equivalent to the compensation which could have become payable to him by virtue of paragraph 19 or 20 of this schedule if he had been a person to whom paragraph 11 or 12 applied.

(2) If the claimant is such an officer as aforesaid, and he becomes entitled to a benefit under such a scheme as is mentioned in paragraph 14 of this schedule before reaching normal retiring age, the compensating authority may reduce any compensation payable to him under paragraph 9 of this schedule accordingly.

23.—(1) Compensation shall not be payable or shall cease to be payable under paragraph 11 or 12 of this schedule to a person who has received any sum by way of a return of contributions under the pension scheme to which he was last subject on his ceasing to be subject thereto, unless forthwith on receiving such sum he pays to the compensating authority an amount equivalent thereto, such amount to be held by the compensating authority subject to the condition that if the pension scheme made no provision for death benefit and he dies before he has received in the aggregate by way of compensation under paragraph 11 or 12 of this schedule a sum equal to the amount so paid as aforesaid to the compensating authority, together with compound interest thereon, calculated at the rate of 2½ per cent. per annum, with half-yearly rests, up to the date of his death, as from the first day of April or the first day of October following the half year in which the amount was paid, there shall be paid to his legal personal representatives the difference between the aggregate amount received by way of compensation and the said sum:

Provided that—

(*a*) if a sum becomes payable to his widow on his death under paragraph 15 of this schedule and on her death or re-marriage the sum ceases to be payable, and the aggregate amount of the payments which were made to her on her husband under these regulations is less than a sum equal to the amount so paid to the compensating authority by her husband as aforesaid on account of contributions, after the addition thereto of interest thereon as aforesaid, there shall be paid to her or her legal personal representatives the difference between the aggregate amount

of the payments made to her or her husband as aforesaid and the said sum ;

(*b*) this paragraph shall not apply to a person to whom paragraph 13 of this schedule applies, and in the event of a claimant becoming such a person after having made a payment under this paragraph, the amount of the sum so paid shall be returned to him by the compensating authority ; and

(*c*) this paragraph shall not apply to a person who has been an officer on war service to whom regulation 15 applies, and who received a return of contributions before ceasing to be engaged in war service.

(2) A person to whom paragraph 11 or 12 of this schedule may become applicable shall on or before the date on which compensation may become payable to him thereunder be entitled, if he so desires and informs the compensating authority in writing accordingly, to receive from the compensating authority in lieu of any such compensation—

(*a*) if the person has paid any sum to the compensating authority under sub-paragraph (1) of this paragraph, an amount equivalent thereto, together with interest thereon, calculated in the manner provided by the pension scheme as from the date of payment of the said sum ; and

(*b*) if the person has not received a return of contributions under the pension scheme, and if, being entitled to such a return he has relinquished that right, an amount equivalent to the amount of such contributions together with interest thereon, calculated in manner provided by the pension scheme ;

and any liability of the compensating authority under paragraph 15 or 17 of this schedule shall cease in the event of his giving such notice as aforesaid.

Compensation payable to non-pensionable officer after attainment of normal retiring age

24.—(1) If the claimant was not a pensionable officer, the compensating authority may, on his attaining normal retiring age, if they are satisfied that he would in the normal course have continued in the employment he has lost for a substantial period beyond that age, continue to pay compensation to him for the remainder of his life at half its former rate.

(2) If the claimant was not a pensionable officer and suffers loss of employment on or after attaining normal retiring age, the compensating authority may, if they are satisfied that he would in the normal course have continued in the employment he has lost for a further substantial period, pay compensation to him for the remainder of his life at half the rate to which he would have been entitled under paragraph 9 of this schedule had he not attained normal retiring age at the date on which he lost his employment.

III. *Compensation for diminution of emoluments*

25. On receipt of a claim for compensation for diminution of the emoluments of any employment the compensating authority shall within a period of three months after the date of receipt of the claim decide whether any compensation is payable and, if so, the amount of that compensation, and shall forthwith notify the claimant in writing of their decision.

26. A decision under the last preceding paragraph shall be subject to review in like manner as a decision under paragraph 6 of this schedule :

Provided that :—

(*a*) no review shall take place after the date on which the claimant loses that employment, except a review as at that date ; and

(*b*) while the claimant continues to hold that employment, there shall be no limit to the period within which a review may take place.

27. In determining whether compensation is payable and, if so, the amount of that compensation, the compensating authority shall have regard to the conditions upon which the claimant's appointment was made, the nature of his office, and all the other circumstances of the case. No compensation shall be payable where the diminution is less than five per cent. of the net emoluments of the claimant.

28. Compensation for diminution of emoluments shall be an annual sum payable as from the date of loss, if the claim was made within three months thereafter, and in any other case as from the date on which the claim was made, or from such earlier date, not being more than three months before the date on which the claim was made, as the compensating authority may in their discretion allow.

29. Compensation to a person for diminution of the emoluments of any employment shall be payable for the same period or periods as compensation for loss of employment and shall not during any period exceed a sum bearing the same proportion to the maximum amount of compensation which could have been awarded in respect of that period had he lost his employment as the amount by which his net emoluments are diminished bears to their amount before diminution :

Provided that the compensation shall cease if the person voluntarily relinquishes his employment without the consent of his employer otherwise than on reaching pensionable age.

30. A person entitled to compensation for diminution of emoluments shall have the like rights in relation to such compensation as are conferred by paragraphs 15, 16 and 17 upon a person entitled to compensation for loss of employment.

IV. *Miscellaneous*

31. Any dispute as to who are the compensating authority for the purposes of these regulations shall, in default of agreement, be determined by the Minister :

Provided that if the Minister is a party to the dispute, the matter shall be determined by the Treasury.

32.—(1) A notification of a decision by a compensating authority to a claimant for compensation under these regulations shall contain a statement directing the attention of the claimant to his right, if he is aggrieved by the decision, to refer the matter to the tribunal, and giving him the address of the office to which the reference should be sent.

(2) The proceedings on any reference under these regulations to the tribunal shall not be deemed to be an arbitration to which anything in the Arbitration Acts, 1889 to 1934, applies.

(3) On any such reference the tribunal may, if it thinks fit, appoint a person having special knowledge or experience in relation to the subject matter of the reference to sit with the tribunal as an assessor.

33. For the purpose of determining the amount of any compensation payable in respect of the loss of a whole-time office or of any two or more offices which in the aggregate involved the whole-time employment of an officer, any previous period of part-time employment shall be treated as though it were whole-time employment for a proportionately reduced period.

34. For the purpose of making any calculation under these regulations in respect of the service of an officer all periods of his service shall be aggregated, and if the aggregated service includes a fraction of a year, that fraction shall, if it equals or exceeds six months, be treated as a year, and in any other case be disregarded.

35. If in determining the amount of any compensation payable to a person under these regulations account is taken of any employment prior to the first world war and that person was temporarily absent from that employment during that war whilst serving in His Majesty's Forces or the Forces of the Allied or Associated Powers, either compulsorily or with the sanction or permission of the authority in whose employment he was immediately before such temporary absence, such period of temporary absence shall be reckoned as a period of service :

Provided that, in the case of a person who after the 11th day of November, 1918, voluntarily extended his terms of service in such Forces, no period of absence during any such extension shall be reckoned.

36.—(1) Where a person to whom compensation is payable under these regulations for loss of employment has become or becomes entitled to a pension in respect of the employment he has lost otherwise than on losing such employment or where a person to whom compensation is payable under these regulations for loss of employment or diminution of emoluments has become or becomes entitled to a pension in respect of any employment the remuneration of which was payable out of public

rights that may have existed under the pension scheme in respect of widow's pension, death benefit or incapacity pension (paragraphs 11, 12, 15, 16 *and* 17). *For persons over* 40, *an addition may be made in recognition of their loss of future pensionable service (paragraph* 20). *If the claimant was not pensionable, compensation will cease at normal retiring age unless he had expected to continue for a substantial period thereafter, in which case he will receive compensation after that age, for life, at half the rate he was getting up to that age (paragraph* 24). *Overlap with pension or remuneration from public funds is avoided (paragraphs* 13, 36 *and* 37). *A claimant who is aggrieved by a decision of a compensating authority may appeal to referees appointed by the Minister of Labour and National Service, after consultation with the Lord Chancellor (regulation* 12).

NATIONAL HEALTH SERVICE (SUPERANNUATION) (ENGLAND AND SCOTLAND) REGULATIONS, 1948

S.I. 1948 *No.* 1483

June 30, 1948

The Minister of Health and the Secretary of State, in exercise of the powers conferred on them by subsection (2) of section 67 of the National Health Service Act, 1946, and subsection (2) of section 66 of the National Health Service (Scotland) Act, 1947, hereby make the following regulations in the terms of a draft duly approved by resolution of each House of Parliament :—

Citation and Interpretation

1.—(1) These regulations may be cited as the National Health Service (Superannuation) (England and Scotland) Regulations, 1948.

(2) The interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

(3) In these regulations, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them :—

" the English Act " means the National Health Service Act, 1946 ;

" the Scottish Act " means the National Health Service (Scotland) Act, 1947 ;

" the English regulations " means the regulations made by the Minister of Health under subsection (1) of section 67 of the English Act ;

" the Scottish regulations " means the regulations made by the Secretary of State under subsection (1) of section 66 of the Scottish Act ;

" English employing authority " means an employing authority within the meaning of the English regulations ;

" Scottish employing authority " means an employing authority within the meaning of the Scottish regulations ;

" employee of an English employing authority " and " employee of a Scottish employing authority " include a person who is treated as being an officer in the employment of an employing authority for the purposes of the English regulations or the Scottish regulations, as the case may be ;

" English contributory employee or local Act contributor " means a contributory employee or local Act contributor within the meaning of the Local Government Superannuation Act, 1937, and " Scottish contributory employee or local Act contributor " means a contributory employee or local Act contributor within the meaning of the Local Government Superannuation (Scotland) Act, 1937 ;

" English teacher " means a person in contributory service under the Teachers (Superannuation) Acts, 1918 to 1946 otherwise than under any

scheme made under section 21 (1) (*a*) of the Teachers (Superannuation) Act, 1925, or otherwise than by virtue of section 13 (2) (*g*) of that Act;

"Scottish teacher" means a person in service recorded in terms of the Superannuation Scheme framed and approved under the Education (Scotland) Superannuation Acts, 1919 to 1939, and any amendment thereof. [2778]

Application of Scottish regulations to employees of English employing authorities, English contributory employees or local Act contributors and English teachers who become employees of Scottish employing authorities

2. Where a person becomes an employee of a Scottish employing authority after ceasing to be an employee of an English employing authority, an English contributory employee or local Act contributor or an English teacher, the Scottish regulations shall have effect in relation to him subject to such modifications as may be necessary to secure that he shall enjoy rights substantially similar to those which he would have enjoyed by virtue of the English regulations had he become an employee of an English employing authority. [2779]

Application of English regulations to employees of Scottish employing authorities, Scottish contributory employees or local Act contributors and Scottish teachers who become employees of English employing authorities

3. Where a person becomes an employee of an English employing authority after ceasing to be an employee of a Scottish employing authority, a Scottish contributory employee or local Act contributor or a Scottish teacher, the English regulations shall have effect in relation to him subject to such modifications as may be necessary to secure that he shall enjoy rights substantially similar to those which he would have enjoyed by virtue of the Scottish regulations had he become an employee of a Scottish employing authority. [2780]

Application of Scottish regulations to employees of Scottish employing authorities who become English contributory employees or local Act contributors or English teachers

4. Where a person becomes an English contributory employee or local Act contributor or an English teacher after having ceased to be an employee of a Scottish employing authority, the Scottish regulations shall have effect in relation to him subject to such modifications as may be necessary to secure that he shall enjoy rights substantially similar to those which he would have enjoyed by virtue of the said regulations had he become a Scottish contributory employee or local Act contributor or a Scottish teacher, as the case may be. [2781]

Application of English regulations to employees of English employing authorities who become Scottish contributory employees or local Act contributors or Scottish teachers

5. Where a person becomes a Scottish contributory employee or local Act contributor or a Scottish teacher after having ceased to be an employee of an English employing authority, the English regulations shall have effect in relation to him subject to such modifications as may be necessary to secure that he shall enjoy rights substantially similar to those which he would have enjoyed by virtue of the said regulations had he become an English contributory employee or local Act contributor or an English teacher. [2782]

Transfer Values payable to and by the Secretary of State

6.—(1) Where a person becomes an employee of a Scottish employing authority after ceasing to be an English contributory employee or local Act

contributor, the like transfer value (if any) shall be payable to the Secretary of State out of the fund in relation to which the person was a contributor by the authority maintaining that fund as would have been payable to the Minister of Health by virtue of the English regulations had the person become an employee of an English employing authority.

(2) Where a person becomes an employee of a Scottish employing authority after ceasing to be an English teacher, the like transfer value (if any) shall be payable by the Minister of Education to the Secretary of State as would have been payable to the Minister of Health by virtue of the English regulations had the person become an employee of an English employing authority after ceasing to be a contributory employee.

(3) Where a person becomes an English contributory employee or local Act contributor after ceasing to be an employee of a Scottish employing authority, the like transfer value (if any) shall be payable by the Secretary of State to the authority maintaining the fund in relation to which the person so becomes a contributory employee or local Act contributor as would have been payable by virtue of the Scottish regulations had the person become a Scottish contributory employee.

(4) Where a person becomes an English teacher after ceasing to be an employee of a Scottish employing authority the like transfer value (if any) shall be payable by the Secretary of State to the Minister of Education as would have been payable by the Secretary of State by virtue of the Scottish regulations had the person become a Scottish contributory employee. [2783]

Transfer Values payable to and by the Minister of Health

7.—(1) Where a person becomes an employee of an English employing authority after ceasing to be a Scottish contributory employee or local Act contributor, the like transfer value (if any) shall be payable to the Minister of Health out of the fund in relation to which the person was a contributor by the authority maintaining that fund as would have been payable to the Secretary of State by virtue of the Scottish regulations had the person become an employee of a Scottish employing authority.

(2) Where a person becomes an employee of an English employing authority after ceasing to be a Scottish teacher the like transfer value (if any) shall be payable by the Secretary of State to the Minister of Health as would have been payable to the Secretary of State by virtue of the Scottish regulations had the person become an employee of a Scottish employing authority after ceasing to be a Scottish contributory employee.

(3) Where a person becomes a Scottish contributory employee or local Act contributor after ceasing to be an employee of an English employing authority, the like transfer value (if any) shall be payable by the Minister of Health to the authority maintaining the fund in relation to which the person so becomes a contributory employee or local Act contributor as would have been payable by virtue of the English regulations had the person become an English contributory employee.

(4) Where a person becomes a Scottish teacher after ceasing to be an employee of an English employing authority the like transfer value (if any) shall be payable by the Minister of Health to the Secretary of State as would have been payable by the Minister of Health by virtue of the English regulations had the person become an English contributory employee. [2784]

Accounts and actuarial investigations

8.—(1) Any revenue received and expenditure incurred under these regulations by the Minister of Health or the Secretary of State (other than revenue received and expenditure incurred by the Secretary of State under paragraphs (2) and (4) of regulation 7 of these regulations) shall be treated for the purposes of paragraph (1) of regulation 37 of the English regulations or

the Scottish regulations, as the case may be, as if it were received and incurred, in the former case, under the English regulations and in the latter case under the Scottish regulations.

(2) Paragraph (2) of regulation 37 of the English regulations shall have effect as if the reference therein to the transfer of a person to or from employment subject to those regulations from or to any such other employment as is therein mentioned included a reference to the transfer of a person to or from employment subject to those regulations from or to employment subject to the Scottish regulations, and as if the reference therein to the liability of which the Treasury, the Minister of Education or the Minister of Health is relieved included a reference to the liability of which the Secretary of State is relieved as a result of any such transfer.

(3) Paragraph (2) of regulation 37 of the Scottish regulations shall have effect as if the reference therein to the transfer of a person to or from employment subject to those regulations from or to any such other employment as is therein mentioned included a reference to the transfer of a person to or from employment subject to those regulations from or to employment subject to the English regulations, and as if the reference therein to the liability of which the Treasury or the Secretary of State is relieved included a reference to the liability of which the Minister of Health or the Minister of Education is relieved as a result of any such transfer. [2785]

Determination of questions

9. Any question arising under these regulations shall be determined by the Minister of Health and the Secretary of State jointly. [2786]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Regulations, but is intended to indicate their general purport.*)

The Minister of Health has made regulations under subsection (1) *of section* 67 *of the National Health Service Act,* 1946 *providing superannuation benefits for persons employed in the central health service and in local health authority service. The Secretary of State has made similar provision as respects Scotland under subsection* (1) *of section* 66 *of the National Health Service* (*Scotland*) *Act,* 1947. *These regulations provide for interchangeability of service with preservation of superannuation rights between the English and Scottish health services, and between either of those services and the Local Government Service and the Teaching Service in Great Britain. Consequential provision is made for the payment of transfer values, etc., to and by the Minister of Health, the Secretary of State and the other authorities concerned.*

NATIONAL HEALTH SERVICE (WELSH JOINT PRICING COMMITTEE) ORDER, 1948

S.I. 1948 *No.* 1488

June 30, 1948

Whereas it appears to the Minister of Health to be expedient in the interests of the efficiency of the services provided under Part IV of the National Health Service Act, 1946, that a Joint Committee should be established for the areas of all the Executive Councils in Wales for the purpose of exercising the functions of Executive Councils which are hereinafter mentioned :—

Now, therefore, the Minister of Health in exercise of the powers conferred upon him by section 31 of the said Act hereby makes the following order :—

1. Short title and commencement.—This Order may be cited as the National Health Service (Welsh Joint Pricing Committee) Order, 1948, and shall come into operation on the third day of July, 1948. [2787]

2. Interpretation.—(1) In this Order, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them—

" The Act " means the National Health Service Act, 1946 ;
" The appointed day " means the 5th day of July, 1948 ;
" Council " means an Executive Council ;
" The Minister " means the Minister of Health ;
" Financial year " means a period of 12 months ending on the 31st day of March ;
" Wales " means " Wales and Monmouthshire " and " Welsh " has a corresponding meaning.

(2) The Interpretation Act, 1889, applies to the interpretation of this Order as it applies to the interpretation of an Act of Parliament. [2788]

3. Constitution of Committee and functions.—A Joint Committee to be known as " the Welsh Joint Pricing Committee " (hereinafter referred to as " the Committee ") shall be constituted for the areas of all the Councils in Wales for the purpose of exercising the functions of the Councils in regard to the examination, checking and pricing of prescriptions for drugs, medicines and appliances supplied under the arrangements made by those Councils for the provision of pharmaceutical services. [2789]

4. Membership.—The Committee shall consist of 14 members of whom 10 shall be persons appointed in the manner provided in article 5 hereof, 3 shall be registered pharmacists appointed by the Minister after consultation with such organisation as the Minister may recognise as representative of persons providing pharmaceutical services and one shall be a medical practitioner appointed by the Minister after consultation with such organisation as the Minister may recognise as representative of the general body of medical practitioners. [2790]

5. The appointment of the 10 members referred to in article 4 shall be made in the following manner—

(*a*) Each Council or group of Councils named in the Schedule hereto shall appoint the number of members specified in the Schedule opposite the name of that Council or group of Councils.
(*b*) A person so appointed shall be a member or officer of the Council or of one of the Councils in the group by which the appointment is made.
(*c*) Such Association of Executive Councils as the Minister may recognise as representative of the Councils in Wales shall determine the method of appointment of the members appointed by the groups of Councils.

The name and address of every member appointed hereunder shall be notified to the Minister without delay by either the Clerk of the Council or the Secretary of the above-mentioned Association as is appropriate. [2791]

6. Chairman and Vice-Chairman.—(1) The Committee shall appoint a member of the Committee to be Chairman and may appoint another to be Vice-Chairman. The Chairman and Vice-Chairman shall continue in office until the termination of their membership of the Committee. For the purpose of this

paragraph reappointment to membership of the Committee shall be deemed not to constitute a continuation of membership.

(2) The Clerk of the Committee shall inform the Minister of the name and address of the Chairman. [2792]

7. Term of Office of Members.—Subject as hereinafter provided original members of the Committee shall hold office until the 31st day of March, 1950, and thereafter the term of office shall be for one year commencing on the 1st day of April in any year and ending on the 31st day of March in the next following year: provided that at the expiration of his term of office a member shall be eligible for reappointment. [2793]

8. Resignation or Removal of Members.—(i) A member of the Committee who desires to resign his membership shall give notice in writing to the Clerk of the Committee.

(ii) If a member has not attended any meeting of the Committee for a period of six months the Clerk of the Committee shall inform the Committee and unless the Committee are satisfied that his absence was due to illness or other reasonable cause, they shall declare that his seat on the Committee has become vacant. [2794]

9. Vacation of Office.—If a member of the Committee who is appointed in accordance with the provisions of article 5 hereof ceases to be a member or officer of a Council, he shall also cease to be a member of the Committee. [2795]

10. Disqualification for Membership.—Subject to paragraphs (ii), (iii) and (v) of the proviso to subsection (1) of section 59 of the Local Government Act, 1933, the provisions of paragraphs (*b*) and (*e*) of that subsection (which disqualify a person for being elected or being a member of a local authority if he has been adjudged bankrupt or made a composition or arrangement with his creditors or has been sentenced to imprisonment for not less than 3 months without the option of a fine) shall apply as if the section related to membership of the Committee. [2796]

11. Casual Vacancies.—(1) If a casual vacancy occurs by reason of the death, vacation of office or disqualification of a member of the Committee the Clerk of the Committee shall forthwith inform the Minister and if the person whose seat is vacated was other than one appointed by the Minister he shall also inform either the Clerk of the Council or the Secretary of the above-mentioned Association of Executive Councils as is appropriate.

(2) A person who is eligible for appointment as a member of the Committee under article 5 shall be appointed by the Committee to fill any casual vacancy occurring among the members appointed under that regulation and in the case of any other casual vacancy a person shall be appointed by the Minister as if he were making an appointment under article 4.

(3) A person appointed to fill a casual vacancy shall hold office for the remainder of the term of office of his predecessor. [2797]

12. Procedure.—(1) The provisions of regulations 10 (Meetings), 11 (Minutes), 12 (Officers), 13 (Committees) and 14 (Power to make Standing Orders) of the National Health Service (Executive Councils) Regulations, 1947, shall apply for the purposes of this Order as if for any reference therein to a Council there were substituted a reference to the Committee and as if for any reference to a Committee of a Council there were substituted a reference to a sub-Committee.

(2) The proceedings of the Committee shall not be invalidated by any vacancy in the membership of the Committee or by any defect in the appointment or qualification of any member thereof. [2798]

13. Reports by Committee.—The Committee shall make reports to the Councils at such times and in such manner as they or the Minister may require

and shall furnish to the Minister such information as he may from time to time require. [2799]

14. Expenses.—Any expenses incurred by the Committee shall be defrayed by the Councils in Wales in such proportions as the Minister may determine. [2800]

15. Accounts.—The provisions of regulations 4 (advances of funds by Minister), 5 (banking accounts), 6 (financial officers), 7 (receipt of moneys) and 8 (payment of moneys) of the National Health Service (Executive Councils and Dental Estimates Board) Financial Regulations, 1948, shall apply to the Committee in the same way as they apply to Executive Councils, with the following modifications :—

1. The word " Committee " shall be substituted for the word " Council."
2. References to the finance committee shall be construed as references to the Committee or, if a finance sub-Committee is appointed, to that sub-Committee.
3. References to the Opthalmic Services Committee shall be omitted. [2801]

16. Annual and Supplementary Estimates.—(1) It shall be the duty of the financial officer to prepare and submit to the Committee not later than the 30th day of September of each year an estimate (hereinafter referred to as " the annual estimate ") of the administration expenses of the Committee during the next financial year.

(2) If at any time it appears to be necessary to make additional payments for which provision has not been included in the annual estimate the financial officer shall as soon as may be prepare and submit to the Committee an estimate (hereinafter referred to as " a supplementary estimate ") of such additional payments.

(3) The Committee shall consider the annual and any supplementary estimate submitted to them by the financial officer and subject to such amendments therein, if any, as they may think fit to make, shall adopt such estimates as estimates of the Committee and shall transmit them to the Minister in a form to be approved by him, in the case of the annual estimate not later than the 15th day of October in each year and in the case of a supplementary estimate within 14 days of its adoption by the Committee.

(4) No expenses shall be incurred by or on behalf of the Committee unless provision for such expenses has been included in the annual or supplementary estimates of the Committee. [2802]

17.—(1) The Committee shall record their transactions in such books and accounts as may from time to time be approved by the Minister.

(2) The accounts of the Committee shall be posted from time to time and made up and balanced at the end of the financial year. As soon as may be after the close of the financial year and in any case not later than the 30th day of April the financial officer shall prepare a statement in a form to be approved by the Minister and shall certify the same to be correct. He shall submit the statement to the Committee for their approval and adoption, which shall be signified by the signature of the Chairman thereon, and to the auditor.

(3) The provisions of paragraphs (3) and (5) of regulation 9 of the National Health Service (Executive Councils and Dental Estimates Board) Financial Regulations, 1948, with the substitution of the word " Committee " for the word " Council " shall apply to the Committee. [2803]

18. Audit.—The Committee shall prepare and transmit to the Minister in respect of each financial year annual accounts in such form as the Minister may direct and such accounts shall be audited by an auditor appointed by the Minister. [2804]

19. Payment of Expenses of Members.—The Committee may make to their members or the members of any sub-Committee appointed by them payments in respect of loss of remunerative time, and in respect of travelling and subsistence expenses in accordance with the rates prescribed under and as though the Committee was a Council for the purposes of paragraph 3 (*c*) of the fifth Schedule to the Act. [2805]

20. Transfer of Officers.—Any officer who immediately before the appointed day was employed by the Welsh Joint Insurance (Pricing) Committee constituted under Section 94 of the National Health Insurance Act, 1936, solely for the purposes of functions similar to those transferred to the Committee by virtue of this Order and who by virtue of the regulations made under Section 68 (2) of the Act is transferred to a Council, shall immediately after such transfer be transferred from that Council to, and become an officer of, the Committee. [2806]

21. Transfer of Property and Liabilities.—All property (other than land) and liabilities which were held by the Welsh Joint Insurance (Pricing) Committee constituted under Section 94 of the National Health Insurance Act, 1936, or to which the Joint Committee so constituted were subject, immediately before the appointed day solely for the purposes of functions similar to those transferred to the Committee by virtue of this Order, and which are transferred to and vested in a Council by virtue of regulation 3 of the National Health Service (Transfer of Property and Liabilities of Insurance Committees, etc.) Regulations, 1948, shall immediately after such vesting be transferred to and vest in the Committee. [2807]

22. The Committee shall deal with any moneys or fund transferred by the last preceding article in such manner as the Minister may, with the approval of the Treasury, determine. [2808]

SCHEDULE

Council or Group of Councils	*Number of Members*
1. Cardiff Executive Council	1
2. Glamorgan Executive Council	3
3. Merthyr and Swansea Group, comprising the Merthyr Tydfil and Swansea Executive Councils	1
4. Monmouthshire and Newport Executive Council	1
5. North Wales Group, comprising the Anglesey, Caernarvonshire, Denbighshire and Flintshire, Merionethshire and Montgomeryshire Executive Councils	2
6. South Wales Group, comprising the Breconshire, Cardiganshire, Carmarthenshire, Pembrokeshire and Radnorshire Executive Councils	2
Total	10

[2809]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

The Order provides for the constitution of a Joint Committee to carry out the duties of the Executive Councils in Wales with respect to the checking and pricing of the prescriptions for drugs, medicines and appliances supplied as pharmaceutical services under Section 38 of the National Health Service Act, 1946. *The Order further provides for the procedure of the Committee and for the transfer*

to it of the officers of the Welsh Joint Insurance (Pricing) Committee constituted under the National Health Insurance Act, who were engaged for the purposes of similar functions and the property and liabilities of the Committee held or incurred for such functions.

NATIONAL HEALTH SERVICE (CONTROL AND MANAGEMENT OF HOSPITAL ENDOWMENT FUND) REGULATIONS, 1948

S.I. 1948 *No.* 1489

June 30, 1948

The Minister of Health, in exercise of the powers conferred on him by section 7 of the National Health Service Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

1. These regulations may be cited as the National Health Service (Control and Management of Hospital Endowment Fund) Regulations, 1948, and shall come into operation on the fifth day of July, 1948. [2810]

2.—(1) In these regulations, unless the context otherwise requires, " the Act " means the National Health Service Act, 1946, " the Minister " means the Minister of Health, " the Fund " means the Hospital Endowments Fund established under the Act, " the Commissioners " means the National Debt Commissioners, " Company " includes the Bank of England and any company or person keeping books in which any stock is registered or inscribed, and " Stock " includes any share, annuity or other security.

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [2811]

3. Subject as in these regulations provided the Minister shall control and manage the Fund and for that purpose may sell or otherwise dispose of the assets of the Fund, and all expenses incurred by the Minister or his agents in that behalf shall be discharged out of such assets. [2812]

4. The Minister may appropriate any land forming part of the Fund for the purposes of his functions under Part II of the Act and shall thereupon credit the Fund with a sum certified by an officer of the Valuation Office of the Inland Revenue Department appointed by the Commissioners of Inland Revenue for the purpose to be the amount of the compensation which in his opinion would have been payable had the land been acquired compulsorily under section 58 of the Act. [2813]

5.—(1) The Comptroller General and Assistant Comptroller for the time being of the National Debt Office shall severally have authority, in the name of the Minister and on his behalf, to do and execute the following acts and deeds—

(*a*) To sell any stocks however constituted and wheresoever domiciled which are vested in the Minister by virtue of section 7 of the Act or Part III of the National Health Service (Apportionment and Transfer) Regulations, 1948, and any stock vested in the Minister by virtue of subsection (2) of section 6 of the Act and which the Minister is required by subsection (11) of section 7 of the Act to transfer to the Fund.

(*b*) For that purpose to employ and pay brokers and other agents.

(*c*) To give good receipts and discharges for all purchase money payable in respect of such sales.

(*d*) To execute all deeds and other instruments necessary or proper for transferring such stock to the purchaser thereof.

(2) The Comptroller and Assistant Comptroller shall pay to the Minister the proceeds of any sale of stock effected as aforesaid. [2814]

6. Any expenses incurred by the said Comptroller General or Assistant Comptroller in exercising the powers conferred on him by regulation 4 and any expenses incurred by the Commissioners for the purpose of subsection (2) of section 56 of the Act shall be refunded to him or them by the Minister out of the assets standing to the credit of the Fund. [2815]

7. The Commissioners shall pay to the Minister at such times as he may require the dividends and interest on stock or other investments held by them on account of the Fund in pursuance of the provisions of subsection (2) of section 56 of the Act and the moneys so paid shall be carried by the Minister to the credit of the Fund. [2816]

8. The Commissioners, where required to do so by the Minister, shall pay over to him out of sums in their hands awaiting investment or out of other funds held by them on account of the Minister for the purposes of the Fund such amounts as may be needed to meet the requirements of the Minister, and they may realise such securities held by them on account of the Minister as they think fit to such amount as may be needed for this purpose. The Commissioners may also realise securities held by them on account of the Minister at any time for the purpose of investing in other securities. [2817]

9. Nothing in these regulations shall authorise the payment out of the assets of the Fund of the remuneration of a person holding an established or unestablished post in the Civil Service. [2818]

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EXPLANATORY NOTE

(*This Note is not part of the Regulations, but is intended to indicate their general purport.*)

These regulations provide for the control and management of the Hospital Endowment Fund by the Minister of Health and enable the Minister to appropriate for hospital purposes any land belonging to the Fund on payment to the Fund of an appropriate sum by way of compensation. The regulations also enable the Comptroller and Assistant Comptroller of the National Debt Office to act on the Minister's behalf in realising securities belonging to the Fund.

NATIONAL HEALTH SERVICE (PAY-BED ACCOMMODATION IN HOSPITALS, ETC.) REGULATIONS, 1948

S.I. 1948 *No.* 1490

June 30, 1948

The Minister of Health, in exercise of his powers under sections 4 and 5 of the National Health Service Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following regulations.

1. These regulations may be cited as the National Health Service (Pay-Bed Accommodation in Hospitals, etc.) Regulations, 1948, and shall come into operation on the 5th day of July, 1948 :— [2819]

2.—(1) In these regulations, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them :—

" The Act " means the National Health Service Act, 1946 ;

" The average daily cost per in-patient " means the average daily cost per in-patient of the maintenance of the hospital and the staff thereof and the maintenance and treatment of the in-patients therein ;

" Specialist " means a medical practitioner appointed to a hospital for the purpose of practising a special branch of medicine with full responsibility for the treatment of patients or the carrying out of clinical, pathological or ancillary methods of investigation ;

" The Minister " means the Minister of Health.

(2) Where any charge authorised to be made by the Minister under these regulations for accommodation or services includes a fraction of a shilling that fraction shall be disregarded if it represents less than sixpence, but otherwise it shall be reckoned as one shilling.

(3) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [2820]

Charges for accommodation in single rooms or small wards

3. The charge to be made by the Minister under section 4 of the Act for accommodation in a single room or small ward in a hospital shall be :—

(*a*) for accommodation in a single room, six shillings a day or any part of a day,

(*b*) for accommodation in a small ward with two or more beds, three shillings a day or any part of a day :

Provided that, if in the latest financial year for which information is available the average daily cost per in-patient in the hospital as calculated by the Hospital Management Committee or Board of Governors was less than twenty-four shillings the said charges shall be reduced proportionately. [2821]

Charges for private accommodation

4. The charge to be paid under section 5 (1) of the Act in respect of the accommodation and services provided for an in-patient in special accommodation set aside under that section for patients who undertake, or in respect of whom an undertaking is given, to pay such charges as are therein mentioned shall be for each day or any part of a day the standard daily charge as determined in accordance with the provisions of the next following regulation, but subject to any deduction which may be required to be made under regulation 6. [2822]

5. The standard daily charge for the purpose of regulation 4 shall be determined in manner following :—

(1) If the Board of Governors or Hospital Management Committee are in possession of data which enable them to estimate for the current financial year the total cost of the maintenance of the accommodation set aside in a hospital under section 5 (1) of the Act and the maintenance and treatment of the patients treated therein, the standard daily charge to be made in respect of each in-patient shall be determined by reference to the nature of the accommodation occupied by that patient, so however that the total of the standard daily charges fixed in respect of the various types of such accommodation will so far as can be calculated cover in the financial year the total cost above mentioned.

(2) If the Board of Governors or Hospital Management Committee are not in possession of such data, the average daily cost per in-patient during the said financial year at the hospital is estimated by the Board or Committee increased by twenty-five per centum in case of a single room, fifteen per centum in case of a double bedded room or five per centum in case of a room containing more than two beds, shall be the standard daily charge. [2823]

6. If an in-patient occupying special accommodation set aside under section 5 of the Act makes arrangements under subsection (2) of that section for treatment by a medical practitioner as a private patient there shall be deducted from the standard daily charge—

(1) Where the practitioner is a specialist, an amount representing the average daily cost per in-patient as estimated by the Board of Governors or Hospital Management Committee of the remuneration of the specialists on the staff of the hospital during the financial year, and

(2) Where the practitioner is a general medical practitioner an amount representing the average daily cost per in-patient as estimated by the Board of Governors or Hospital Management Committee of the remuneration of the whole of the medical staff of the hospital during the financial year. [2824]

7. The charges to be paid under section 5 (1) of the Act in respect of accommodation and pathological, radiodiagnostic, radiotherapeutic or physiotherapeutic services provided for a patient who makes arrangements under subsection (2) of that section with a specialist for treatment as an out-patient, shall in the case of those services described in the First Schedule to these regulations be the charges specified therein :

Provided that, if the Board of Governors or Hospital Management Committee are satisfied on data in their possession that the cost of the accommodation and any radiodiagnostic or radiotherapeutic services is greater or less than the charge so specified, they may make such adjustment of the charge as may be required to secure that it is designed to cover the cost thereof. [2825]

Medical fees payable by private patients

8. The charges to be made and recovered by a medical practitioner in respect of the treatment of his private patients in pursuance of arrangements made under section 5 (2) of the Act shall not in the case of any treatment described in the Second Schedule to these regulations exceed the charges specified therein or in the case of treatment not so described the charge so specified in respect of the treatment which approximates most nearly to the one in question. Any question arising as to the proper classification of any treatment shall be determined by the Minister :

Provided that if the total of the maximum charges which might under the foregoing provisions of this regulation be made by all the medical practitioners concerned in respect of one series of treatments of a patient for relief of the same condition exceeds 75 guineas the amount of the maximum charge which may be made for any treatment in that case by any medical practitioner under this regulation shall in the case of each medical practitioner concerned be an amount bearing the same proportion to the appropriate charge specified in the said Schedule as 75 guineas bears to the total of the maximum charges referred to above :

Provided also that if the Board of Governors or Hospital Management Committee are satisfied that the patient or some person acting in his behalf has agreed with the practitioner to pay charges in excess of those so specified they may, subject to the provisions of the next following regulation, give notice to the practitioner and the patient or the person acting in his behalf, that the

limitation on charges imposed by this regulation shall not apply to that case. [2826]

9. The Board of Governors or Hospital Management Committee shall secure as far as may be reasonably practicable that not more than fifteen per centum of the accommodation made available in a hospital for the purposes of section 5 (2) of the Act is occupied at any one time by patients in respect of whom the limitation on charges has been removed under the last preceding regulation :

Provided that if such accommodation comprises less than twenty beds three beds may be so occupied. [2827]

SCHEDULES

FIRST SCHEDULE

HOSPITAL CHARGES TO PRIVATE OUT-PATIENTS

1. *Pathology :*	
(i) For single examinations involving less than 1 hour bench work	7s. 6d.
(ii) For multiple and more complicated examinations	15s.
2. *Radiodiagnosis :*	
Group 1 :	
One extremity	
Teeth, one area	
Foreign body, demonstration of	
Gall Bladder, plain	
Spine, one area	
Jaws	
Abdomen, plain	
Salivary glands	
Pelvis	
Chest, without screening	£1 0 0
Group 2 :	
Foreign body, localisation of	
All teeth	
Extremities, several areas	
Chest, with screening	
Urinary tract, plain	
Pregnancy	
Pelvimetry	
Cephalometry	
Mastoid and petrous temporal bones	
Sinuses	
Skull	
Cystography	
Urethrography	
Abdomen, screening	
Cholecystography	
Cholangiography	
Fistula, injection of contrast medium	£1 10 0
Group 3 :	
Localisation of foreign body in eye	
Spine, more than one area	
Tomography	
Kymography	
Barium meal, oesophagus	
Barium meal, stomach and duodenum	
Barium Enema	
Hystero-salpingography	
Arthrography	
Sialography	£2 0 0

Group 4 :
Full barium meal
Angio-cardiography
Arteriography
Venography
Bronchography
Ventriculography
Encephalography
Myelography £3 0 0

3. *Radiotherapy :*
For each treatment .. .. 15s. 0d.

4. *Physiotherapy :*
For single treatments .. .. 7s. 6d.
For compound or multiple treatments in one day .. .. .. 15s. 0d.

[2828]

SECOND SCHEDULE

MEDICAL FEES PAYABLE BY PRIVATE PATIENTS

(*a*) *In relation to the services of a specialist.*

1. *Surgeon :*

(i) Cases involving operation :
For all services rendered including operation and any necessary attendances and including operations for the implantation of radium or radon seeds—
*Major operation .. .. 50 guineas
*Intermediate operation .. .. .. 25 guineas
*Minor operation .. .. 10 guineas
provided that if more than one operation is required for relief of the same condition the total fees charged in respect of operations of all classes shall not exceed 75 guineas.

(ii) Cases not involving operation :
For the first consultation .. .. 5 guineas
For the first two days of attendance (including first consultation) .. .. 10 guineas
For each subsequent day of attendance or consultation .. .. 1 guinea
Provided that the above charges shall not together exceed 25 guineas.

2. *Obstetrician :*
(i) For booked cases, whether normal or abnormal, including all attendance in the ante-natal and post-natal periods, and during labour, and including Caesarean section, where necessary .. 50 guineas
(ii) Obstetric Emergencies .. .. 40 guineas

3. *Physician and any other consultations and attendances not specifically mentioned elsewhere :*
For the first consultation .. .. 5 guineas
For the first two days of attendance (including first consultation) .. .. 10 guineas
For each subsequent day of attendance or consultation .. .. 1 guinea
Provided that the above charges shall not together exceed 25 guineas

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* NOTE.—For the purpose of this Schedule, "major", "intermediate" and "minor" operations are the operations respectively so described in the Third Schedule to these regulations and any other kind of operation which the Minister may from time to time by order classify as falling under one of those headings.

4. *Psychiatrist, etc. :*

Deep Insulin Therapy—full course	.. ..	75 guineas
Modified Insulin Therapy Electro Convulsion treatment Electro narcosis	for each treatment	3 guineas
Special individual psychotherapy, i.e. various analytic methods, narcoanalysis	first consultation or attendance	5 guineas
	subsequent consultations or attendances	3 guineas each
Other cases : first consultation or attendance ..		5 guineas
subsequent consultations or attendances		2 guineas

5. *Anaesthetist :*

For each operation .. .. 2 guineas plus 10 per cent. of the surgeon's fee

6. *Pathologist :*

(i) For examination and report :

Single examinations involving less than 1 hour bench work	1½ guineas
Multiple and more complicated examinations	3 guineas
(ii) Examinations with clinical consultations ..	5 guineas

7. *Radiologist :*

Group 1 :

One Extremity
Teeth, one area
Foreign body, demonstration of
Gall Bladder, plain
Spine, one area
Jaws
Abdomen, plain
Salivary glands
Pelvis
Chest, without screening .. .. 2 guineas

Group 2 :

Foreign body, localisation of
All teeth
Extremities, several areas
Chest, with screening
Urinary tract, plain
Pregnancy
Pelvimetry
Cephalometry
Mastoid and petrous temporal bones
Sinuses
Skull
Cystography
Urethrography
Abdomen, screening
Cholecystography
Cholangiography
Fistula, injection of contrast medium .. .. .. 3 guineas

Group 3 :

Localisation of foreign body in eye
Spine, more than one area
Tomography
Kymography
Barium meal, oesophagus
Barium meal, stomach and duodenum
Barium Enema
Hystero-salpingography
Arthrography
Sialography .. .. 4 guineas

7. *Radiologist*—cont.

Group 4:

Full barium meal
Angio-cardiography
Arteriography
Venography
Bronchography
Ventriculography
Encephalography
Myelography .. .. 6 guineas

8. *Radiotherapist:*

For each treatment .. .. 3 guineas, up to a maximum of 25 guineas

9. *Long stay cases other than psychiatric* .. .. 2 guineas a week in addition to any fees payable in respect of surgical operation

(*b*) *In relation to the services of a medical practitioner other than a specialist:*

Any surgical operation including all attendances and other services rendered .. .. 7 guineas

For each consultation or day of attendance .. .. 15s. up to a maximum of 15 guineas.

[2829]

THIRD SCHEDULE

SURGICAL OPERATIONS

MAJOR

Abscess of brain
Acute appendicitis.
Amputations at hip.
Amputation of penis (total).
Amputations at shoulder.
Amputation through thigh.
Any operation involving intestinal suture.
Biliary fistula.
Carcinoma of the colon.
Cholecystectomy.
Cholecystenterostomy.
Cleft palate or radical operation for malignant growth of palate.
Closure of faecal fistula or artificial anus.
Complete prolapse of rectum involving laparotomy, colostomy or intestinal anastomosis.
Complicated fistula.
Cystectomy.
Depressed fracture.
Diverticulitis.
Double inguinal hernia.
Drainage of bile-ducts.
Epithelioma of the anus.
Epithelioma of the tongue with radical operation upon the glands.
Excision of larger joints.
Excision of rectum.
Gastrectomy.
Gastro-enterostomy.
Harelip.
Hernia (strangulated).
Hydatid of lung or liver.
Implantation of radium or radon seeds in the cranium, chest, abdomen or bladder.
Laminectomy.
Meningeal haemorrhage.
Nephrectomy.
Perforated ulcer of the alimentary tract.
Plastic operations requiring tube graft.
Prefrontal leucotomy.
Prostatectomy.
Pyelo- or nephro-lithotomy.
Radical removal of breast.
Rammstedt's operation.
Removal of stone from ureter.
Rupture of bladder.
Rupture of urethra.
Splenectomy.
Subphrenic abscess requiring transthoracic or trans-peritoneal access.
Sympathectomy.
Thyroidectomy for toxic or exophthalmic goitre.
Transplantation of ureters.
Tumour of the brain.

INTERMEDIATE

Abscess of prostate.
Adenoma of thyroid.
Amputation of limbs, save fingers and toes (minor) and thigh, shoulder and hip (major).
Amputation of penis (partial).
Appendicitis (non-acute).
Castration.
Diathermy to growths of tongue or mouth.
Diathermy to growths of bladder. (First time intermediate, afterwards minor.)
Drainage of gall-bladder.
Empyema.
Enterotomy, colotomy, colostomy.
Epithelioma of lip with excision of glands in sub-mandibular region.
Excision of cysts or tuberculous glands of neck (deep to deep fascia).
Fistula-in-ano.
Gastrostomy.
Gastrotomy.
Grafting with tube grafts.
Haemorrhoidectomy.
Hernia—inguinal, femoral, umbilical, or ventral (simple).
Hydrocele (radical).
Imperforate anus.
Implantation of radium or radon seeds, except where included under "Major" or "Minor".
Injection for pruritus ani.
Intussusception not requiring intestinal suture.
Peritonitis (tuberculous, pneumococcal).
Prolapse of rectum.
Radical operation for anal fissure.
Sacro-coccygeal dermoid sinus.
Rectal polypi.
Simple removal of whole breast.
Suprapubic cystostomy.

MINOR

Abscess.
Amputations of fingers or toes.
Any condition treated by surgical diathermy under general anaesthesia, other than mouth, or tongue, or bladder.
Aspiration of cerebral cyst.
Blood transfusion. (Grouping and expenses of donor extra.)
Cystoscopy.
Dilatation of anus for fissure.
Dilatation of rectal stricture.
Dilatation of urethra.
Division of fibrous anus.
Examination under anaesthetic.
Hydrocele (injection).
Implantation of radium or radon seeds for treatment of a skin tumour.
Injection of Gasserian Ganglion.
Ischiorectal abscess.
Lupus.
Naevi, except in severe cases.
Plastic operations not requiring a tube graft and of a simple kind.
Pyelography (not including services of radiologist).
Removal of anal warts and anal papillae.
Removal of needles from hand or foot or elsewhere.
Rodent ulcer not involving bone or eye.
Sebaceous cysts.
Skin grafting.
Tuberculous caseous glands of neck (curetting).
Varicocele.

GYNAECOLOGICAL OPERATIONS

MAJOR

Vulvo-Vaginal :
Anterior and posterior colporrhaphy.
Any vaginal operation when combined with coeliotomy, viz. colpoperineoplasty with ventrofixation.
Radical excision of vulva and glands.
Repair of vaginal fistulae.

Uterus and Adnexa :
Cyst of the broad ligament.
Hysterectomy.
Salpingectomy (acute inflammation, complicated pyo- or hydro-salpinx, extra-uterine gestation).

INTERMEDIATE

Vulvo-Vaginal :
Colpoperineoplasty.
Colporrhaphy.
Perineorrhaphy.

Uterus and Adnexa :
Dilatation with intra-uterine operations.
Evacuation of retained products.

Intermediate—*cont.*

Simple myomectomy.
Simple ovariotomy.
Simple salpingectomy or salpingostomy (chronic).
Simple ventrofixations.
Simple ventrosuspension.
Cervix :
Trachelorrhaphy and amputation.

MINOR

Vulvo-Vaginal :
Cauterisation.
Clitoris, prolapsus urethrae.
Colpotomy.
Cysts or simple tumours.
Relief of atresia vaginae.
Removal of caruncle.

Uterus and Adnexa :
Induction of radiation menopause.
Curettage.
Cervix :
Biopsy of endometrium.
Dilatation.
Insufflation.
Removal of polypi.

EAR, NOSE AND THROAT OPERATIONS

MAJOR

All operative treatment of malignant disease.
Bronchoscopy (operative).
Excision of larynx.
Excision of upper jaw.
External operations on the sinuses and radical operations for tumours of sinuses.
Intra-cranial complications such as cerebellar abscess.
Laryngo-fissure.
Ligature of jugular vein and opening of lateral sinus.
Oesophagoscopy (operative).
Pharyngotomy.
Plastic operations requiring a tube graft.
Radical mastoidectomy.

INTERMEDIATE

Diagnostic bronchoscopy.
Diagnostic oesophagoscopy.
Intra-nasal operations.
Laryngoscopy (operative).
Removal of tonsils by dissection without use of guillotine (eighteen years and over).
Simple mastoidectomy.
Simple tracheotomy.

MINOR

Diagnostic laryngoscopy.
Guillotine removal of tonsils (eighteen years of age and over).
Opening of quinsies.
Opening of retro-pharyngeal abscesses.
Paracentesis.
Plastic operations not requiring a tube graft.
Reduction of deformity, fractured noses and facial bones.
Simple removal of nasal polypi.

OPHTHALMIC OPERATIONS

MAJOR

Corneal grafting.
Detachment of retina.
Exenteration of orbit.
Extraction of senile cataract.
Glaucoma, acute or chronic.
Iridectomy.
Krönlein's operation.
Operation for dislocated lens.
Ptosis.
Reconstruction of eyelids.
Removal of intraocular foreign body.
Removal of intraorbital tumours.
Strabismus.

INTERMEDIATE

Conical cornea.
Corneal abscision or tattooing.
Corneal wound.
Epicanthus.
Excision of lachrymal sac, all methods.
Excision of rodent ulcer.
Excision or evisceration of eyeball.
Exploration of orbit.
Lachrymal abscess.
Needling capsule after senile cataract.
Needling juvenile cataract.
Orbital abscess.
Paracentesis.
Radon applications for neoplasm.
Trichiasis.

MINOR

Canaliculus and lachrymal duct exploration.
Cauterisation of corneal ulcer.
Chalazion.
Ectropion.
Entropion.
Excision of pterygium.
Peritomy.
Removal of dermoid.
Removal of foreign body embedded in cornea.
Suturing lid wounds.

ORTHOPAEDIC OPERATIONS

MAJOR

Amputation through thigh.
Congenital club foot.
Congenital dislocation of the hip.
Disarticulation of the hip and shoulder.
Excision of cervical rib.
Excision of larger joints.
Internal derangement of the knee and other joints.
Laminectomy.
Open reduction of fractures.
Operative treatment of compound fractures.
Radical operations for bone tumours.
Reconstructive operations on bones and joints :—
arthrodesis.
arthroplasty.
bone grafts.
Repair of intricate tendon injuries.
Secondary nerve sutures.
Severe congenital and acquired deformities requiring open correction.
Spina Bifida.
Tendon transplantation.
Other orthopaedic operations requiring an equivalent degree of surgical skill.

Note :—Charges for the above operations to include the immediate mechanical after-treatment and subsequent changing of splints and plasters (with or without anaesthesia).

INTERMEDIATE

Amputation of limbs, save fingers and toes (minor) and thigh, shoulder and hip (major).
Closed reduction and fixation of fractures involving joints or shafts of larger bones.
Emergency operations for acute osteomyelitis and acute suppurative arthritis.
Excision of bursae communicating with larger joints.
Manipulation of larger joints.
Open correction of simpler deformities :—
Hallux valgus, Hallux rigidus, Pes cavus } unilateral.
Torticollis.
Primary nerve and tendon repairs.
Other orthopaedic operations requiring an equivalent degree of surgical skill.

MINOR

Amputations of toes and fingers.
Application of plaster of paris casts with or without anaesthesia.
Hammer toe.
Manipulation of smaller joints.
Removal of exostoses.
Removal of small bursae.
Simple manipulation or tenotomy and plasters.

[2830]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These regulations prescribe the charges to be made for accommodation in hospitals consisting of single rooms or small wards and the charges to be made for special accommodation in hospitals provided for patients who undertake to pay charges designed to cover the whole cost of the accommodation and services provided by the hospital.

The regulations also limit the fees which may be charged by medical practitioners to their private patients in such special accommodation.

NATIONAL HEALTH SERVICE (CHARGES FOR APPLIANCES) REGULATIONS, 1948

S.I. 1948 *No.* 1505

July 1, 1948

The Minister of Health, in exercise of the powers conferred on him by section 3 of the National Health Service Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

1. These regulations may be cited as the National Health Service (Charges for Appliances) Regulations, 1948, and shall come into operation on the 5th day of July, 1948. [2831]

2. The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [2832]

3.—(1) Where the Minister of Health, in providing hospital and specialist services—

(*a*) supplies a person, at his request, with a denture or with an optical appliance (hereinafter referred to as " glasses ") which is of a more expensive type than the standard type, or

(*b*) repairs such a denture or glasses at a cost in excess of the cost of repairing a denture or glasses of a standard type,

the Minister may charge and recover from the person so supplied or for whom such repair is undertaken a sum representing the difference between the cost of supplying or repairing such article and the cost of supplying or repairing an article of a standard type.

For the purpose of this paragraph the standard type is, in case of a denture, the type made of plastic or vulcanite which is ordinarily supplied as part of the hospital and specialist services, and, in case of glasses, the type prescribed as the standard for the purpose in the National Health Service (Supplementary Ophthalmic Services) Regulations, 1948.

(2) Where an artificial limb supplied by the Minister of Pensions under arrangements made by the Minister of Health for the provision of hospital and specialist services is, at the request of the person supplied, of a more expensive type than the corresponding type supplied under contract to the Minister of Pensions for issue to war-disabled persons, or an artificial limb of the more expensive type which has been so supplied is repaired under those arrangements, the Minister of Health may charge and recover from the person so supplied or for whom such repair is undertaken a sum representing the difference between the cost of supplying or repairing such appliance and the cost of supplying or repairing an appliance of the corresponding type.

(3) Any denture, glasses or artificial limb to which this regulation applies which, in the opinion of the Surgeon or other person responsible for the case, are required by the person supplied owing solely to his clinical condition, or any repair of a denture, glasses or artificial limb so required shall be supplied or repaired free of charge. [2833]

4.—(1) Where any appliance (other than an artificial limb or invalid chair or tricycle) supplied as part of the hospital and specialist services by a hospital vested in the Minister of Health requires to be replaced or repaired the Hospital Management Committee or Board of Governors of the Hospital concerned may, if they think fit, refer to a sub-committee or committee, as the case may be, appointed by them the question whether the replacement or repair is necessitated by lack of care on the part of the person so supplied. The said sub-committee or committee may be appointed *ad hoc* or may be a standing sub-committee or committee appointed for the consideration of such questions.

(2) On the receipt of such a reference the sub-committee or committee shall make such inquiry into the matter as they think fit, and if in their opinion the circumstances so require or if the person concerned so demands the inquiry shall take the form of an oral hearing.

(3) After the completion of such inquiry the sub-committee or committee shall report thereon to the Hospital Management Committee or Board of Governors who shall then determine whether the replacement or repair is necessitated by lack of care on the part of the person supplied.

(4) The Minister of Health may recover from the person concerned the whole or any part of the cost of the replacement or repair of an appliance determined in manner aforesaid to have been necessitated by lack of care on the part of such person. [2834]

5.—(1) Where any appliance (other than an artificial limb, an invalid chair or a tricycle) supplied by a hospital (other than a hospital vested in the Minister of Health) under arrangements made by the Minister of Health for the provision of hospital and specialist services requires to be replaced or repaired the Regional Hospital Board for the area in which that hospital is situated may if they think fit, on the report of the hospital authority, refer to a committee of the Board the question whether the replacement or repair is necessitated by lack of care on the part of the person so supplied. The said committee may be appointed *ad hoc* or may be a standing committee appointed for the consideration of such questions.

(2) The provisions of paragraphs (2) (3) and (4) of regulation 4 shall apply to the proceedings of the committee and to the action which may be taken on their report, as if those paragraphs had been included in this regulation with the substitution of a reference to the Regional Hospital Board for the reference therein to a Hospital Management Committee or Board of Governors. [2835]

6.—(1) Where an appliance, consisting of an artificial limb, or an invalid chair or tricycle, supplied by the Minister of Pensions under arrangements made by the Minister of Health for the provision of hospital and specialist services requires to be replaced or repaired, and the Minister of Pensions has reason to suspect that such replacement or repair is necessitated by lack of care on the part of the person supplied, he may appoint a person or persons to investigate the matter.

(2) The person or persons so appointed shall make such inquiry into the matter as they think fit, and if in their opinion the circumstances so require or if the person concerned so demands the inquiry shall take the form of an oral hearing.

(3) The persons holding such inquiry shall report thereon to the Minister of Pensions who shall thereupon determine whether the replacement or repair

is necessitated by lack of care on the part of the person supplied and if he determines that there has been such lack of care he shall so inform the Minister of Health.

(4) The Minister of Health may recover from the person concerned the whole or any part of the cost of the replacement or repair of an appliance determined in manner aforesaid to have been necessitated by lack of care on the part of such person. [2836]

7. For the purposes of regulations 4 and 5 any replacement or repair of glasses supplied as part of the hospital and specialist services which is required by a person within a period of two years after the date on which they were supplied to him shall be presumed to be necessitated by lack of care on his part unless he satisfies the authority concerned that the replacement or repair is not so necessitated. [2837]

8.—(1) Notwithstanding anything in the foregoing regulations, where the person applying to a hospital for the replacement or repair of an appliance supplied as part of the hospital and specialist services is a pupil in attendance at an educational establishment to which this regulation applies, and in making the application produces a request in the form contained in the Schedule to these regulations, or a form to the like effect, signed by a medical practitioner acting on behalf of the Local Education Authority or by some other duly authorised officer of the authority, the Minister of Health shall be entitled, if it is decided in manner hereinbefore provided that the service is necessitated by lack of care on the part of the pupil, to recover the cost of the service from the Local Education Authority and not from the pupil.

(2) This regulation applies to educational establishments maintained by a Local Education Authority and educational establishments with the proprietors of which a Local Education Authority have made arrangements for securing the medical inspection of, and the provision of medical treatment for, pupils attending those establishments in accordance with section 78 of the Education Act, 1944. [2838]

SCHEDULE

FORM OF REQUEST BY LOCAL EDUCATION AUTHORITY FOR THE REPLACEMENT OR REPAIR OF AN APPLIANCE

The Local Education Authority.

Name of Pupil.....

Address .....

.....

The Local Education Committee request that the following appliance, viz.: produced by the above-named pupil may be [replaced] [repaired] under the hospital and specialist services.

Signed .....

Medical Officer to [Duly authorised officer of] the Local Education Authority.

Date.....

[2839]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These regulations provide for the recovery by the Minister of Health of charges for the supply of glasses, dentures and artificial limbs of a more costly kind than those ordinarily supplied under the hospital and specialist services, and in respect of the repair of such articles. The regulations also provide for the recovery of the cost of replacing or repairing appliances which have been lost or damaged through carelessness.

NATIONAL HEALTH SERVICE (MEDICAL PRACTICES COMPENSATION) REGULATIONS, 1948

S.I. 1948 *No.* 1506

July 1, 1948

The Minister of Health, in exercise of his powers under sections 36 and 74 of the National Health Service Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

PART I

General

1. Short title and commencement.—These regulations may be cited as the National Health Service (Medical Practices Compensation) Regulations, 1948, and shall come into operation on the 5th day of July, 1948. [2840]

2. Interpretation.—(1) In these regulations, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them :—

" the Act " means the National Health Service Act, 1946 ;

" the appointed day " means the fifth day of July, 1948 ;

" accounting year " in relation to a medical practice means the period of twelve months for which the accounts of the practitioner engaged in that practice are made up ;

" medical list " means the list prepared by an Executive Council of medical practitioners undertaking to provide general medical services ;

" practitioner " means a registered medical practitioner ;

" aggregate amount of compensation " means the aggregate amount of compensation payable to practitioners in England and Wales under section 36 of the Act ;

" qualified accountant " means a person who is a member of one or more of the following bodies :—

The Institute of Chartered Accountants in England and Wales ;
The Society of Incorporated Accountants and Auditors ;
The Society of Accountants in Edinburgh ;
The Institute of Accountants and Actuaries in Glasgow ;
The Society of Accountants in Aberdeen ;
The Institute of Chartered Accountants in Ireland ;
The Association of Certified and Corporate Accountants Limited.

(2) For the purposes of these regulations references to the goodwill of a medical practice shall, unless the context otherwise requires, in relation to a practitioner practising in partnership be construed as referring to his share of the goodwill of the partnership practice.

(3) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [2841]

PART II

Submission of claims, determination of loss, and payment of compensation

3. Claims for compensation.—(1) A practitioner whose name is entered on the appointed day on a medical list and who claims to be entitled to compensation under section 36 of the Act in respect of any loss suffered by him by reason that he is, or will be, unable to sell the goodwill, or any part of the goodwill of his medical practice by virtue of section 35 of the Act shall make application to the Minister in the form set out in the schedule to these regulations or in a form to the like effect. If any such practitioner dies without having submitted a claim for compensation the application shall be made by the personal representative of that practitioner.

(2) Where a practitioner or the personal representative of a practitioner has obtained a certificate from the Medical Practices Committee certifying that the conditions of section 37 of the Act have been satisfied in relation to that practitioner and to his practice, the practitioner or the personal representative, as the case may be, shall be entitled to apply for compensation as if the practitioner were entitled to do so under paragraph (1) of this regulation.

(3) The form of application shall be duly completed by the applicant and delivered or sent by post to the Minister on or before the thirty-first day of October, 1948: Provided that, where the Minister is satisfied that by reason of unavoidable delay in the appointment of the personal representative of a deceased practitioner or in obtaining a certificate from the Medical Practices Committee under section 37 of the Act or for any other reason it is not or has not been practicable to submit an application by the thirty-first day of October, 1948, the Minister may allow such further period not exceeding six months for the submission of the claim as appears to him to be reasonable. [2842]

4. Medical practitioners in partnership.—The provisions of the succeeding regulations shall be subject, so far as they affect medical practitioners practising in partnership, to any provisions made hereafter either by further regulations under section 36 of the Act or by or under any Act amending the Act, [2843]

5. Determination of loss.—Subject to the provisions of these regulations, every medical practitioner engaged immediately before the appointed day as a principal in general medical practice whose name is entered on the appointed day on a medical list, and every practitioner in respect of whom and of whose practice a claim for compensation can be made in accordance with paragraph (2) of regulation 3, shall be deemed to have suffered loss, and he or his estate, as the case may be, shall be entitled to compensation: Provided that a practitioner who on the appointed day would have the right to sell, but for the provisions of the Act, the goodwill or any part of the goodwill of a medical practice in respect of which a claim has been made under section 37 of the Act shall not, if compensation is payable in respect of that claim, be deemed to have suffered loss in respect of that goodwill or any part of it. [2844]

6. Extent of loss.—The extent of the loss of a medical practitioner or the personal representative of a medical practitioner who is entitled to compensation under the last preceding regulation shall be determined in accordance with the following provisions of these regulations. [2845]

7. Annual loss.—(1) There shall be ascertained the annual value of the goodwill of the practice of each practitioner who has claimed compensation or in respect of whom and of whose practice a claim for compensation has been made. Such annual value is hereinafter referred to as " the annual loss ".

(2) For the purpose of these regulations " the annual loss " means :—

(*a*) in respect of the practice (not being a partnership practice) in which the practitioner was engaged on the appointed day, the average gross yearly receipts of that practice, as certified by a qualified accountant, calculated by reference to the last two accounting years immediately preceding the appointed day ;

(*b*) in respect of a partnership practice in which the practitioner was engaged on the appointed day, such proportion of the average gross yearly receipts of that practice, as certified by a qualified accountant, calculated by reference to the last two accounting years immediately preceding the appointed day, as the share of the goodwill of the partnership practice held by him on that day bears to the whole goodwill of the partnership practice ;

(*c*) in respect of a practice to which section 37 of the Act applies, the average gross yearly receipts of that practice, as certified by a qualified accountant, calculated by reference to the last two accounting years immediately preceding the date of the retirement from practice or death of the practitioner :

Provided that :—(i) in the case of the goodwill of a practice acquired by purchase after the beginning of the first of the two accounting years by reference to which the average gross yearly receipts of the practice are, under the preceding provisions of this regulation, to be calculated, the annual loss means the average gross yearly receipts of the practice as estimated for the purpose of the purchase ;

(ii) in the case of any claim referred to the Committee appointed under the next succeeding regulation the Committee shall fix as the annual loss in respect of the practice such sum as they estimate fairly to represent the average gross yearly receipts of the practice.

(3) A practitioner or the personal representative of a practitioner submitting a claim for compensation under these regulations may, if he so elects, instead of having the gross receipts of the practice certified by a qualified accountant, submit with his claim a certificate, in such form as may be agreed between the Minister and the Commissioners of Inland Revenue, signed by the Inspector of Taxes to whom income tax returns in respect of that practice have been submitted.

(4) In calculating the average gross yearly receipts of a practice for the purposes of paragraph (2) of this regulation no account shall be taken of fees or remuneration received for or in respect of the holding of any appointment or of any other fees or remuneration which would not normally be taken into account in assessing the value of the goodwill of a general medical practice for the purposes of the sale thereof. [2846]

8. Practices Compensation Committee.—(1) There shall be constituted a committee to be called the Practices Compensation Committee (hereinafter referred to as " the Committee ").

(2) The Committee shall consist of a chairman and four other members. Three of the five members shall be medical practitioners.

(3) The chairman and members shall be appointed by the Minister after consultation with such organisation as the Minister may recognise as representing the medical profession.

(4) The Minister shall appoint a Secretary to the Committee and such organisation as the Minister may recognise as representing the medical pro-

fession may also appoint a Secretary to the Committee who shall act jointly with the Secretary appointed by the Minister. The Minister may also provide the services of such other officers as the Committee may require. [2847]

9. Claims submitted to Committee.—(1) The Minister shall refer to the Committee all claims for compensation submitted in accordance with regulation 8 which in his opinion should be considered by the Committee.

(2) It shall be the duty of the Committee to consider the claims referred to them and to report their findings to the Minister. [2848]

10. Decisions on Claims.—The Minister, after considering each claim for compensation and, if the claim has been referred to the Committee, the findings of the Committee, shall notify the claimant or his personal representative of the annual loss as determined by the Minister for the purpose of calculating compensation under these regulations. [2849]

11. Arbitration.—(1) Any claimant or his personal representative who is aggrieved by the decision of the Minister under the last preceding regulation may within fourteen days of the date of the notice given under that regulation apply to have the annual loss determined by arbitration.

(2) Any such application shall be sent to the Minister who shall thereupon refer the matter to the arbitration of a single arbitrator sitting with two assessors. The arbitrator and assessors shall be appointed by the Minister after consultation with such organisation as the Minister may recognise as representing the medical profession. [2850]

12. Distribution of aggregate amount of compensation.—(1) For the purpose of calculating the distribution of the aggregate amount of compensation among persons who under these regulations are deemed to have suffered loss by reason of the matters referred to in regulation 3 there shall be calculated the aggregate of all annual losses determined in accordance with these regulations. The aggregate of such losses is hereinafter referred to as the aggregate annual loss.

(2) Subject as is otherwise provided in these regulations, there shall be payable out of the aggregate amount of compensation by way of compensation—

(*a*) to a practitioner practising otherwise than in partnership, or the estate of such a practitioner, who is entitled to compensation, such proportion of the aggregate amount of compensation as the annual loss determined to have been suffered by him or his estate on the appointed day bears to the aggregate annual loss ;

(*b*) to a practitioner practising in partnership, or the estate of such a practitioner, who is entitled to compensation, such sum as may be determined by or under regulations made hereafter under section 36 of the Act or by or under any Act amending the Act.

(3) A practitioner or the personal representative of a practitioner to whom compensation has become payable under the last preceding paragraph shall be notified by the Minister of the amount of compensation so payable. [2851]

13. Payment of compensation.—(1) Subject as hereinafter provided, the compensation payable to a practitioner or the estate of a practitioner under the last preceding regulation shall be paid to the practitioner or his personal representative—

(*a*) in the case of a practitioner to whom and to whose practice section 37 of the Act applies as soon as may be after the amount of compensation so payable has been ascertained ;

(*b*) in any other case, on the retirement from practice or death of the practitioner concerned, whichever shall first occur: Provided that if the amount of compensation payable has not then been ascertained payment shall be made as soon as may be after the amount due has been ascertained.

(2) (*a*) A practitioner or the personal representative of a practitioner to whom and to whose practice Section 37 of the Act applies may, on the ground of hardship suffered or likely to be suffered by that practitioner or the persons entitled to his estate, at any time after the appointed day submit to the Minister a request for an advance payment on account of compensation in respect of which a claim has been made by that practitioner or his personal representative.

(*b*) Where a practitioner whose name is entered on the appointed day on a medical list retires or dies without having received payment of compensation to which he is entitled, the practitioner or his personal representative may, notwithstanding that the compensation payable in respect of the goodwill of the practice of the practitioner has not been ascertained, submit to the Minister on the ground of hardship suffered or likely to be suffered by him or the persons entitled to his estate a request for an advance payment on account of compensation in respect of which a claim has been made by the practitioner or his personal representative.

(*c*) In any case not falling within sub-paragraphs (*a*) or (*b*) of this paragraph a practitioner who claims to suffer hardship by reason of the non-payment before the date of his retirement from practice or death of compensation to which he is entitled under these regulations may at any time submit to the Minister a request for immediate payment of the whole or any specified part of the compensation to which he is entitled or, if the amount of compensation payable to him has not been ascertained, for an advance payment on account thereof.

(*d*) Any such request shall specify the grounds on which it is made and shall be supported by such written evidence as the practitioner or the personal representative of the practitioner considers necessary to justify the request.

(*e*) The Minister shall forthwith on receiving any such request consider the request and if he is satisfied, after making such investigations as appear to him necessary, that the request or some part thereof should be met, shall pay on such terms as he thinks fit to the practitioner or the personal representative of the practitioner such sum as the Minister considers to be fair and reasonable having regard to the evidence before him.

(3) For the purpose of paragraphs (1) (*b*) and (2) (*b*) and (*c*) of this regulation retirement from practice means retirement from practice as a medical practitioner providing general medical services under Part IV of the Act or under Part IV of the National Health Service (Scotland) Act, 1947. [2852]

14. Interest on amount of compensation.—(1) Subject as hereinafter provided there shall be paid out of moneys provided by Parliament interest at the rate of two and three quarters per cent. per annum less tax at the standard rate on the compensation payable to a practitioner or his personal representative under these regulations, in respect of any period from the appointed day until the time when the compensation is paid.

(2) Where an advance payment of compensation is made in pursuance of paragraph (2) of regulation 13, interest on the sum so paid shall no longer be payable.

(3) The first payment of interest due under these regulations shall be paid on the fifth day of July 1949 and thereafter interest shall be paid by half yearly instalments on the fifth day of January and the fifth day of July in each year. [2853]

SCHEDULE

Claim for Compensation under Section 36 of the Act

PART A

I, of a registered medical practitioner included in the Medical Register in that name and having the following qualifications, viz. being a practitioner [engaged immediately before 5th July, 1948 as a principal in general medical practice and whose name was entered on the 5th July, 1948 on the medical list of the Executive Council] [to whom and to whose practice section 37 of the Act applies] hereby claim compensation under section 36 of the Act by reason that I am or will be unable to sell the goodwill or any part of the goodwill of my practice by virtue of section 35 of the Act.

Insert full name and address.

Insert qualifications.

Delete words which do not apply.

PART B

I [we] of
of
and of
the personal representative[s] of who died on and [who was engaged immediately before 5th July, 1948 as a principal in general medical practice and whose name was entered on the 5th July, 1948 on the medical list of the Executive Council] [to whose practice section 37 of the Act applies] hereby claim compensation in respect of loss suffered by the persons entitled to the estate of the said by reason that it is or will be unlawful to sell the goodwill or any part of the goodwill of the practice of the said by virtue of section 35 of the Act.

Insert full names, addresses and occupations of personal representatives.

Insert full names and date of death of the deceased practitioner.

Delete words which do not apply.

Insert name of deceased practitioner.

PART C

I [we] certify that the particulars given in this claim and on any attached statement are correct and that the statement of gross receipts of the practice in respect of which this claim is made do not include fees or remuneration received for or in respect of the holding of any appointment or any other fees or remuneration which would not normally be taken into account in assessing the value of a general medical practice for the purposes of the sale thereof.

Signed .....

Date .....

Notes :—1. Where the claim is made by the medical practitioner himself Part A and C should be completed.

2. Where the claim is made by the personal representative of a deceased practitioner Parts B and C should be completed.

PART D

(To be completed by a qualified accountant in cases where the claim is based on the gross receipts of the practice. This certificate need not be completed where the alternative certificate referred to in Reg. 7 (3) is submitted with the claim.)

I [we] hereby certify that I [we] have examined the accounts of the medical practice to which this claim relates and that the statement of the gross receipts of the practice is as shown in those accounts and is correct to the best of my [our] knowledge and belief that I [we] further certify that [the average gross yearly receipts] [the gross receipts] on which the claim is based were pounds (amount to be stated in words).

Delete words which do not apply.

Signed ..... Qualifications.....

Address ..... Date .....

Particulars to be furnished by the Claimant

Note :—In the following questions (*a*) the practitioner means the medical practitioner claiming compensation, or the deceased medical practitioner whose personal representative claims compensation (*b*) accounting year means the period of twelve months for which the accounts of the practitioner are made up.

1. Was the practitioner on the 5th July, 1948 (or, at the date of his retirement from practice before the 5th July, 1948, or death) engaged in medical practice alone or, in partnership with other medical practitioners ?

2. If the practitioner was in practice alone (i.e. not in partnership with any other medical practitioner).

(*a*) state (i) the average gross yearly receipts of that practice calculated by reference to the last two complete accounting years before the 5th July, 1948 (or before the date of his retirement from practice or death as the case may be) and (ii) the date on which the two accounting years ended ; or

(*b*) if the practitioner has not been in that practice for two complete accounting years after the date on which he acquired the goodwill of his practice state—

(i) the date when he acquired the goodwill of his practice ;

(ii) the average gross yearly receipts on which the purchase price (if any) paid for the goodwill was calculated ;

(iii) if he acquired the goodwill of his practice otherwise than by purchase, the name and address of the person from whom the goodwill was acquired, the circumstances in which it was acquired and the gross receipts of the practice in respect of the period from the date when the goodwill was acquired to the 5th July, 1948 (or the date when the practitioner retired or died).

3. If the practitioner was in practice in partnership with any other medical practitioner or practitioners ;

(*a*) state the practitioner's share in the goodwill of the partnership practice ;

(*b*) state (i) the average gross yearly receipts of the partnership practice as it existed on the 5th July, 1948 calculated by reference to the last two complete accounting years before 5th July, 1948 (or before the date of the practitioner's retirement or death, as the case may be), and (ii) the date on which the two accounting years ended ;

(*c*) if the partnership as constituted on the 5th July, 1948 (or the date of the practitioner's retirement or death as the case may be) had not then been in existence for two complete accounting years state :

(i) the date on which the partnership was constituted.

(ii) if the practitioner acquired his share of the goodwill of the practice by purchase, the average gross yearly receipts on which the purchase price paid for the goodwill was calculated.

(iii) if he acquired his share of the goodwill of the practice otherwise than by purchase, the name and address of the person from whom the goodwill was acquired, the circumstances in which it was acquired and the amount of his share of the gross receipts of the partnership practice in respect of the period from the date when he joined the partnership to the 5th July, 1948 (or the date when he retired or died).

(*d*) give on a separate statement :

(i) the full names and addresses of the partners (indicating separately those whose names were entered on any medical list on 5th July, 1948).

(ii) full particulars of any agreement in force immediately before the 5th July, 1948, whereby the practitioner was under any obligation or had any option to buy or sell the goodwill or any part of the goodwill of the partnership practice.

It is requested that a copy of the partnership agreement should accompany this form.

Notes.—1. In the case of a partnership it will be convenient if all partners who have suffered loss submit their claims for compensation together. If this is done only one copy of the partnership agreement need be submitted for all partners.

2. All information supplied in connection with this claim will be treated as *strictly confidential*. [2854]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Regulations, but is intended to indicate their general purport.*)

The regulations make provision for a medical practitioner whose name is included on the appointed day in the medical list of an Executive Council to claim compensation for the loss of the right to sell the goodwill of his practice. The regulations also prescribe the method of determining the loss of a practitioner and provide for the distribution of compensation to practitioners practising otherwise than in partnership. The determination of loss in the case of medical practitioners practising in partnership and the distribution of compensation to such practitioners has not been finally provided for in these regulations but left subject to further regulations or an amending Act of Parliament.

NATIONAL HEALTH SERVICE (GENERAL DENTAL SERVICES) FEES (AMENDMENT) REGULATIONS, 1948

S.I. 1948 *No.* 1507

June 30, 1948

General note.—These regulations amend S.I. 1948 No. 1297, *ante*.

The Minister of Health, in exercise of the powers conferred upon him by section 40 of the National Health Service Act, 1946, and of all other powers enabling him in that behalf hereby makes the following regulations :—

1. Title and commencement.—These regulations may be cited as the National Health Service (General Dental Services) Fees (Amendment) Regulations, 1948, and shall come into operation on the fifth day of July, 1948. [2855]

2. The National Health Service (General Dental Services) Fees Regulations, 1948, shall be amended as follows :—

(1) After regulation 5 there shall be inserted the following regulation—

" 5A. **Practitioners practising at a health centre.**—The remuneration payable by a Council to a dental practitioner practising at a health centre shall be calculated in accordance with the rates and subject to the provisions set out in the second schedule to these regulations.

(2) After the First Schedule there shall be inserted the following schedule—

" SECOND SCHEDULE

Remuneration of dental practitioners practising at a health centre

1. Rates applicable to whole-time employment at a health centre :—

Grade.	*Scale of Remuneration.*
I	Commencing at £1,400 per annum and rising by annual increments of £50 to £2,000 per annum.
II	Commencing at £900 per annum and rising by annual increments of £35 and a final increment of £5 to £1,500 per annum.
III	Commencing at £650 per annum and rising by annual increments of £25 to £900 per annum.

2. Rates applicable to part-time employment at a health centre :—

In respect of one half or three-quarter time employment, one half or three-quarters, as the case may be, of the rates specified for whole-time employment or such other proportion as may be appropriate to the amount of the employment.

3. Rates of sessional remuneration :—

Grade.	*Fee per session of 3 hours.*
I	£4 4*s.* 0*d.*
II and III	£3 3*s.* 0*d.*

4. In determining the appropriate rate of remuneration payable to a dental practitioner under the preceding paragraphs of this schedule the following provisions shall apply :—

(1) Subject to the provisions of the next succeeding sub-paragraph a practitioner shall be appointed in Grade III.

(2) A Council, if they are satisfied that the qualifications experience and capacity of a practitioner justify his appointment in a higher Grade than Grade III, may, after consultation with the Local Dental Committee and subject to the approval of the Minister, appoint the practitioner in Grade I or Grade II.

(3) Payment of the annual increments for which provision is made in paragraphs 1 and 2 of this schedule shall be conditional on the satisfactory service of the practitioner concerned.

(4) A practitioner who is regularly employed for six or more sessions a week shall be deemed to be employed whole-time or part-time, as the case may be, and be remunerated accordingly. [2856]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

The regulations amend the National Health Service (General Dental Services) Fees Regulations 1948 *by adding provisions for the remuneration of dental practitioners practising at health centres.*

NATIONAL HEALTH SERVICE (DESIGNATION OF TEACHING HOSPITALS—CAMBRIDGE HOSPITALS) ORDER, 1948

S.I. 1948 *No.* 1579

July 6, 1948

General note.—This order amends S.I. 1948 No. 656, *ante*. As to other designations of hospitals as teaching hospitals, see S.I. 1948 No. 979, *ante*, and S.I. 1948 No. 1920, *post*.

Whereas by the National Health Service (Designation of Teaching Hospitals) (No. 1) Order, 1948, a group of hospitals, consisting of Addenbrooke's Hospital, Cambridge (including Addenbrooke's Home of Recovery and Charlotte Rebecca Waley Home of Rest for Nurses, Hunstanton) the County Hospital, Cambridge and the Cambridge Borough Isolation Hospital, was designated as a teaching hospital to be known by the name of The United Cambridge Hospitals ;

And Whereas by the National Health Service (Constitution of Boards of Governors of Teaching Hospitals) (No. 1) Order, 1948, made on the 5th day of June, 1948, by the Minister of Health under section 11 (8) of the National Health Service Act, 1946, a Board of Governors was constituted for the administration of the said group of hospitals ;

And Whereas the Chesterton Hospital in the Borough of Cambridge was immediately before the 5th July, 1948, a workhouse to which the provision of paragraph 8 of the 6th Schedule to the National Assistance Act, 1948, applied, and consequently the Hospital is now vested in the Minister as a hospital under the National Health Service Act, 1946 ;

And Whereas the East Anglian Regional Hospital Board have in pursuance of the provisions of the said paragraph 8 made arrangements with the County Council of Cambridge, being the authority by which the Institution was provided, whereby accommodation therein is made available for the purposes of section 17 and section 21 of the National Assistance Act, 1948 ;

And Whereas the Minister has consulted the University of Cambridge and is of opinion that the Hospital should be included in the said group of hospitals known as The United Cambridge Hospitals and designated as aforesaid :

Now therefore the Minister of Health in pursuance of his powers under section 11 of the National Health Service Act, 1946, and paragraph 8 of the 6th Schedule to the National Assistance Act, 1948, hereby orders as follows :—

1.—(1) This order may be cited as the National Health Service (Designation of Teaching Hospitals—Cambridge Hospitals) Order, 1948, and shall come into operation on the 6th day of July, 1948.

(2) The Interpretation Act, 1889, shall apply to the interpretation of this order as it applies to the interpretation of an Act of Parliament. [2857]

2. The Chesterton Hospital shall be included in the group of hospitals designated as a teaching hospital and known as The United Cambridge Hospitals. [2858]

3. There shall be transferred to the Board of Governors of the United Cambridge Hospitals all officers who immediately before the 5th day of July, 1948, were employed at or for the purposes of the said Hospital and were transferred on that day to the East Anglian Regional Hospital Board by regulation 4 of the National Health Service (Transfer of Officers and Compensation) Regulations, 1948. [2859]

4. Any arrangements entered into between the East Anglian Regional Hospital Board and the Cambridge County Council under paragraph 8 of the 6th Schedule in the National Assistance Act, 1948, whereby accommodation and facilities in relation thereto in the said Hospital are made available for the purposes of section 17 or section 21 of that Act shall have effect as if the said Board of Governors were substituted for the said Regional Hospital Board as a party thereto, and the amount of any payments to be made in respect of such accommodation and facilities shall, unless it has been determined before the date of this order, be agreed between the County Council and the said Board of Governors or, in default of agreement, shall, subject to the provisions of the said paragraph 8, be determined by the Minister of Health. [2860]

5. The payments referred to in article 4 of this order shall be made to the said Board of Governors. [2861]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order provides for the inclusion of the Chesterton Hospital, Cambridge, in the group of Cambridge hospitals which has been constituted a teaching hospital. The hospital has been a poor law institution and arrangements have been made between the East Anglian Regional Hospital Board and the County Council under the National Assistance Act, 1948, for the provision of some accommodation in the hospital for the purposes of that Act. The Order accordingly provides for the transfer of rights and liabilities under those arrangements from the Regional Hospital Board to the Board of Governors of the teaching hospital. It also provides for the transfer of the hospital staff to the Board of Governors.

NATIONAL HEALTH SERVICE (DESIGNATION OF TEACHING HOSPITALS—THE BETHLEM ROYAL HOSPITAL AND THE MAUDSLEY HOSPITAL) ORDER, 1948

S.I. 1948 *No.* 1920

August 17, 1948

General note.—This order amends S.I. 1948 No. 979, *ante*. As to other designations of hospitals as teaching hospitals, see S.I. 1948 Nos. 650 and 1579, *ante*.

Whereas by the National Health Service (Designation of Teaching Hospitals (No. 2)) Order, 1948, two hospitals therein respectively described as The Bethlem Royal Hospital for Nervous and Mental Disorders, Beckenham, and The Maudsley Hospital S.E.5 were together designated as a teaching hospital by the name of The Bethlem and Maudsley Hospitals;

And Whereas since the date of the said order His Majesty the King has approved as the name of the said teaching hospital the name "The Bethlem Royal Hospital and The Maudsley Hospital:"

Now therefore the Minister of Health, in exercise of his powers under sections 11 and 75 of the National Health Service Act, 1946, and after consultation with the University of London, hereby orders as follows:—

1. This order may be cited as the National Health Service (Designation of Teaching Hospitals—The Bethlem Royal Hospital and The Maudsley Hospital) Order, 1948, and shall come into operation on the date hereof. [2862]

2. The said teaching hospital shall be known as The Bethlem Royal Hospital and The Maudsley Hospital and accordingly in column (1) of the schedule to the National Health Service (Designation of Teaching Hospitals (No. 2)) Order, 1948, there shall be substituted for the words "The Bethlem and Maudsley Hospitals" the words "The Bethlem Royal Hospital and The Maudsley Hospital." [2863]

* * * * *

Circular 169/47

To: *County Councils.*
County Borough Councils.
Borough Councils.
Urban District Councils.
Rural District Councils.
Joint Hospital Boards.
Joint Mental Hospital Boards.
Joint Sanatorium Boards.
Mental Hospital Visiting Committees.
Managers of Certified Institutions.
Superintendents of Mental Hospitals, and Mental Deficiency Institutions (England and Wales).
Registered Hospitals.
Voluntary Hospitals.

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.
15*th December*, 1947.

SIR,

NATIONAL HEALTH SERVICE ACT, 1946

Renewal of Hospital Contracts

1. I am directed by the Minister of Health to say that he understands that authorities administering hospitals liable to transfer under the Act are in some uncertainty as to the proper course of action to be followed in relation to the renewal of contracts for supplies and other services due to expire before

the appointed day. As hospital authorities will be aware, it is contemplated that the appointed day for the purpose of transfer will be 5th July, 1948; and doubt may exist whether contracts expiring before that date should be renewed, and if so for what period.

2. The first consideration must be to ensure that there is no interruption in the provision of the services of transferred hospitals through lack of essential supplies, etc., and the Minister is confident that hospital authorities will have this in mind. Rights and liabilities in connection with any contracts entered into for the purpose of supplying or maintaining a hospital, and operative on the appointed day, will be transferred to the Minister with the hospital itself; and in general it will be for the Boards of Governors of teaching hospitals, and for Hospital Management Committees—with whom responsibility will lie for the control and management of the hospitals—to take them over and continue them until such time as they may decide to make other arrangements. Accordingly hospital authorities are requested to renew contracts due to expire before the appointed day on the basis and for the period which would have been adopted if no transfer under the Act was impending.

3. Separate proposals have already been made to local authorities in Circular 134/47 of 8th August on the question of arrangements with Regional Hospital Boards for the continuance for a transitional period of the provision by these authorities of centralised services on an agency basis. Future contracts in connection with the centralised services will no doubt be covered by those arrangements but pending agreement with the Boards the principle of this circular should be applied to all services, whether centralised or not. [2864]

I am, Sir, etc.

* * * * *

Circular 3/48

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.
14th January, 1948.

To County Councils and County Borough Councils (England). } For action

All other Local Authorities (England). } For information

SIR,

NATIONAL HEALTH SERVICE ACT, 1946

Health Centres

1. The Minister asks me to refer to Section 21 of the above Act, and to the question of Health Centres.

2. The Minister regards the provision of Health Centres as likely, when properly designed and conducted, to prove a key feature in the general reconstruction of the country's health services.

3. It is very clear that the building situation makes it impossible to undertake, for some time to come, any general programme of their provision. The alternative, of conversion of existing buildings, is not only restricted by lack of available and suitable accommodation in the right places but—more important—involves a real risk that second-rate production may prejudice the attractiveness of the whole Health Centre conception. Health Centre development is essentially something which, if it is to be done at all, must be done well. It is imperative that it should not be badly started.

4. Apart from this major difficulty—of new provision in the near future—there is another vital consideration to keep in mind. The Health Centre idea cuts new ground. Possibilities, in type and function, are diverse. While some material has already been gained from limited experience elsewhere,

there is need for more intense expert scrutiny of the likely lines of first experiments. Such a task falls naturally to a special committee or working party associated with the main central advisory machinery of the new Act. The Minister proposes, as soon as the Central Health Services Council is in being, to set up such a committee in collaboration with it and to charge this committee with the task of gathering all useful existing information and formulating expert guidance on the best kinds and purposes of Health Centres at which development should aim.

5. For both reasons, then—the sheer practical impossibility of a new building programme and the need for intensive research and thought about design before the new development is launched—the Minister does not expect Local Health Authorities normally to submit any proposals to him yet for the immediate provision of Health Centres. The date previously specified by him under Section 20 (in Circular 105/47) has already been cancelled. He will, at the appropriate time, specify another date for this purpose, in the light of what has been said above.

6. This is not meant entirely to rule out of consideration proposals which, despite the building stringency, the Local Health Authority, after consultation with the Executive Council and other interests concerned, regard as particularly urgent, or conversions which they may find to be both practicable and attractive without the need for delay.

7. Nor is it meant to exclude proposals relating to dispensaries, etc., at which facilities obviously suitable in a health centre are already provided—such as the general practitioner services of certain medical aid societies and similar bodies, or dental clinics for the adult population—the future of which must be determined before the appointed day. In many such cases it may well be sensible for the Authority to seek to acquire such premises by agreement if they are reasonably satisfactory for the purpose, or can be made so by adaptation, and the Minister will consider proposals to that end. When such premises are to be so continued, it will be for the local Executive Council (no doubt, in close consultation with the Authority) to offer any medical or dental practitioners in them the opportunity of continuing to work there on the new basis of Part IV of the Act. Local Health Authorities will remember that the Act precludes them from themselves engaging such practitioners for the purpose of general medical or dental services under the Act.

8. A copy of this circular is enclosed for the Financial Officer and a copy has also been sent direct to the Medical Officer of Health. Further copies can be purchased through any bookseller or directly from His Majesty's Stationery Office. [2865]

I am, Sir, etc.

* * * * *

The Clerk of the Council.
The Town Clerk.

Circular 42/48

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.
1st April, 1948.

To all Local Authorities (England).

SIR,

NATIONAL HEALTH SERVICE ACT, 1946

National Health Service (Transfer of Local Authority Functions) Regulations, 1948

1. I am directed by the Minister of Health to enclose for your information a copy of the National Health Service (Transfer of Local Authority Functions)

Regulations, 1948, made by the Minister under the powers conferred by Section 69 of the National Health Service Act. The Regulations include provision for the transfer to Local Health Authorities of property and liabilities held by Local Authorities for the purpose of functions transferred to Local Health Authorities by virtue of the Act; for the making of adjustments in respect of such property and liabilities; and for certain other matters consequential on the transfer of functions.

2. The general effect of the Regulations is that on the 5th July, 1948, property held by a non-county borough or district council (including the Common Council of the City of London and a metropolitan borough council) solely for the purposes of functions which will on that date be transferred from that council to a Local Health Authority will be transferred to the Local Health Authority. There will be a similar transfer of liabilities incurred by the council for the purposes of transferred functions. Provision is made (Regulation 4) whereby the Minister may, on a representation by either party that it is inexpedient that any particular property or liability should be transferred, make an order excluding that property or liability from transfer.

3. Where a property is held, or a liability has been incurred, partly for the purposes of transferred functions, the Local Health Authority and the council concerned are enabled to make an agreement for adjusting the property or liability (Regulation 5 (1)). In default of agreement the adjustment will be made by the Minister (Regulation 5 (2)).

4. County Councils will no doubt have acted on the advice given in paragraph 29 of Circular 66/47 and will have ascertained what property is held by local authorities in their respective counties for the purpose of transferred functions. In order that so far as possible the position in regard to property should be established before the transfer of functions on 5th July next, it is suggested that County Councils should, as the next step, seek by agreement with the authorities concerned to identify—

(i) the property which is held solely for the purposes of transferred functions, and which will consequently be transferred on that date, subject to the decision on any representation made under Regulation 4; and

(ii) any property which is partly held for the purpose of such functions and which it is considered should form the subject of a formal agreement under Regulation 5.

It would be convenient at the same time to deal with the corresponding questions concerning liabilities.

5. There are unlikely to be many instances in which the transfer of property held solely, or a liability incurred solely, for the purposes of a transferred function would be inexpedient. A local authority desiring to make a representation under Regulation 4 should first seek to secure the agreement of the other authority concerned both as to the making of a representation and as to the conditions, if any, which the two authorities might jointly recommend the Minister to impose if he sees fit to accede to the representation. It will be noted that any representation under this Regulation must be made not later than six weeks before 5th July next. A copy of any such representation should be sent to the other authority concerned at the time it is made, and the Minister should be informed that this has been done. This will enable the other authority to submit any observations they may wish the Minister to take into consideration in connection with the representation without awaiting a request for observations; at the same time a copy of such observations should be sent to the authority making the representation. A similar procedure should be followed in referring any question to the Minister under Regulation 5 (2) or 9.

6. In a case where the disposition of any property has not been determined by 5th July next—whether by reason of its being the subject of a representation under Regulation 4 or because agreement has not been concluded under Regulation 5, or because of some other outstanding question—the local authorities concerned should agree, without prejudice to the decision of the question in issue, to such interim arrangements being made in regard to the property as may be requisite to ensure the continuity and efficiency of the service. Similarly where property held for the purpose of a function not transferred under the Act is being used temporarily for the purposes of a transferred function, the two authorities should agree arrangements whereby the County Council may have the use of the property for the time being, where this is necessary in the interests of the service.

Requisitioned Property

7. Where a property held on requisition is used for the purpose of a transferred function, the authority by whom the property is held should transfer to the Local Health Authority the records relating to the property, and County Councils are hereby authorised to use such property for the same purposes as those for which use had previously been authorised. A County Council should, on taking the place of another authority as the body using requisitioned premises, inform the owner that they will now be responsible for payment of compensation and for general administration on the Minister's behalf and should also send details of the properties concerned to the Regional Office of the Ministry.

8. A copy of this Circular is enclosed for the Financial Officer of the Council, and a copy has been sent direct to the Medical Officer of Health.

9. Further copies of this Circular and of the Regulations can be purchased from H.M. Stationery Office at any of the addresses shown below, or through any bookseller. [2866]

I am, Sir, etc.

* * * * *

The Clerk of the County Council.
The Town Clerk.
The Clerk to the Urban or Rural District Council.

Circular 62/48

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.
5th May, 1948.

To Local Health Authorities.

SIR,

NATIONAL HEALTH SERVICE ACT, 1946—SECTION 26

Records and Returns regarding Diphtheria Immunisation and Vaccination

1. I am directed by the Minister of Health to furnish the following information, in accordance with paragraph 9 of Circular 66/47 dated 3rd April, 1947, about the forms of record which he would wish Local Health Authorities to use after the appointed day (5th July, 1948) regarding diphtheria immunisation and vaccination, and about the returns that Authorities will be asked to send to the Department.

Record Cards

2. The standard record card for Diphtheria Immunisation will be similar to that already in general use and is shown in Appendix A to this Circular. The record card for Vaccination, which is now being introduced for the first time, is shown in Appendix B.

3. It will rest with each Local Health Authority to print its own record cards, and to supply them as required to medical officers and general practitioners taking part in its arrangements under Section 26 of the Act. The receipt of completed record cards from general practitioners will be the basis for the Authority's arrangements in paying the appropriate fees (which will be the subject of a later circular).

Returns

4. For Diphtheria Immunisation there will be, as at present, two forms of return—one to be made every six months as soon as possible after 30th June and 31st December respectively, and the other, an annual return, to be made about the month of May in respect of the preceding calendar year.

As regards the annual return for the year ending 31st December, 1948, it will be necessary for *County* Councils to obtain the required information relating to the first half of the year, before they assumed responsibility as Local Health Authorities, from the local authorities concerned.

5. For Vaccination there will be only one form of return, to be made annually as at 31st December each year.

The *first* of these returns, however, which will be asked for as at 31st December, 1948, will cover only the period of six months from July to December of this year.

6. The particulars that Authorities will be asked to give in the three returns mentioned in paragraphs 4 and 5 are described in Appendix C. The forms for them will be sent by the Ministry to each Authority as the time comes for making the particular return concerned.

Special Reports

7. The Minister wishes to receive from Medical Officers of Health of Local Health Authorities reports about individual *immunised* children who die from diphtheria. These reports should be sent in *with the annual return* about diphtheria immunisation, in respect of children who have died during the year covered by the return. The particulars to be given in such reports, as at present, are indicated in Appendix D.

8. The Minister also wishes to receive from Medical Officers of Health of Local Health Authorities reports about individual vaccinations in association with which any of the following occur or are alleged to have occurred :—

(*a*) Generalised vaccinia.
(*b*) Post-vaccinal encephalomyelitis.
(*c*) Death from complications of vaccination other than (*a*) and (*b*).

The particulars to be given in such reports are indicated in Appendix E.

These reports should be severally sent to the Ministry *at the time the case concerned occurs ;* they should *not* be held over (as with the reports mentioned in paragraph 7) until the annual return is made.

9. A copy of this Circular is being sent to the Medical Officer of Health.

I am, Sir, etc.

* * * * *

The Clerk of the Authority.

APPENDIX A

DIPHTHERIA IMMUNISATION RECORD CARD

[Size 8 ins. by 5 ins.]

NATIONAL HEALTH SERVICE ACT, 1946 **RECORD OF DIPHTHERIA IMMUNISATION**	(For printing name of Local Health Authority)	For use by L.H.A.

PARTICULARS OF CHILD IMMUNISED

Surname	Christian Name(s)	Sex	Date of Birth *Day* *Month* *Year*

Address	Immunisation done at

PARTICULARS OF IMMUNISATION

Date of Injection	Antigen Used			Site
	Maker	Serial No.	Dose	
1				
2				
3				

When completed this card should be sent to

(to be printed as required)

Signature of Doctor .....

Address .....

BACK OF CARD to be left blank for medical notes and for use by L.H.A.

APPENDIX B

[Size 8 ins. by 5 ins.]

VACCINATION RECORD CARD

NATIONAL HEALTH SERVICE ACT, 1946 **RECORD OF VACCINATION** **OR RE-VACCINATION**	(For printing name of Local Health Authority)	For use by L.H.A.

PARTICULARS OF PERSON VACCINATED

Surname	Christian Name(s)	Sex* M. / F.	Date of Birth Day Month Year

Address	Vaccination done at	Primary Vaccination *
		Re-vaccination *

NOTES

* Put X in appropriate space.

† This type of local reaction is sometimes described as "Reaction of immunity".

‡ If on first attempt at vaccination or re-vaccination no local reaction is obtained on 3rd day or later this should not be regarded as indicating complete immunity or insusceptibility, and at least one further attempt should be made with a fresh lymph.

—See Also Overleaf—

When completed this card should be sent to

(to be printed as required)

Particulars of Vaccination

		1st Day Month Year	2nd Day Month Year
Date of Vaccination			
Batch Number of Lymph			
Date of Inspection			
RESULT OF INSPECTION	Typical Primary Vaccinia—7th-10th day	*	*
	Accelerated (Vaccinoid) Reaction—5th-7th day	*	*
	†Maximum Local Reaction—2nd-3rd day	*	*
	‡No Local Reaction	*	*

Signature of Doctor .....

Address .....

BACK OF CARD—provide space for (*a*) "NOTE OF ANY UNUSUAL LOCAL OR GENERAL REACTION OR OTHER SEQUELAE TO VACCINATION".

(*b*) Use by L.H.A.

APPENDIX C

Note of Particulars which will be asked for in Returns

DIPHTHERIA IMMUNISATION

A. Half-yearly Return (as at 30th June and 31st December)

Number of children who completed a full course of immunisation in the Local Health Authority's area during the six months to which the return relates, shown in two age groups (0–4 years and 5–14 years) according to age at date of final injection.

B. Annual Return (as at 31st December)

(*a*) Number of children who had completed a full course of immunisation *at any time* up to the 31st December to which the return relates, shown in the following age groups—Under 1, 1, 2, 3, 4, 5 to 9, 10 to 14.

(*b*) Estimated mid-year population of children in two age groups 0–4 and 5–14.

[The purpose of this part of the return is to show the proportion of the child population in an immunised state at the end of each year.]

(*c*) Number of cases of diphtheria *notified* during year in age groups as under (*a*) above; and the number of these cases in which the child was immunised.

(*d*) As in (*c*), but in relation to *deaths* from diphtheria.

NOTE.—This return will be asked for in the month of May following the end of the calendar year to which it relates, by which time account can be taken, as regards (*c*) and (*d*) above, of the number of notifications as corrected and of the number of death registrations "transferred" by the General Register Office in respect of the calendar year concerned. Particulars of these corrections and transfers are communicated by the General Register Office to Borough and District Medical Officers of Health.

VACCINATION

Annual Return (as at 31st December)

(*a*) Number of persons primarily vaccinated during year shown in age groups—Under 1 year, 1 to 4 years, 5 to 14 years and 15 years or over.

(*b*) Ditto as regards persons re-vaccinated.

(*c*) Numerical totals (in age groups as above) of cases specially reported during year because of actual or alleged complications of vaccination as referred to in (*a*), (*b*) and (*c*) of paragraph 8 of this Circular.

APPENDIX D

Report on immunised child who dies from diphtheria (see paragraph 7 of Circular).

The particulars to be included in the report are as follows :—

(*a*) Name, age and sex of child.

(*b*) Dates of (i) onset of diphtheria; (ii) case first seen by doctor; (iii) administration of anti-toxin; (iv) death.

(*c*) Clinical Type and Bacteriological Type.

(*d*) Date on which primary immunisation was completed (*i.e.* by administration of not fewer than 2 doses of A.P.T. or 3 doses of T.A.F. or their accepted equivalents).

(*e*) Prophylactic used; Maker's name; Serial No.; Dosages.

(*f*) Date and result of post-Schick test (if any).

(*g*) Date of any secondary or re-inforcing injection (subsequent to primary immunisation).

(*h*) Any other information, *e.g.* post-mortem findings., Coroner's verdict, etc.

APPENDIX E

Report on vaccination in association with which there occurs or is alleged to have occurred generalised vaccinia, etc. (see paragraph 8 of Circular).

The particulars to be included in the report are as follows :—

(*a*) Name, age and sex of person.
(*b*) Date and place of vaccination.
(*c*) Particulars of doctor who performed the vaccination.
(*d*) Batch Number of vaccine lymph used.
(*e*) (i) Number of insertions ; (ii) Site of insertions ; (iii) Method of insertion (*i.e.* scratch, multiple pressure, etc.).
(*f*) Whether primary vaccination. (If not, previous vaccinal history to be stated.)
(*g*) Any special reason for vaccination (*e.g.* prevalence of smallpox).
(*h*) Local reaction to vaccination (*i.e.* maximum at 2nd/3rd day, accelerated (vaccinoid) reaction, or typical vaccinia).
(*i*) Any complication of local reaction (*i.e.* local sepsis, secondary vesiculation).
(*k*) Details of general reaction to vaccination (*i.e.* generalised vaccinia, encephalomyelitis, etc.)—(1) Date of onset ; (2) Clinical Notes.
(*l*) If fatal—(i) date of death ; (ii) place of death ; (iii) if inquest held.
(*m*) If post-mortem—(i) Brief note of findings (including special histology of C.N.S.) ; (ii) Name of pathologist. [2867]

Circular 100/48

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.
18th June, 1948.

To County Councils and
County Borough Councils (England).

SIR,

NATIONAL HEALTH SERVICE ACT, 1946—PART III

Recovery of charges under Sections 22 (2), 28 (2) *and* 29 (2)

1. In view of the information supplied by some Local Health Authorities with their proposals under Sections 22, 28 and 29 of the Act, I am directed by the Minister of Health to make the following observations in amplification of what was said in paragraphs 10, 50 and 60 of Circular 118/47 (dated 10th July, 1947) about the recovery of charges for articles or services provided under these Sections.

2. It was agreed in Parliament during the discussion of these provisions that it would be unreasonable that persons able to pay the whole or part of the cost of these articles or services should not be asked to do so. The points were also made that persons availing themselves of the services would be entitled to know, in advance, what charges they are likely to be called upon to pay ; and that the charge ought not to vary from day to day or as between one beneficiary and another, though the extent of recovery must be determined according to ability to pay.

3. It was because of the desirability in a National Health Service that there should be reasonable uniformity of practice that the County Councils Association and the Association of Municipal Corporations set out, in consultation with the London County Council, to frame recommendations for the guidance of their constituents. It is understood that these recommendations are being circulated by the Associations.

4. Tariffs of Charges.

In the light of the Associations' recommendations and of the approval given below, the Authority will be able to settle tariffs specifying the articles and services for the supply or loan of which it is proposed to charge, and the standard charges it is proposed to make for them. Copies of these tariffs should be sent to the Ministry in due course for purposes of record.

5. Articles and services for which the Minister approves the making of charges.

The Minister hereby approves the making of charges for the following articles and services on the basis indicated :

(1) **Under Section 22 (2) :** All articles provided under Section 22, including meals supplied and equipment lent for use in day nurseries, mother and baby homes, etc., except—

(*a*) welfare foods as defined in the Welfare Foods Order which may from time to time be supplied by the Ministry of Food for distribution by the Authority ;
(*b*) maternity outfits for expectant mothers and dressings required during the lying-in period ;
(*c*) special cots for premature babies ;
(*d*) medicaments ; and
(*e*) dentures, eyeglasses and similar appliances, not being replacements necessitated by lack of care on the part of the person concerned,

on the basis that the standard charge shall not exceed the actual cost to the Authority plus an addition of not more than 10 per cent. for handling expenses.

(2) **Under Section 28 (2) :** All articles of extra nourishment or clothing, all garden shelters, beds, bedding, nursing requisites and sick-room equipment (including that provided for the use of patients being nursed at home under Section 25) supplied or lent under the Authority's care and after-care service,

on the basis that the standard charge shall not exceed the actual cost (taking into account, in the case of articles supplied on loan, their normal useful life) plus an addition of not more than 10 per cent. for handling expenses.

(3) **Under Section 29 (2) :** All services provided under the Authority's approved domestic help proposals,

on the basis that the standard charge per hour or per day shall not exceed the actual cost—including wages, insurances, allowances for travelling time, retaining fees (if paid) and organisational and clerical expenses—to the Authority.

6. Assessment of ability to pay.—It is for the Local Health Authority to determine in each individual case whether any, and if so what, charge—within the limits of the standard charge specified in the tariff—would be reasonable, having regard to the means of the person concerned. It is assumed that the Authority will tell a person seeking the benefit of any of these services what the standard charge for it is, and that only if he says that this is more than he can afford will the Authority seek information about his means with a view to assessing what smaller sum—if any—he can pay. It is understood that the document which the Associations of Local Authorities are circulating recommends a basis of assessment, and, in view of the obvious desirability of a reasonable degree of uniformity of practice among Authorities, the Minister hopes that each Authority will give these recommendations careful consideration. But this is a matter within the Authority's discretion, and their decision on it is not subject to the Minister's approval.

7. A copy of this Circular is enclosed for the use of the Financial Officer of the Authority and a copy has been sent direct to the Medical Officer of Health. Further copies may be purchased through any bookseller or directly from His Majesty's Stationery Office. [2868]

I am, Sir, etc.

* * * * *

The Clerk of the Council.
The Town Clerk.

PERSONS OF UNSOUND MIND

PAGE

STATUTES :—
Criminal Justice Act, 1948, s. 24—*See title* SUMMARY PROCEEDINGS
ORDERS, CIRCULARS AND MEMORANDA :—
National Health Service (Superintendents of Mental Hospitals, etc.) Regulations, 1948—*See title* NATIONAL HEALTH SERVICE
Mental Deficiency Regulations, 1948 1022
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Mental Treatment (Adaptation of Forms) Rules, 1948 – – – 1111
Summary Jurisdiction (Mental Deficiency) Rules, 1948 – – 1114

ORDERS, CIRCULARS AND MEMORANDA

MENTAL DEFICIENCY REGULATIONS, 1948

S.I. 1948 *No.* 1000

May 10, 1948

General Note.—Reg. 29 was amended, as from December 27, 1948, by the Mental Deficiency (Amendment) Regulations 1948 (S.I. 1948 No. 2553).

The Minister of Health, in exercise of his powers under sections 10, 16, 18, 20, 25, 30, 40, 41, 49, 50, 51 and 59 of the Mental Deficiency Act, 1913, and of all other powers enabling him in that behalf, and as regards regulations 8 and 107 with the concurrence of the Lord Chancellor, hereby makes the following regulations :—

PART I

GENERAL

1. Short title and commencement.—These regulations may be cited as the Mental Deficiency Regulations, 1948, and shall come into operation on the fifth day of July, 1948. [2869]

2. Division of regulations into parts.—These regulations are divided into thirteen parts, namely :—

Part I.—General.
Part II.—Duties of Local Health Authority.
Part III.—Procedure on Petitions.
Part IV.—The Grant, Renewal, Revocation and Surrender of Certificates for Institutions and Houses for Defectives and of Approvals of Homes for Defectives.
Part V.—General Provisions as to Management of Institutions and Certified Houses.
Part VI.—Special Provisions as to Management of Certified Institutions.
Part VII.—Special Provisions as to Management of Certified Houses.
Part VIII.—Inspection of Institutions and Certified Houses and visitation of Patients therein.
Part IX.—Guardianship.

Part X.—Transfer of Patients from one Institution to another.
Part XI.—Transfer of Patient under Guardianship to an Institution or Certified House or to another Guardian or from an Institution or Certified House to Guardianship.
Part XII.—Absence of Patients from Institutions and Certified Houses.
Part XIII.—Miscellaneous. [2870]

3. Interpretation.—(1) In these regulations, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them :—

" the Act " means the Mental Deficiency Act, 1913, as amended by the National Health Service Act, 1946 ;

" the Acts " means the Mental Deficiency Acts, 1913 to 1938, as amended by the National Health Service Act, 1946 ;

" the Minister " means the Minister of Health ;

" the Board " means the Board of Control ;

" Commissioner " includes a Senior Commissioner and a Commissioner other than a Senior Commissioner ;

" Inspector " means an Inspector of the Board ;

" Visitors " means visitors of institutions for defectives ;

" institution " and " certified institution " have the meanings assigned to them by subsection (1) of section 71 of the Act ;

" state institution " means an institution vested in the Minister and designated by him for the reception of defectives of violent or dangerous propensities ;

" committee of management " means :—

(*a*) in relation to an institution vested in the Minister, the hospital management committee appointed under section 11 of the National Health Service Act, 1946, and includes any sub-committee of such a hospital management committee to which any of the functions required by these regulations to be performed by a committee of management may have been delegated ;

(*b*) in relation to a certified institution, the committee of management appointed in accordance with Regulation 50 of these regulations to manage the institution ;

" private patient " means a patient maintained wholly or partly at the expense of some person other than the Minister or a local health authority ;

" health service patient " means a patient other than a private patient ;

" superintendent " in relation to a certified house or an approved home means the owner or other person residing in the house or home and having charge of the patients therein ;

" medical practitioner " means a registered medical practitioner ;

" responsible local health authority " means the local health authority, as defined in section 19 of the National Health Service Act, 1946, responsible for carrying out, in relation to defectives resident in their area, the duties imposed upon local health authorities by the Acts ;

(2) The Interpretation Act, 1889 applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [2871]

4. Penalties.—Except as otherwise provided in these regulations the maximum penalty to which a person who is guilty of a breach of any provision of these regulations shall be liable shall be a fine of £5. [2872]

5. Consents and licences.—Where under these regulations a consent or licence is required to be given in relation to any patient by the petitioner or person who placed the patient in an institution or under guardianship or the parent or guardian of the patient, then if the petitioner or other person is dead, or abroad, or cannot be found or is incapable of validly giving the consent or licence, the consent or licence may be given by the person who made the last payment on account of the patient's maintenance. [2873]

6. Records and notices.—Where under any provision of these regulations the duty of making entries in records or of sending notices is imposed on the superintendent, such duty may be performed by some other person duly authorised by him in that behalf. [2874]

7. Forms.—The forms set out in the Schedule to these regulations or forms substantially to the like effect shall be used in all cases to which those forms are applicable. [2875]

8. Revocation of existing regulations.—The following regulations are hereby revoked, the Mental Deficiency Regulations, 1935, the Mental Deficiency (Amendment) Regulations, 1940, the Mental Deficiency (Amendment) Regulations, 1944, and the National Health Service (Mental Deficiency) Amendment Regulations, 1947. [2876]

PART II

DUTIES OF LOCAL HEALTH AUTHORITY

9. Ascertainment of defectives.—For the purpose of ascertaining whether a person is a defective subject to be dealt with under the Acts, otherwise than under paragraph (a) of subsection (1) of section 2 of the Act, the local health authority shall have regard to his mental condition, behaviour and circumstances. [2877]

10. Agencies for carrying out ascertainment and supervision.—(1) The local health authority shall perform their duties under paragraphs (a), (b) and (cc) of section 30 of the Act by means of either :—

(*a*) officers specially trained for the purpose ; or

(*b*) members or officers of such societies for assisting or supervising defectives as are approved by the local health authority for the purpose ; or

(*c*) such other trained persons as are approved by the local health authority for the purpose.

The power of approving societies or persons under this paragraph shall be subject to the provisions of any proposals approved by the Minister under section 20 of the National Health Service Act, 1946, and to such conditions, if any, as the Minister may prescribe.

(2) Every officer or other person employed by or acting on behalf of the local health authority in connection with any of the above-mentioned duties shall be furnished by the local health authority with evidence of his authority to act and shall, when required, produce that evidence. [2878]

11. Conveyance to institution and provision of attendants.—(1) Where a defective is ordered to be sent to an institution the local health authority for the area in which he resided shall provide for his conveyance to the institution and for his care and protection during removal.

(2) In the case of the removal of a female defective at least one attendant shall be a woman. [2879]

12. Reports.—The local health authority shall, not later than the thirtieth day of June in every year, make a report to the Minister for the year ending on the thirty-first day of December preceding, on the performance of their duties under the Acts. [2880]

PART III

PROCEDURE ON PETITIONS

13. Presentation of petition.—No person shall present a petition, unless he is at least 21 years of age and has, within 28 days before the presentation of the petition, personally seen the alleged defective. [2881]

14. Recommendation of person as guardian.—The local health authority shall not, without the consent of the Board, recommend to a judicial authority as a person suitable to undertake the duties of guardianship any person who already has charge of three defectives or of a person received under the Lunacy and Mental Treatment Acts, 1890 to 1930. [2882]

15. Dismissal of petition.—(1) If a petition is dismissed, the judicial authority shall deliver to the petitioner a statement in writing of his reasons for dismissing the petition.

(2) If the petition was presented on behalf of a local health authority, they shall send a copy of such statement to the Board, but in all other cases a copy of the statement shall be sent to the Board by the judicial authority. [2883]

16. Presentation of further petition.—If, after a petition has been dismissed, another petition is presented with respect to the same person, the petitioner shall, if he has knowledge of the previous petition, obtain from the Board, and present with his petition, a copy of the statement referred to in the last preceding Regulation. [2884]

17. Information to be furnished by judicial authority.—Any judicial authority making or refusing to make an order, shall give to the Board such information, if any, as they may require in regard to the circumstances in which the order was made or refused. [2885]

18. Medical certificates and statutory declarations.—(1) Every medical certificate accompanying a petition shall state the facts upon which the signatory has formed his opinion that the alleged defective is a defective within the meaning of section 1 of the Act, distinguishing facts observed by himself from facts communicated by others, and an order shall not be made upon a certificate which is not founded wholly or in part upon facts observed by the signatory.

(2) An order shall not be made unless each medical practitioner who signs a certificate has personally examined the alleged defective not more than 21 clear days before the date of the presentation of the petition.

(3) Neither of the persons signing a certificate shall be the petitioner, or the husband or wife, father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, partner, or assistant of the petitioner or the other signatory.

(4) An order shall not be made sending any defective to an institution or certified house or placing him under guardianship in any case in which a certificate or statutory declaration accompanying the petition was signed by any of the following persons :—

(*a*) the managers of any certified institution or the owner of any certified house, as the case may be, to which it is proposed to send the defective, or the person proposed to be appointed guardian ;

(*b*) any person interested in payments on account of the defective's maintenance ;

(*c*) the superintendent or any medical officer of any certified institution or certified house to which it is proposed to send the defective ;

(*d*) the husband or wife, father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, partner, or assistant of the foregoing persons.

(5) Where the person who joins with the petitioner in making the statutory declaration is not one of the persons who gave a medical certificate he or she shall not be the husband or wife, father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, partner or assistant of the petitioner or of either of the persons who gave the medical certificates. [2886]

19. Authority for reception of patient.—The documents upon which an order is founded shall be attached to the order, and the order and documents shall be delivered or sent by post to the petitioner and shall be delivered by him or his agent to the superintendent of the institution or certified house into which the defective is to be received or to the person appointed to be his guardian. [2887]

20. Amendment of orders and other documents.—(1) When a patient has been received under an order into an institution or certified house or under guardianship :—

(*a*) if the order or any document upon which the order was made is found to be in any respect incorrect or imperfect, it may, with the consent of the Board, be amended by the person who signed it within 28 days after the reception of the patient ;

(*b*) if the Board deem the order or any document upon which the order was founded to be incorrect or imperfect they may require the order or document to be amended by the person who signed it and if the order or document is not amended to the satisfaction of the Board within 28 days after the reception of the patient the Board may, if they think fit, make an order for the patient's discharge.

(2) Every order and document so amended shall take effect as if the amendment had been contained therein when it was signed. [2888]

21. Hearing of petition.—No proceedings on a petition shall be conducted in a police court or other court or room normally used for the hearing of criminal charges. [2889]

PART IV

THE GRANT, RENEWAL, REVOCATION AND SURRENDER OF CERTIFICATES FOR INSTITUTIONS AND HOUSES FOR DEFECTIVES AND OF APPROVALS OF HOMES FOR DEFECTIVES

22. Application for certificate or approval.—An application for the grant of a certificate in respect of an institution or house or of approval of premises as an approved home shall be made on the appropriate form and sent to the Minister accompanied by the following documents :—

(*a*) a general description of the property, together with a plan showing the site of the buildings and of the land occupied in connection therewith distinguishing the parts of the buildings which are appropriated for the use of patients ;

(*b*) a detailed description of the buildings and plans thereof drawn to a scale of 16 feet to 1 inch or to such other scale as the Minister may approve, showing the area, height, and proposed use of the rooms (distinguishing those to be occupied by the patients from those of the officers and servants), and the workshops, external offices and conveniences, and the baths, fire escapes, and the heating, lighting, ventilation and sanitary arrangements ;

(*c*) a plan of the drains drawn to such a scale as the Minister may require, and a statement as to the mode of disposal of the sewage and as to the water supply;

(*d*) a statement of the number, ages and types of patients whom it is proposed to receive, and if of both sexes a statement of the number of either sex, and the arrangements for keeping the sexes apart;

(*e*) if the patients are to be limited to any particular type or class or age of defective or to defectives sent from any particular locality or belonging to any particular religious persuasion, information as to the limitations proposed;

(*f*) a statement of the name of the superintendent, of the grades of staff whom it is proposed to employ and the number in each grade and of the arrangements proposed for the medical care of the patients;

(*g*) a statement respecting the work upon which the patients are to be employed and the arrangements for affording them simple education, industrial training and recreation. [2890]

23. Revocation of certificate or approval.—(1) The Minister, if dissatisfied with the condition or management of any certified institution, certified house or approved home may give notice to the managers or owner thereof that he proposes to consider the question of revoking the certificate or approval or of modifying the conditions upon which it was granted, and before arriving at a decision the Minister shall take into consideration any statement which the managers or owner may submit to him not later than 28 days after the date of the said notice.

(2) The Minister shall, as soon as may be, inform the managers or owner of his decision, and if he decides to revoke a certificate or approval or to modify any of its conditions the revocation or modification shall take effect at such date, not being less than two months from the date on which the managers or owner are notified of the decision, as the Minister may determine.

(3) The Minister shall publish in the London Gazette notice of the revocation of any certificate or approval. [2891]

24. Surrender of certificate or approval.—The managers or owner may at any time surrender a certificate or approval as from such date as the Minister may approve. [2892]

25. Death of sole or surviving manager or owner.—If the sole or surviving manager or owner of any institution, house or home to whom a certificate or approval has been granted in respect of that institution, house or home dies, the Minister may permit his personal representatives for a period not exceeding three months to conduct the premises as a certified institution, certified house or approved home, as the case may be, on the terms and conditions of the certificate or approval applicable thereto, subject to such modifications, if any, as the Minister may think fit. [2893]

26. Application for renewal.—An application for the renewal of a certificate or approval shall be made on the appropriate form at least six weeks before the expiration of the certificate or approval and shall in the case of a certified house or approved home be accompanied by a statement signed by or on behalf of the applicant of the number of patients of either sex on the books at the time of application. [2894]

27. Alterations in premises or user thereof not to be made without consent of the Minister.—(1) Before any alteration or addition is made in or to any certified institution, certified house or approved home, the managers or owner shall give to the Minister notice in writing, accompanied by a detailed description of the proposed alteration or addition, and shall not carry out the proposal without the previous consent of the Minister.

(2) If the Minister so requests, he shall be furnished with plans of the

proposed alteration or addition drawn to a scale of 16 feet to 1 inch or to such other scale as he may approve.

(3) The use of any part of the premises for a purpose different from that authorised by the certificate or approval shall be deemed to be an alteration within the meaning of this Regulation. [2895]

28. Powers to continue after expiration or revocation of certificate or approval.—The powers of the Board and of the Visitors with reference to any certified institution or certified house and the patients therein and the powers of the Board with reference to any approved home and the patients therein and all powers and provisions of the Acts and any regulations made thereunder relating to the discharge, removal and transfer of patients, shall, notwithstanding the expiration or revocation of a certificate or approval, continue in force so long as any patients remain in the premises. [2896]

29. Patients not to be received beyond number authorised.—(1) The managers or owner of a certified institution, certified house or approved home shall not, without the previous consent of the Minister, receive into the institution, house or home any patient beyond the number specified in the certificate or approval.

(2) The maximum penalty for a breach of this Regulation shall be a fine of £50. [2897]

30. Fees.—The fee payable to the Minister by the managers or owner of a certified house or approved home upon the grant, whether in the first instance or by way of renewal, of a certificate or approval shall be the sum of £5, with an additional sum of 10s. for every patient beyond the number of ten for whom accommodation is or is proposed to be provided :

Provided that—

(i) The Minister may remit the whole or any part of the fee in respect of the approval of a home, if in any particular case he thinks fit so to do ; and

(ii) if the period for which the certificate or approval is granted is less than twelve months, the Minister may reduce the amount of the fee. [2898]

PART V

GENERAL PROVISIONS AS TO MANAGEMENT OF INSTITUTIONS AND CERTIFIED HOUSES

31. Classification of patients.—The patients in an institution or certified house shall be classified generally according to their age, sex, capabilities, habits and behaviour. [2899]

32. Males not to be employed in personal custody of females.—(1) No male person in an institution or certified house shall be employed in the personal custody or restraint of any female patient : Provided that nothing in this Regulation contained shall be deemed to prohibit the employment of male persons on such occasions of urgency as may in the judgment of the superintendent render such employment necessary, but the superintendent shall in each such case report the employment to the Commissioner, Inspector or Visitor next visiting the premises.

(2) The maximum penalty for a breach of this Regulation shall be a fine of £20. [2900]

33. Mechanical means of restraint.—(1) Mechanical means of bodily restraint shall not be applied to any patient in an institution or certified house, unless the restraint is necessary for the purposes of surgical or medical treatment, or to prevent the patient from injuring himself or others.

(2) In every case where such restraint is applied a medical certificate shall be obtained, as soon as may be, describing the mechanical means used, and stating the grounds upon which the restraint was employed.

(3) The certificate shall be signed by the superintendent of the institution or certified house if he is a medical practitioner, and if he is not by the medical officer thereof.

(4) A full record of every case of restraint by mechanical means shall be kept from day to day in the register of mechanical restraint and seclusion kept under Regulation 36 of these regulations and the superintendent shall, at the end of each quarter, send to the Board copies of all entries relating to mechanical restraint made during the quarter in the said register.

(5) In this Regulation " mechanical means " means such instruments and appliances as are specified in the regulations made by the Board on the 7th day of January, 1925, under section 40 of the Lunacy Act, 1890 or in such other regulations under that section as may from time to time be in force.

(6) Any person who wilfully acts in contravention of this Regulation shall be guilty of a misdemeanour. [2901]

34. Seclusion.—(1) The total number of hours during which a patient is kept in seclusion shall be recorded every week in the register of mechanical restraint and seclusion.

(2) For the purposes of this Regulation a patient shall be deemed to be kept in seclusion, if at any time between the period commencing at 8 a.m. and ending at 7 p.m. he is isolated in a room the door of which is fastened or held so that he is unable to leave the room at will, but not if he is isolated in a room in which the lower half of the door is so fastened or held but the upper half is left open. [2902]

35. Corporal punishment.—In no case shall corporal punishment be administered to any patient. [2903]

36. Records.—(1) There shall be kept in every institution and certified house :—

(*a*) a general register ;
(*b*) an alphabetical register (which may, if desired, be kept by means of a card index) ;
(*c*) a patient's record in book or loose leaf form ;
(*d*) a visitors' book and a patients' book in which minutes by members of the committee of management and by the Visitors and other persons visiting patients shall be entered, minutes mentioning patients by name being entered only in the patients' book ;
(*e*) a register of mechanical restraint and seclusion ;
(*f*) if the Board so direct, a casualty book and caution cards.

(2) There shall be kept in every institution and certified house in which a medical officer is not resident a diary in which the visiting medical officer shall at each routine visit enter a minute of the welfare of the patients as a whole and of any exceptional circumstances with regard to any of them. [2904]

37. Entries in general register.—The superintendent of an institution or certified house shall, immediately on the reception of a patient, make the appropriate entries with respect to the patient in the general register, and the medical officer shall within 7 days after the reception of the patient make the entries as to mental condition. [2905]

38. Entries on patient's record.—(1) Immediately after a patient has been examined upon admission to an institution or certified house there shall be entered on his record the following particulars :—

(*a*) name, date of admission, age, sex, occupation, civil state, whether subject to epilepsy, whether of the private or health service class, and of what religious persuasion ;

(*b*) a record of a complete examination of the patient, special note being made of the presence or absence of bruises or other injuries, his height and weight and the colour of hair and eyes, and any distinguishing marks or scars ;

(*c*) a statement of the mental condition of the patient.

(2) The following additional particulars shall be obtained as soon as possible and entered on the record :—

(*a*) the family history of the patient, special attention being directed to the presence or absence of mental or nervous disorder in the relatives ;

(*b*) the personal history of the patient.

(3) Subsequent entries describing the progress of the patient and recording the medical and other treatment given shall be made on the record at least twice a year and one of these entries shall contain the result of a physical examination.

All special circumstances affecting a patient, including any special form of treatment given, and the results of bacteriological or other investigations made, shall be recorded in the patient's record.

(4) Entries which are of a purely medical character shall be made by a member of the medical staff but other entries may be made by the superintendent.

(5) In the event of the death of any patient, a copy of the death notice and statement shall be attached to, or entered on, the patient's record. [2906]

39. Entry of transfer, discharge or death.—The superintendent of an institution or certified house shall within 2 days after the transfer, discharge or death or the transfer of any patient from the private to the health service class, or vice versa, make an entry of the fact in the general register. [2907]

40. Notices and copies of reports.—(1) The superintendent of an institution or certified house shall send to the Board the following written notices and copies of reports :—

(*a*) within 7 days thereafter, notice of the appointment, resignation or death of any medical officer ;

(*b*) within 2 days thereafter, notice of the dismissal or resignation to escape dismissal for misconduct in connection with a patient of any officer or servant and such notice shall state the circumstances giving rise to the dismissal or resignation ;

(*c*) within 7 days thereafter, notice of the admission of a patient, accompanied by a medical statement to be made and signed by the medical officer, copies of the order under which the patient was received and of the documents on which the order was founded, or, if the patient was received without order, copies of the authority of and the statement by his parent or guardian and of the relative certificates ;

(*d*) within 48 hours thereafter, notice of the admission of any persons not dealt with under the Acts ;

(*e*) immediate notice of any patient's mental condition becoming such that he ought to be transferred to an institution for persons of unsound mind ;

(*f*) within 2 days thereafter, notice of the transfer, discharge, escape or recapture of a patient ;

(*g*) within 2 days after entry, copies of every entry made in the visitors' book, or the patients' book by any Commissioner, Inspector or Visitor ;

(*h*) if required by the Board, copies of all the entries, or of any particular entry, in any official book relative to a patient who is, or has been, resident;

(*i*) not more than 2 months nor less than 14 days before the expiration of the order or authority under which a patient is detained, the special reports and certificates required under sections 11 and 12 of the Act for the continuance of the order or authority and any report that may have been made under either of those sections by a medical practitioner at the request of the patient or the parent or guardian or any relative or friend of the patient.

(2) The superintendent of an institution or certified house shall, where weekly returns are not required by the Minister, send to him immediate notice of any infectious disease and its nature and, where weekly returns are required by the Minister, immediate notice of any outbreak of any infectious disease of exceptional severity or unusual character.

(3) The superintendent of an institution or certified house shall, if so required by the Minister, furnish him with copies of all entries or of any particular entry in any official book relative to a patient who is, or has been, resident.

(4) The committee of management of an institution and the owner of a certified house shall send to the Minister notice of the appointment, resignation or death of the superintendent within 7 days thereafter. [2908]

41. Notice of death.—(1) The superintendent of an institution or certified house shall before the expiration of the second day after the day of the death of a patient send on the appropriate form notice thereof and a statement of particulars relating thereto which statement shall be signed by the medical officer or other medical practitioner who attended the patient:—

(*a*) to the coroner of the district;

(*b*) to the Board;

(*c*) to the registrar of deaths for the district;

(*d*) in the case of a health service patient, to the local health authority from whose area the patient was admitted and, in the case of such a patient received into a certified institution in pursuance of a contract with a Regional Hospital Board, to that Board;

(*e*) in the case of a private patient, to the person who made the last payment on account of the patient;

(*f*) in the case of a patient in a certified house, to the clerk to the Visitors.

(2) The superintendent shall also notify the occurrence of the death and send written intimation that a certificate has been signed, to the relative or one of the relatives named in the statement of particulars accompanying the order or authority for detention of the patient or, if none is so named, to the person named for the purpose in such statement.

(3) The notice required under paragraph (1) to be sent to the Board shall be accompanied by a copy of any letter written or a written summary of any verbal report made by the superintendent to the coroner concerning the death.

(4) In any case in which mechanical restraint was applied within 7 days before the death of the patient particulars of its character and duration shall be given in the statement of particulars relating to the death. [2909]

42. Notice of transfer, discharge, etc.—Immediately upon the transfer, discharge, escape or recapture of any patient the superintendent of an institution or certified house shall send notice thereof to such of the authorities and persons specified in sub-paragraphs (*d*) to (*f*) of paragraph (1) and in paragraph (2) of the last preceding Regulation as may be appropriate to the circumstances of the case. [2910]

43. Quarterly returns to Visitors.—(1) The superintendent of an institution or certified house shall at the beginning of each quarter send to the Visitors :—

(*a*) a list of the names and particulars of the patients on the books of the institution or house who will attain the age of 21 years during that quarter ; and

(*b*) a list of the names and particulars of the patients on the books of the institution or house whose cases will during the quarter require consideration under section 11 or 12 of the Act otherwise than by reason of their attaining the age of 21 years.

(2) The superintendent shall also send notice to the Visitors immediately after the admission of any patient who is admitted after the quarterly notice and in regard to whom the Visitors will have statutory duties to perform during the current quarter.

(3) A notice to the Visitors under paragraph (1) shall contain the names and addresses of the persons to whom, under Regulation 101 of these regulations, the Visitors are required to give notice of their intention to reconsider the case. [2911]

44. Correspondence.—(1) The superintendent of an institution or certified house shall forward unopened all letters written by any patient and addressed :—

(*a*) to the Lord Chancellor or to any Judge in Lunacy ;

(*b*) to the Minister ;

(*c*) to the Board or any Commissioner ;

(*d*) to the person who placed him in the institution or certified house or on whose petition an order for his admission was made ;

(*e*) to the Chancery Visitors or to any Chancery Visitor or to the Visitors or any Visitor ; or

(*f*) in the case of an institution to the committee of management or to any member of such committee.

(2) The superintendent may also at his discretion forward to its address any other letter written by a patient.

(3) The maximum penalty for a breach of this Regulation shall be a fine of £20. [2912]

45. Power of superintendent to limit correspondence.—(1) Patients shall be allowed to write letters at reasonable intervals, but, except as hereinbefore provided, every letter to or from a patient may be read by the superintendent, and if the contents are objectionable or if the superintendent considers it undesirable that intercourse should be maintained between the patient and the person to whom the letter is addressed or from whom it is received, it shall not be forwarded or delivered.

(2) No patient shall be permitted to sign any legal document without the knowledge of the superintendent. [2913]

46. Notices to be exhibited.—(1) Wherever the Board so direct, there shall be posted up in every institution and certified house printed notices setting forth :—

(*a*) the conditions prescribed by Regulations 44 and 45 (1) in regard to the forwarding and delivery of the letters of patients ;

(*b*) the right of every patient to request a personal and private interview with a Commissioner, Inspector or Visitor at any visit he may make to the institution or certified house.

(2) The notices shall be posted in such a position that every patient is able to see them, and the visiting Commissioners or Inspectors may give directions as to the places in which such notices are to be posted.

(3) If any superintendent makes default in posting such notices or does not within ten days carry out any directions given as aforesaid, he shall for each offence be liable to a fine not exceeding £20. [2914]

47. Visits.—(1) Subject to the provisions of section 18 of the Act, visits to a patient may be paid at such times as the superintendent may direct, but the interval between any two visits by the nearest adult relative or guardian of a patient shall not be fixed at more than one month, and the special consent of the superintendent shall be obtained before any patient is visited by any person in connection with business transactions.

(2) If there is reasonable ground for suspecting that any person visiting a patient is exercising a bad influence on him or encouraging him to break the rules or any special directions given by the superintendent, he may be removed from the premises.

(3) The superintendent may report the circumstances of any such removal to the Board, and if the Board on any such report consider that further visits by the person so removed would be contrary to the interests of the patient, they may suspend the person's right to visit the patient. [2915]

48.—Power for Board to permit visits.—(1) The Board may at any time grant permission in writing for the admission of any person to visit a patient either on a single occasion or for a limited number of times or generally at all reasonable times and with or without restriction as to the presence of an attendant or otherwise.

(2) If the superintendent refuses, prevents or obstructs the admission of any person duly authorised by the Board to visit a patient he shall for every offence be liable to a fine not exceeding £20. [2916]

49. Visitation by members of Committee.—(1) Not less than 2 members of the committee of management of an institution shall regularly visit and inspect the institution and see each patient therein, giving him as far as possible, an opportunity of speaking to them.

(2) They shall have submitted to them the documents authorising the detention of every patient admitted since the last visitation as well as the general books kept in the institution.

(3) They shall enter in the visitors' book or other book kept for that purpose any remarks that they think proper with regard to the condition and management of the institution and in the patients' book any similar remarks with regard to the patients, and shall sign both books upon every visit. [2917]

PART VI

SPECIAL PROVISIONS AS TO MANAGEMENT OF CERTIFIED INSTITUTIONS

50. Committee of Management.—The managers shall manage the certified institution through a committee of management appointed by them consisting of such number of members being not less than seven, as the Minister may approve. [2918]

51. Superintendent and medical officer.—(1) The managers shall appoint a person to be superintendent of the certified institution, and it shall be a term of his appointment that he shall reside in or in the immediate vicinity thereof.

(2) If the superintendent is not a medical practitioner, the managers shall appoint a medical officer but the Minister may at any time direct that from such date as he may fix a medical practitioner shall be appointed as superintendent.

(3) It shall be a term of the appointment of any medical officer who is not resident in or in the immediate vicinity of the institution that he

shall visit the institution at least once in each week or at such intervals as the Minister may direct.

(4) The superintendent shall be the chief officer of the institution, and he shall be responsible for the general management thereof in accordance with any directions which may be given by the committee of management. The superintendent may for reasons which appear to him sufficient suspend any member of the staff and shall forthwith report such suspension, together with the cause thereof, to the committee of management. [2919]

52. Rules.—(1) The committee of management of a certified institution shall within six months after the certification of the institution prepare and submit to the Minister rules for the government of the institution, and such rules, when approved by the Minister, shall be printed and observed.

(2) The rules may from time to time be altered with the approval of the Minister.

(3) The superintendent of the certified institution shall give such information as the Minister, the Board or any Commissioner or Inspector may at any time require as to the manner in which the rules are carried out, and shall furnish to the Minister or the Board, at such times and in such form as he or they may from time to time direct, such annual and other returns and information relating to the certified institution, or the patients therein, as the Minister or the Board may require. [2920]

53. Religious services and instruction.—The committee of management of every certified institution shall make such arrangements as may be approved by the Minister for the holding of religious services and for securing as far as practicable that religious services shall be held for, and religious instruction given to, the patients according to their religious persuasions. [2921]

54. Accounts.—(1) The accounts of every certified institution shall be audited once a year by an auditor to be approved by the Minister.

(2) The Minister may, if he thinks fit, direct the form in which the accounts shall be kept, and the day of the year to which they are to be made up.

(3) The committee of management shall, within one month after the accounts have been audited, send to the Minister an abstract of the accounts in such form as he may direct. [2922]

PART VII

SPECIAL PROVISIONS AS TO MANAGEMENT OF CERTIFIED HOUSES

55. Visits by medical practitioner.—(1) In every house which is certified for the accommodation of one hundred patients or more, the superintendent, if the Minister so direct, shall be a medical practitioner.

(2) Every house which is certified for the accommodation of more than fifty patients not having a resident medical officer shall be visited by a medical practitioner daily or at such longer intervals as the Minister may direct.

(3) Every house which is certified for the accommodation of fifty or less than fifty patients not having a resident medical officer shall be visited by a medical practitioner twice a week or at such longer intervals as the Minister may direct.

(4) The Minister may direct that any certified house shall be visited by a medical practitioner at any time. [2923]

56. Records.—In addition to the records required by Part V of these regulations to be kept in a certified house, there shall be kept by the superintendent in every certified house lists of the patients for the time being on

the books of the house, with the rates of payment made for their maintenance, care and treatment, and such lists shall be at all times accessible to the Commissioners, Inspectors and Visitors visiting the house. [2924]

57. Rules.—(1) The superintendent of a certified house shall within six months after the certification of the house prepare and submit to the Minister rules for the government of the house, and such rules, when approved by the Minister, shall be printed and observed.

(2) The rules may from time to time be altered with the approval of the Minister.

(3) The superintendent of the certified house shall give such information as the Minister, the Board or any Commissioner or Inspector may at any time require as to the manner in which the rules are carried out, and shall furnish to the Minister or the Board, at such times and in such form as he or they may from time to time direct, such annual and other returns and information relating to the house, or the patients therein, as the Minister or the Board may require. [2925]

58. Religious services and instruction.—The superintendent of every certified house shall make such arrangements as may be approved by the Minister for the holding of religious services and for securing so far as is practicable that religious services shall be held for, and religious instruction given to, the patients according to their religious persuasions. [2926]

59. Plan to be exhibited.—In every certified house a copy of the plan showing the allocation of the accommodation approved by the Minister shall at all times be exhibited in some prominent position. [2927]

PART VIII

INSPECTION OF INSTITUTIONS AND CERTIFIED HOUSES AND VISITATION OF PATIENTS THEREIN

60. Visitation by Commissioners, etc.—(1) Every institution and certified house may at any time, by day or night, be visited by any one or more of the Commissioners or Inspectors.

(2) The visits of the Commissioners and Inspectors shall, unless there is reason to the contrary, be made without previous notice. [2928]

61. Duty of Visitors to visit.—The Visitors shall visit an institution as often as may be necessary for the due performance of their duties under sections 11 and 12 (2) of the Act, and shall record, by entries in the visitors' and patients' books, the duties which they perform. [2929]

62. Visitors' right of inspection, etc.—(1) Any one or more of the Visitors may visit a certified house at any time, by day or night, as he or they think necessary.

(2) Every certified house in respect of which the Board so direct, shall be visited six times a year, of which visits not less than four shall be paid by at least two of the Visitors, of whom one shall be a medical practitioner.

(3) The Visitors or Visitor shall, at every visit to a certified house which they or he are required under the last preceding paragraph to make, and may, at any other visit, do all or any of the following things :—

(*a*) inspect every part of the buildings and grounds which constitute the certified house ;

(*b*) see every patient, and inquire whether he is under restraint and, if so why ;

(*c*) consider the observations made in the visitors' book and the patients' book ;

(*d*) enter in the visitors' book a minute of the condition of the house, of the patients therein, and the number of patients who have been restrained or secluded, with the reasons for such restraint or seclusion ;

(*e*) inquire :—

(i) when divine service is held, and what average number of patients attend ;

(ii) what occupations and recreations are provided for the patients ;

(iii) how the patients are classified, trained, educated and employed ;

(iv) as to the diet and clothing of the patients ;

(v) as to the moneys paid to the managers on account of any patient under their care ;

(vi) as to such other matters as may in their or his opinion require investigation. [2930]

63. Right of members of Regional Hospital Board to visit.—During the continuance of a contract made by a Regional Hospital Board with the managers of any certified institution for the reception therein of patients, members of the Regional Hospital Board or one or more of their officers may visit the institution and see and examine the patients received under the contract. [2931]

64. Entries in patients' book.—Any visitor may at any visit enter in the patients' book observations as to the state of mind or body of any patient, and any other observations that he may desire to make. [2932]

65. Information to be supplied to visiting Commissioners, etc.—The superintendent of a certified house shall lay before every visiting Commissioner, Inspector or Visitor, at each visit :—

(*a*) a list of all the patients on the books of the house (distinguishing males from females) ;

(*b*) the several books required by these regulations to be kept ;

(*c*) the certificate then in force for the house ;

(*d*) such other orders, certificates, documents, and papers relating to any of the patients at any time received into the house as the visiting Commissioner, Inspector or Visitor may require ;

(*e*) such other information as the visiting Commissioner, Inspector or Visitor may require. [2933]

PART IX

GUARDIANSHIP

66. Powers and duties of guardians.—(1) A person appointed to be a guardian shall, in exercising any powers conferred on him by the Act or these regulations, be subject to the direction of the Board.

(2) The guardian shall keep in the house a Guardianship Book.

(3) Except in the case of a patient who has been placed under the guardianship of an officer of the local health authority or in such other cases as the Board may permit, the patient shall reside with the guardian.

(4) **Residence of patient.**—The guardian may change his residence and remove the patient with him to any new residence in England or Wales, but before any such removal is effected the guardian shall give seven days' previous notice in writing of his intention and of the new address :—

(*a*) to the Board ;

(*b*) in the case of a patient (other than a private patient), admitted under order, to the responsible local health authority and to the

relative or one of the relatives named in the statement of particulars accompanying the order;

(*c*) in the case of a patient placed under guardianship under section 3 of the Act towards whose expenses of guardianship a local health authority are contributing, to that local health authority and to the parent or guardian;

(*d*) in the case of a private patient admitted under order, to the person who made the last payment on account of the patient;

(*e*) in the case of a patient placed under guardianship under section 3 of the Act towards whose expenses of guardianship a local health authority are not contributing, to the parent or guardian. [2934]

67. Corporal punishment.—In no case shall corporal punishment be administered to a patient under guardianship. [2935]

68. Mechanical means of restraint.—(1) Mechanical means of bodily restraint shall not be applied to any patient, unless the restraint is necessary for the purposes of surgical or medical treatment, or to prevent the patient from injuring himself or others.

(2) In every case where such restraint is applied the guardian shall enter in the appropriate column in the Guardianship Book the date and form of the application of restraint and shall obtain, as soon as possible, from a medical officer of the local health authority for the area in which the guardian is resident, a report describing the mechanical means used and stating the grounds upon which the restraint was employed. Such report shall be entered by the said medical officer in the Guardianship Book in the column headed "Medical and Progress Reports". In the case of a private patient the report shall be obtained from the medical attendant of the patient and entered in like manner by him.

(3) The guardian shall, at the end of each quarter, send to the Board copies of all entries of mechanical restraint made during the quarter in the Guardianship Book.

(4) In this Regulation "mechanical means" means such instruments and appliances as are specified in the regulations made by the Board on the 7th day of January, 1925, under section 40 of the Lunacy Act, 1890, or in such other regulation under that section as may from time to time be in force. The local health authority shall, in the case of a patient for whose guardianship they are responsible for making provision, furnish the guardian with a copy of any such regulation for the time being in force.

(5) The maximum penalty for a breach of this Regulation shall be a fine of £50. [2936]

69. Care of patient.—The guardian shall provide, according to the means available, for the education, training, occupation and recreation of the patient and shall ensure that in these respects everything practicable is done for the improvement of his mental and physical condition. [2937]

70. Leave of absence to patient.—(1) The guardian may, with the previous licence in writing of the responsible local health authority, if any, and of the petitioner, not being an officer of the local health authority, or, if the patient was placed under guardianship without order, of the person who placed him under guardianship, take or send the patient under proper control to such place or places and for such period as may be specified in the licence or may grant leave of absence for a period not exceeding 14 days.

(2) Immediate notice of any such change of residence shall be given to the Board by the guardian. [2938]

71. Notice of reception and medical statement.—The guardian shall within 7 days after the reception of a patient into his guardianship send to the Board notice thereof together with a medical statement to be made and signed,

when the patient has been received under an order, by the medical officer of the responsible local health authority or by a medical practitioner appointed by them, and when received without order, by a medical practitioner, together with copies of the order and documents or of the statement and certificates on which the patient was received :

Provided that if one of the certificates was given by the medical officer of the responsible local health authority, the notice need not be accompanied by a medical statement but the guardian shall send to the Board within three months after the patient's reception a statement showing the result of a complete physical and mental examination of the patient by the medical officer of the responsible local health authority or by a medical practitioner appointed by them. [2939]

72. Transfer, discharge, etc., of patients.—The guardian shall within 24 hours after the transfer, discharge, escape, or recapture of a patient give written notice thereof to the Board and to such of the authorities and persons specified in sub-paragraphs (*b*) to (*e*) of paragraph (4) of Regulation 66, as may be appropriate to the circumstances of the case. [2940]

73. Notice of death.—(1) The guardian shall before the expiration of the second day after the day of the death of any patient send on the appropriate form notice thereof and a statement of particulars relating thereto (which statement shall be signed by the patient's medical attendant) :—

(*a*) to the coroner of the district ;
(*b*) to the Board ;
(*c*) to the registrar of deaths for the district ;
(*d*) to such of the authorities and persons specified in sub-paragraphs (*b*) to (*e*) of paragraph (4) of Regulation 66 as may be appropriate to the circumstances of the case and to the person named in the statement of particulars accompanying the order or authority for the patient's detention as the person to whom notice of death is to be sent.

(2) The notice required under paragraph (1) to be sent to the Board shall be accompanied by a copy of any letter written or a written summary of any verbal report made to the coroner concerning the death.

(3) In any case in which mechanical restraint was applied within 7 days before the death of the patient particulars of its character and duration shall be given in the statement of particulars relating to the death. [2941]

74. Reports.—The guardian shall make such reports and give such information to the Minister or the Board in reference to the patient as he or they may from time to time require. [2942]

75. Medical and dental services.—The local health authority in the case of a patient for whom they are responsible and in any other case the guardian shall make arrangements for securing the provision of personal medical and dental services for the patient whether under Part IV of the National Health Service Act, 1946, or otherwise. [2943]

76. Visitation on behalf of responsible Local Health Authority.—The local health authority shall cause every patient for whom they are responsible to be visited in the following manner :—

(1) At least once in each year by a medical practitioner with experience in mental deficiency who shall at each visit enter in the Guardianship Book particulars of the mental and physical condition of the patient and any other observations that he may think necessary.
(2) At such intervals as the authority may decide but in any case at intervals of not more than six months by their officers or other approved persons (other than the medical practitioner referred to in the preceding paragraph) who shall enter in the Guardianship

Book particulars as to the patient's progress, circumstances and care.

(3) At every visit the medical practitioner, officer or person visiting under this Regulation shall sign and date his entry.

(4) Where the patient is resident in the area of a local health authority other than the responsible local health authority the obligations of the responsible local health authority under this and the preceding Regulation may, by arrangement between the two local health authorities, be discharged by the other local health authority. [2944]

77. Resignation of guardian.—A guardian who wishes to resign his appointment shall give previous notice in writing of his intention to the Board and to the responsible local health authority, if any, and to the petitioner, not being an officer of the local health authority, or, in the case of a patient placed under guardianship without order, to the parent or guardian who placed the patient or to the person who made the last payment on account of the patient's maintenance. [2945]

78. Patient unsuitable for guardianship.—If the patient is or becomes unsuitable for guardianship, the guardian shall give immediate notice of the circumstances in writing to the Board and to the responsible local health authority, if any, and to the petitioner, not being an officer of the local health authority, or, in the case of a patient placed under guardianship without order, to the parent or guardian who placed the patient or to the person who made the last payment on account of the patient's maintenance. [2946]

79. Visitation of patients by Commissioners and Inspectors.—(1) Every dwelling in which there is a patient under guardianship may at any time, by day or night, be visited by any one or more of the Commissioners or Inspectors.

(2) The visits of the Commissioners and Inspectors shall, unless there is reason to the contrary, be made without previous notice. [2947]

80. The guardian shall lay before the visiting Commissioners or Inspectors at each visit :—

(*a*) the Guardianship Book ;
(*b*) all documents relating to the patient ;
(*c*) all unforwarded letters written by and all undelivered letters written to the patient. [2948]

81. Duty of Visitors to visit.—(1) The Visitors shall visit the patient as often as may be necessary for the due performance of their duties under sections 11 and 12 (2) of the Act, and shall sign the Guardianship Book at each visit.

(2) Any one or more of the Visitors shall, upon the request in writing of the Board, visit any patient. [2949]

82. Correspondence.—(1) The guardian shall forward or cause to be forwarded unopened all letters written by the patient and addressed :—

(*a*) to the Lord Chancellor or to any Judge in Lunacy ;
(*b*) to the Minister ;
(*c*) to the Board or any Commissioner ;
(*d*) to the person who placed him under guardianship, or on whose petition an order for his reception was made ;
(*e*) to the Chancery Visitors or to any Chancery Visitor or to the Visitors or any Visitor ; or
(*f*) to the responsible local health authority, if any, or to any member of that authority.

(2) The guardian may also at his discretion forward to its address any other letter written by the patient. [2950]

83. Power of guardian to limit correspondence.—(1) Patients shall be allowed to write letters at reasonable intervals, but, except as hereinbefore provided, every letter to or from a patient may be read by his guardian, and if the contents are objectionable or if the guardian considers it undesirable that intercourse should be maintained between the patient and the person to whom the letter is addressed or from whom it is received it shall not be forwarded or delivered but shall be retained for a period of twelve months and produced at any time during that period on request to any Commissioner, Inspector or Visitor.

(2) No patient shall be permitted to sign any legal document without the knowledge of the guardian. [2951]

84. Visits.—(1) Subject to the provisions of section 18 of the Act, visits to a patient may be paid at such intervals as the person in whose guardianship the patient is placed may direct but the interval between any two visits by the nearest adult relative or guardian of the patient shall not be fixed at more than one month, and the special consent of the person in whose guardianship the patient is placed shall be obtained before the patient is visited by any person in connection with business transactions.

(2) If there is reasonable ground for suspecting that any person visiting a patient is exercising a bad influence on him, his right to visit may be suspended by the Board on the application of the guardian. [2952]

85. Power for Board to permit visits.—(1) The Board may at any time grant permission in writing for the admission of any person to visit a patient either on a single occasion or for a limited number of times or generally at all reasonable times and with or without restriction as to the presence of an attendant or otherwise.

(2) If the person in whose guardianship the patient is placed or in whose care he is residing refuses, prevents or obstructs the admission of any person duly authorised by the Board to visit the patient, he shall for every offence be liable to a fine not exceeding £20. [2953]

PART X

TRANSFER OF PATIENTS FROM ONE INSTITUTION TO ANOTHER

86. Transfer by Board of Control.—The Board may by order direct the transfer of a patient who has been sent by order to an institution or a certified house to any other institution or certified house. [2954]

87. The Board may by order direct the transfer of a patient who has been placed in an institution or certified house without order to any other institution or certified house. [2955]

88. Transfer by Regional Hospital Board.—A Regional Hospital Board may by order transfer any patient detained in an institution for defectives administered by them, whether by order or not, to any other such institution under their administration:

Provided that if the patient was placed in the institution without order, the transfer shall not be effected except on the application of the person who placed him in the institution or, in the absence of such application, unless the parent or guardian has been given an opportunity of making representations as to the proposed transfer. [2956]

89. Transfer to state institution.—The Board, if satisfied that a patient detained in an institution or certified house is of dangerous or violent propensities, may by order transfer him to a state institution. [2957]

90. Procedure.—The superintendent of the institution or house from which a patient is transferred shall :

(1) Provide a proper escort for the patient.

(2) Send forthwith to the superintendent of the institution or house to which the patient is thereupon admitted the order, certificates and other documents on which the patient was received. [2958]

91. The notice of admission sent to the Board in the case of any such transfer shall be accompanied by a copy of the order of transfer (if not made by the Board) and by a statement with respect to the mental and physical condition of the patient. [2959]

PART XI

TRANSFER OF PATIENT UNDER GUARDIANSHIP TO AN INSTITUTION OR CERTIFIED HOUSE OR TO ANOTHER GUARDIAN OR FROM AN INSTITUTION OR CERTIFIED HOUSE TO GUARDIANSHIP

92. Transfer to institution or certified house.—When a patient who has been placed under guardianship by order is or becomes unsuitable for guardianship, the responsible local health authority, in default of application by the guardian, shall, unless the Board otherwise direct, apply to a judicial authority for an order that the patient be sent to an institution or certified house. [2960]

93. Change of guardian.—The responsible local health authority, in default of application by any other person shall, unless the Board otherwise direct, apply to a judicial authority for an order—

(*a*) for the removal of any guardian whose removal they consider expedient ; and

(*b*) for the appointment of a suitable person in the place of a guardian who has been removed, has died or resigned or is about to resign his office. [2961]

94. When a patient who has been sent to an institution by order is or becomes suitable for guardianship, the committee of management of the institution shall notify the Board and the responsible local health authority to that effect. [2962]

PART XII

ABSENCE OF PATIENTS FROM INSTITUTIONS AND CERTIFIED HOUSES

95. Procedure on grant of licence to be absent.—(1) (*a*) The superintendent of an institution (other than a state institution), with the concurrence of two members of the committee of management of the institution ; or

(*b*) The superintendent of a certified house, with the concurrence of two of the Visitors ; or

(*c*) The Board in the case of a state institution ;

may grant to a patient detained therein a licence to be absent from the institution or house for such period and subject to such conditions as to residence or otherwise as may be therein specified :

Provided that, in the case of a private patient, a licence shall not be granted without the consent of the person who made the last payment on account of the patient's maintenance unless, in the case of such a patient in a state institution, the Board, and in any other case the superintendent and the persons who concur with him in granting the licence are of opinion that there is adequate reason for dispensing with such consent.

(2) A patient who is on licence shall reside with the person named for

that purpose in the licence, unless the person or body granting and the persons (if any) concurring in the grant of the licence otherwise permit.

(3) A licence granted under this regulation may at any time be revoked, in the case of a licence granted by the superintendent of an institution or certified house by the Board or by the superintendent who granted it, or by the Board in the case of a licence granted by the Board, and may be renewed by, and with the concurrence and consent of, the like persons as are authorised to grant a licence or are required to concur in and consent to the grant thereof. [2963]

96. Leave of absence without licence.—The superintendent of any institution or certified house may on his own authority and without issuing a licence grant permission in writing to a patient to be absent on leave for a period not exceeding 14 days subject to such conditions as may be specified in the permission, if he is satisfied as to the suitability of the place to which the patient will be taken and as to the means of care and control which will be available. [2964]

97. Powers on expiration of revocation of licence or permission.—On the expiry or revocation of any licence or permission granted or renewed under either of the last two preceding Regulations the patient may be brought back to the institution or house by the superintendent or any officer or other person authorised by him in writing. [2965]

98. No licence or leave of absence without licence shall, except with the consent of the Secretary of State, be granted to a patient who has been transferred under an order made by the Secretary of State under section nine of the Act from a prison or other institution to which the Prison Acts, 1865 to 1898, apply or from an approved school or criminal lunatic asylum in which he was detained to an institution for defectives so long as the term for which he was committed to the prison or other institution from which he was transferred remains unexpired. [2966]

PART XIII

MISCELLANEOUS

99. Procedure on consideration or reconsideration of cases of patients by Visitors.—(1) The Visitors for the county or borough within which any patient is detained in an institution or certified house or under guardianship shall be informed by the superintendent or the responsible local health authority, as the case may require, of the date when the order or authority for detention will expire or the date at which the patient will attain the age of 21 years and shall arrange for the consideration or reconsideration of his case by not less than two of their number.

(2) Before making any decision, they shall consider a report as to the circumstances of the home of the patient and all matters relating to his previous history, present circumstances and present mental condition which it shall be the duty of the superintendent in the case of a patient in an institution or certified house, and of the responsible local health authority, in the case of a patient under guardianship, to supply. [2967]

100. If a patient is absent on leave or licence at the date when the order or authority for detention will expire or when he attains the age of 21 years he may be recalled for the purpose of the consideration or reconsideration of his case, or arrangements may be made for that purpose by the Visitors appointed for the county or borough within which he is temporarily residing. [2968]

101. Procedure on reconsideration of cases of patients attaining the age of 21 years.—The Visitors, before reconsidering the case of a patient on his

attaining the age of 21 years, shall give not less than 14 days' notice of their intention so to do—

(*a*) in the case of a patient detained under order in an institution, to the responsible local health authority, to the petitioner, not being an officer of such local health authority, and to the parent or guardian;

(*b*) in the case of a patient detained under order in a certified house to the petitioner, to the parent or guardian and to the person who made the last payment on account of the patient;

(*c*) in the case of a patient detained under a guardianship order, to the responsible local health authority and to the petitioner, not being an officer of such local health authority, and to the parent or guardian;

(*d*) in the case of a patient detained in an institution, a certified house or under guardianship without order, to the parent or guardian and to the person, if any, who made the last payment on account of the patient;

and shall afford any such authority or person an opportunity of being heard or of making representations in writing with reference to the case. [2969]

102. Visitors to inform Board, etc., of their decision.—The Visitors shall communicate their decision on the case to the Board, and also to the superintendent or guardian, who shall thereupon give notice of the decision to the persons to whom notice of the reconsideration of the case is required to be sent and to the patient and, in the event of the Visitors deciding not to order the patient's discharge, the notices to the patient and his parent or guardian shall be accompanied by an intimation that an appeal may be made to the Board within 14 days of the receipt of such notice. [2970]

103. Time of examination for purpose of special reports and certificate.—The examination of the patient by the medical officer of an institution or certified house or by a medical practitioner and by the Visitors for the purposes of the special reports and certificate mentioned in subsection (4) of section 11 of the Act shall be made not more than two months before the date when the order or authority for detention will expire. [2971]

104. Procedure in cases of defectives charged with offences.—The forms G1 to G6 in the Schedule hereto or forms substantially to the like effect may be used for the purposes of section 8 of the Act. [2972]

105. Medical certificate and statement of particulars.—Where under section 3 of the Act a patient is placed in an institution or under guardianship by his parent or guardian, a statement in the form set out in form P10 in the Schedule hereto shall be signed by the parent or guardian, and the statement of particulars and medical certificates required by that section shall be in the forms P3 and P5 in the Schedule hereto or in forms substantially to the like effect. [2973]

106. Notice of the reception of a defective into private care.—Where a person undertakes the care and control of any person who is a defective, or who is placed under care as being a defective elsewhere than in an institution, a certified house or an approved home, the notice of reception to be sent to the local health authority and to the Board pursuant to section 51 (2) of the Act shall be in the form N in the Schedule hereto or in a form substantially to the like effect. [2974]

107. Powers and duties of local health authorities with respect to defectives who are dealt with under the Lunacy and Mental Treatment Acts, 1890 to 1930.—(1) The powers conferred and the obligations imposed upon local health authorities by section 30 of the Act shall apply to a defective detained in an institution for persons of unsound mind if the Board certify to the

local health authority that, having regard to the needs of the defective in the matter of care, training and employment, it is expedient that he shall be dealt with under the Acts.

(2) Any defective so certified shall, on being sent to an institution for defectives or placed under guardianship pursuant to an order under the Acts, cease to be a patient dealt with under the Lunacy and Mental Treatment Acts, 1890-1930. [2975]

THE SCHEDULE

Form A1

APPLICATION FOR THE APPROVAL OF PREMISES AS AN APPROVED HOME

To the MINISTER OF HEALTH.

We [or I], being the managers [or owner] of the premises named below and intended for the reception, control, care, and treatment of defectives, hereby apply for the approval of the premises as an approved home under the Mental Deficiency Acts, 1913 to 1938.

Particulars

1. Address of the premises.
2. Whether (*a*) supported wholly or partly by voluntary contributions or by applying the excess of payments of some patients for or towards the support of other patients ; or
   (*b*) conducted for private profit.
3. Names of the managers or owner.
4. Number of patients proposed to be received :—
   Males .. .. ..
   Females .. .. ..
5. Name of the superintendent and particulars of the proposed staff.

Dated the day of , 19 .

Signed

N.B.—This form when filled up must be accompanied by the plans and other particulars specified in the regulations.

Form A2

APPROVAL OF PREMISES AS AN APPROVED HOME

Upon application made to him by , being the managers [or owner] of the premises known as at , in the of for approval of the said premises as an approved home, the Minister of Health, being satisfied of the fitness of the premises and of the applicant(s) hereby approves the said premises.

This approval shall have effect for months [or years] from this date, unless previously revoked, and is given subject to the provisions of any regulations made under the Mental Deficiency Act, 1913, and for the time being in force [and subject also to the following special conditions]—

Given under the official seal of the Minister of Health this day of , 19 .

(L.S.)

Assistant Secretary,
Ministry of Health.

	£	s.	d.
Fee paid			

Form A3

APPLICATION FOR RENEWAL OF APPROVAL OF PREMISES AS AN APPROVED HOME

To the MINISTER OF HEALTH.

We [or I], being the managers [or owner] of the approved home known as , hereby apply for the renewal of the approval of the said home.*

Dated the day of , 19 .

Signed

Form C1

APPLICATION FOR CERTIFICATE IN RESPECT OF AN INSTITUTION

To the MINISTER OF HEALTH.

We, being the managers of the premises named below and intended for the reception, control, care, and treatment of defectives, hereby apply for the grant to us of a certificate to receive defectives therein.

Particulars

1. Address of the premises.
2. Names of the managers.
3. Number of patients proposed to be received :—
   Males .. .. ..
   Females .. .. ..
4. Class or classes intended to be received :—
   Idiots ;
   Imbeciles ;
   Feeble minded ;
   Moral defectives.
5. Limits of age.
6. To membership of what religious persuasion (if any) are patients to be limited ?
7. Name of the superintendent and particulars of the proposed staff.

Dated the day of , 19 .

Signed

N.B.—This form when filled up must be accompanied by the plans and other particulars specified in the regulations.

Form C2

CERTIFICATE IN RESPECT OF AN INSTITUTION

Upon application made to him by , being the managers of the premises known as at in the of , for a certificate to receive defectives therein, the Minister of Health, being satisfied of the fitness of the premises and of the applicants, hereby grants a certificate to the applicants to receive in the said premises defectives, of whom not more than shall be males and not more than shall be females.

The class or classes of defectives authorised to be received are as follows :—

* If any variation in the terms of the approval is desired, add the words " with the following variations " and give particulars of the variations applied for.

This certificate shall have effect for years from this date, unless previously revoked, and is given subject to the provisions of any regulations made under the Mental Deficiency Act, 1913, and for the time being in force [and subject also to the following special conditions—]

Given under the official seal of the Minister of Health this day of , 19 .

(L.S.)

Assistant Secretary,
Ministry of Health.

Form C3

APPLICATION FOR RENEWAL OF CERTIFICATE IN RESPECT OF INSTITUTION

To the MINISTER OF HEALTH.

We, being the managers of the certified institution known as hereby apply for the renewal of the certificate granted in respect of the said institution.*

Dated the day of , 19 .

Signed

Form C4

APPLICATION FOR A CERTIFICATE IN RESPECT OF A HOUSE

To the MINISTER OF HEALTH.

I [*or* We], being the owner(s) of the house named below, and being desirous of receiving defectives therein for private profit, hereby apply that a certificate may be granted to me [*or* us] to receive defectives therein.

Particulars

1. Address of the house.
2. Name(s) of the owner(s).
3. Number of patients proposed to be received :—
   Male
   Female
4. Class or classes of defectives intended to be received :—
   Idiots ;
   Imbeciles ;
   Feeble minded ;
   Moral defectives.
5. Limits of age.
6. To membership of what religious persuasion (if any) are patients to be limited ?
7. Name of the superintendent and particulars of the proposed staff.

Dated the day of , 19 .

Signed

N.B.—This form when filled up must be accompanied by the plans and other particulars specified in the regulations.

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* If any variation in the terms of the certificate is desired add the words " with the following variations " and give particulars of the variations applied for.

Form C5

CERTIFICATE IN RESPECT OF A HOUSE

Upon application made to him by the owner(s) of the house known as at in the of , for a certificate in respect of the said house, the Minister of Health, being satisfied of the fitness of the house and of the applicant(s), hereby grants a certificate to the applicant(s) to receive in the said house defectives, of whom not more than shall be males and not more than shall be females.

The class or classes of defectives authorised to be received in the said house are as follows :—

This certificate shall have effect for years from this date, unless previously revoked, and is given subject to the provisions of any regulations made under the Mental Deficiency Act, 1913, and for the time being in force [and subject also to the following special conditions—]

Given under the official seal of the Minister of Health this day of , 19 .

(L.S.)

Assistant Secretary,
Ministry of Health.

£ s. d.

Fee paid .. .. ..

Form C6

APPLICATION FOR RENEWAL OF CERTIFICATE IN RESPECT OF A HOUSE

To the MINISTER OF HEALTH.

I [*or* We], being the owner(s) of the certified house known as , , hereby apply for the renewal of the certificate granted in respect of the said house, and I [*or* we] attach a statement of the number of patients on the books at this date.

Dated the day of , 19 .

Signed

Form D1

SPECIAL REPORT BY VISITORS UNDER SECTION 11 OF THE MENTAL DEFICIENCY ACT, 1913

Name of institution [*or* certified house *or* dwelling where the patient is residing under guardianship.]

No.*

Name of patient.

Date of birth.

Date of reception.

Date of order or authority for detention.

We [have this day] *or* [on the day of] examined the above-named patient, and hereby report that, having read the definitions on this form we have satisfied ourselves that he

* For use of Board of Control only.

[*or* she] is a mental defective within the meaning of section 1 of the Mental Deficiency Act, 1913, being (1)
that the means of care and supervision which would be available if he [*or* she] were discharged are
and that in our opinion he [*or* she] is still [*or* is not now] (2) a proper person to be detained in his [*or* her] own interest in an institution [*or* a certified house *or* under guardianship.] (3).

Dated the day of , 19 .

Signed

Visitors of Institutions for Defectives under the Mental Deficiency Acts, 1913 to 1938, for the County [Borough] of

To the Board of Control.

(1) State whether an idiot, an imbecile, a feeble minded person *or* a moral defective [*see* definitions]
(2) To enable the Board to determine whether or not the Order or Authority for detention should be continued it is essential that these words should be adhered to.
(3) Delete inapplicable terms.

[*Here set out S.* 1 *of the Mental Deficiency Act*, 1913.]

Form D2

SPECIAL REPORT AND CERTIFICATE BY MEDICAL OFFICER OR MEDICAL PRACTITIONER UNDER SECTION 11 OF THE MENTAL DEFICIENCY ACT, 1913

Name of institution [*or* certified house *or* dwelling where the patient is residing under guardianship.]

No.*

Name of patient.

Date of birth.

Date of reception.

Date of order or authority for detention.

* For use of Board of Control only.

I have this day examined the above-named patient and hereby report that, having read the definitions on this form I have satisfied myself that he [*or* she] is a mental defective within the meaning of section 1 of the Mental Deficiency Act, 1913, being (1)
and that his [*or* her] bodily condition is as follows
and I hereby certify that he [*or* she] is still [*or* is not now] (2) a proper person to be detained in his [*or* her] own interest in an institution [*or* a certified house *or* under guardianship.] (3).

Dated the day of , 19 .

Signed

Medical Officer (or a medical practitioner).

To the Board of Control.

(1) State whether an idiot, an imbecile, a feeble minded person or a moral defective [*see* definitions] and also state facts observed at date of examination in support of classification.
(2) To enable the Board to determine whether or not the Order or Authority for detention should be continued it is essential that these words should be adhered to.
(3) Delete inapplicable terms.

[*Here set out S.* 1 *of the Mental Deficiency Act*, 1913.]

Form D3

ORDER BY BOARD OF CONTROL CONTINUING ORDER OR AUTHORITY FOR DETENTION

Name of institution [*or* certified house *or* dwelling where the patient is residing under guardianship.]

No.

Name of patient.

Date of reception.

Date of order or authority for detention.

The Board of Control, having considered the requisite reports and certificate with regard to the above-named patient, and the means of care and supervision which would be available for him [*or* her] if he [*or* she] were discharged, and being satisfied that the continuance of the above-mentioned order [*or* authority for detention] is required in his [*or* her] interest hereby order the same to be continued for one year [*or* five years] from the day of , 19 .

The Common Seal of the Board of Control was hereunto affixed this day of , 19 in the presence of—

Secretary.

Form G1

DETENTION ORDER IN CASE OF OFFENCE TRIABLE SUMMARILY

In the [*County of* *Petty Sessional Division of*].

Before the Court of Summary Jurisdiction sitting at , the day of , 19 .

A.B., hereinafter called the defendant, is this day charged for that he, on the day of , 19 , at , within the aforesaid, did contrary to the Statute, &c.;

And the Court finds that the charge is proved;

And the Court, being satisfied on medical evidence that the defendant is a defective within the meaning of section 1 of the Mental Deficiency Act, 1913, being (an idiot) (an imbecile) (a feeble minded person) (a moral defective) hereby orders that the defendant (whose place of residence is at in the county (borough) of , and whose religious persuasion appears to be) be (sent to the {Institution / Certified House} at) (placed under the guardianship of).

J.P. (L.S.)
Justice of the Peace for the (County) aforesaid.

J.P. (L.S.)
Justice of the Peace for the (County) aforesaid.

N.B.—Where a local health authority will by virtue of the Mental Deficiency Acts, 1913 to 1938, become responsible for the expenses of a defective ordered to be placed under guardianship, the order must recite that that local health authority has been given an opportunity of being heard, and must find that the defective resides within the area of the local health authority.

Form G2

DETENTION ORDER IN CASE OF INDICTABLE OFFENCE

In the [*County of* *Petty Sessional Division of*].

Before the Court of Summary Jurisdiction sitting at , the day of , 19 .

A.B., hereinafter called the defendant, is this day charged for that he, on the day of , 19 , at , within the aforesaid, did contrary to the Statute, &c.;

And the defendant having (consented to be dealt with summarily) (pleaded guilty to the said charge) the Court finds that the charge is proved;

And the Court, being satisfied on medical evidence that the defendant is a defective within the meaning of section 1 of the Mental Deficiency Act, 1913, being

(an idiot) (an imbecile) (a feeble minded person) (a moral defective) hereby orders that the defendant (whose place of residence is at
in the county (borough) of , and whose religious persuasion appears to be) be (sent to the {Institution / Certified House} at)
(placed under the guardianship of
).

J.P. (L.S.)
Justice of the Peace for the (County) aforesaid.
J.P. (L.S.)
Justice of the Peace for the (County) aforesaid.

NOTE.—Where a local health authority will by virtue of the Mental Deficiency Acts, 1913 to 1938, become responsible for the expenses of a defective ordered to be placed under guardianship, the order must recite that that local health authority has been given an opportunity of being heard, and must find that the defective resides within the area of the local health authority.

Form G3

DETENTION ORDER IN CASE OF CHILD LIABLE TO BE SENT TO AN APPROVED SCHOOL

In the [*County of* *Petty Sessional Division of*].
Before the Court of Summary Jurisdiction sitting at
the day of , 19 .

[Whereas (here insert the circumstances in which the child is subject to be dealt with under the Children and Young Persons Act, 1933)] :

The Court finds that the said child is liable to be sent to an approved school ;

And the Court, being satisfied on medical evidence that the said child is a defective within the meaning of section 1 of the Mental Deficiency Act, 1913, being (an idiot) (an imbecile) (a feeble minded person) (a moral defective), hereby orders that the said child (whose place of residence is at
in the county (borough) of , and whose religious persuasion appears to be) be (sent to the {Institution / Certified House} at)
(placed under the guardianship of
).

J.P. (L.S.)
Justice of the Peace for the (County) aforesaid.
J.P. (L.S.)
Justice of the Peace for the (County) aforesaid.

NOTE.—Where a local health authority will by virtue of the Mental Deficiency Acts, 1913 to 1938, become responsible for the expenses of a defective ordered to be placed under guardianship, the order must recite that that local health authority has been given an opportunity of being heard, and must find that the defective resides within the area of the local health authority.

Form G4

DETENTION ORDER PENDING PRESENTATION OF PETITION IN CASE OF OFFENCE TRIABLE SUMMARILY

In the [*County of* *Petty Sessional Division of*].
Before the Court of Summary Jurisdiction sitting at
the day of , 19 .

A.B., hereinafter called the defendant, is this day charged for that he, on the day of , at , within the aforesaid, did contrary to the Statute, etc. ;

And the Court (finds that the charge is proved) (convicts the defendant of the said offence);

And the Court, being satisfied on medical evidence that the defendant is a defective within the meaning of section 1 of the Mental Deficiency Act, 1913 (without proceeding to a conviction) (postpones passing sentence, and) directs that a petition be presented to a Judicial Authority under the said Act, with a view to obtaining an order that the defendant be sent to an institution or placed under guardianship;

And the Court orders the defendant to be detained in the Institution at or the Place of Safety at for such time not exceeding as is required for the presentation of the petition and the adjudication thereof.

J.P. (L.S.)
Justice of the Peace for the (County) aforesaid.
J.P. (L.S.)
Justice of the Peace for the (County) aforesaid.

Form G5

DETENTION ORDER PENDING PRESENTATION OF PETITION IN CASE OF INDICTABLE OFFENCE

In the [*County of* *Petty Sessional Division of*].

Before the Court of Summary Jurisdiction sitting at ,
the day of , 19 .

A.B., hereinafter called the defendant, is this day charged for that he, on the day of , 19 , at , within the aforesaid, did contrary to the Statute, etc.;

And the defendant having (consented to be dealt with summarily) (pleaded guilty to the said charge) the Court (finds that the charge is proved) (convicts the defendant of the said offence);

And the Court, being satisfied on medical evidence that the defendant is a defective within the meaning of section 1 of the Mental Deficiency Act, 1913 (without proceeding to a conviction) (postpones passing sentence, and) directs that a petition be presented to a Judicial Authority under the said Act, with a view to obtaining an order that the defendant be sent to an institution or placed under guardianship;

And the Court orders the defendant to be detained in the Institution at or the Place of Safety at for such time not exceeding as is required for the presentation of the petition and the adjudication thereof.

J.P. (L.S.)
Justice of the Peace for the (County) aforesaid.
J.P. (L.S.)
Justice of the Peace for the (County) aforesaid.

Form G6

DETENTION ORDER PENDING PRESENTATION OF PETITION IN CASE OF CHILD LIABLE TO BE SENT TO AN APPROVED SCHOOL

In the [*County of* *Petty Sessional Division of*

Before the Court of Summary Jurisdiction sitting at ,
the day of , 19 .

[Whereas (here insert the circumstances in which the child is subject to be dealt with under the Children and Young Persons Act, 1933)]:

The Court finds that the said child is liable to be sent to an approved school;

And the Court, being satisfied on medical evidence that the said child is a defective within the meaning of section 1 of the Mental Deficiency Act, 1913, postpones making an order for committal to an approved school, and directs that a petition be presented to a Judicial Authority under the said Act with a view to obtaining an order that the said child be sent to an institution or placed under guardianship;

And the Court orders the said child to be detained in the Institution at or the Place of Safety at for such time not exceeding as is required for the presentation of the petition and the adjudication thereof.

J.P. (L.S.)
Justice of the Peace for the (County) aforesaid.
J.P. (L.S.)
Justice of the Peace for the (County) aforesaid.

Form L

LICENCE FOR A PATIENT TO BE ABSENT FROM AN INSTITUTION OR CERTIFIED HOUSE

Name of Institution [*or* Certified House].

Name of patient.

To

I, having received the necessary consents, hereby, license the above-named patient to be absent from the above-named institution [or certified house] for a period of on the following conditions:—

(1) The patient shall be under your personal care and control and shall not, except with the necessary consents, reside elsewhere than with you.

(2) The patient shall be returned to the said institution [or certified house] on the day of , 19 , or at an earlier date upon my written request.

(3) The patient shall at all times receive adequate care and supervision, special precautions being taken to prevent the formation of attachments with members of the opposite sex and any sign of this must be reported at once to me.

(4) An authorised officer of the Board of Control or of the institution [*or* certified house] or of the local health authority shall at all times be permitted to see the patient and to enquire as to his (*or* her) care and progress.

Dated this day of , 19 .

Signed

Superintendent.

Form N

NOTICE OF RECEPTION

To be forwarded to the Board of Control and to the Local Health Authority within 48 hours after the patient's reception

Notice is hereby given that , formerly residing at , was received into my care and control as a defective in this house on the day of , 19 .

The following particulars relate to the said defective:—

(i) age;
(ii) sex;
(iii) name and address of parent or guardian, or relative or other person at whose request the defective was received;

(iv) whether previously detained under the Lunacy and Mental Treatment Acts, 1890 to 1930, or the Mental Deficiency Acts, 1913 to 1938, or placed in an approved home, or under guardianship, or under care as a defective, or educated in a special school or class ;
(v) if so, between what dates and where ;
(vi) apparent (*a*) nature and degree of mental defect ;
(vii) bodily condition.

(*a*) The terms in s. 1 of the Mental Deficiency Act, 1913, should be used. [*See* definitions.]

Dated the day of , 19 .

The person having the care of the said defective at (*b*)

(*b*) Name of house (if any) and address.

[*Here set out S.* 1 *of the Mental Deficiency Act*, 1913.]

Form P1

PETITION FOR AN ORDER SENDING A DEFECTIVE TO AN INSTITUTION OR CERTIFIED HOUSE OR PLACING HIM UNDER GUARDIANSHIP, PRESENTED BY A RELATIVE OR FRIEND

In the matter of A.B., of , in the county (borough) of , an alleged defective.

To S.T., a judicial authority (1) under the Mental Deficiency Act, 1913.

The petition of C.D., of , in the county (borough) of , sheweth as follows :—

(1) *I.e.*, a judge of county courts, a police or stipendiary magistrate or a justice specially appointed under the Lunacy Act, 1890.

1. The petitioner is 21 years of age or over.

2. The petitioner is (2) of the said A.B.

[*or* 2. The petitioner is a friend but not a relative of the said A.B.

The reasons why this petition is not presented by a relative are as follows :—

(2) If a relative, state the relationship, *see* footnote.*

The petitioner's connection with the said A.B. is that :—

and he [*or* she] presents the petition in the following circumstances :—] (3)

(3) Delete the bracketed part if the petitioner is a relative.

3. The petitioner last saw the said A.B. at on the day of , 19 .(4)

(4) The petitioner must have seen the alleged defective within 28 days before presenting the petition.

4. The said A.B. to the best of the petitioner's knowledge and belief is a defective within the meaning of the said Act, being (5) and is subject to be dealt with thereunder.

(5) State whether an idiot, an *imbecile*, a feeble minded person or a moral defective. (*See* definitions)

5. The petitioner undertakes to visit, personally or by someone specially appointed by him [*or* her], once at least in every six months, the said A.B. while detained [*or* kept under guardianship] under the Order made on this petition.

6. A statement of particulars concerning the said A.B. accompanies this petition.

The petitioner therefore prays that an Order may be made for sending the said A.B. to (6) [*or* for placing the said A.B. under the guardianship of (6)].

(6) The name of the institution, certified house, or guardian proposed may be inserted at *any time before* an order is made.

Dated the day of , 19 .

Signed

Date of presentation

[*Here set out S.* 1 *of the Mental Deficiency Act*, 1913.]

* Relative, for the purposes of the Acts, means—husband or wife, or a lineal ancestor or lineal descendant, or lineal descendant of an ancestor, not more remote than great-grandfather or great-grandmother.

Form P2

PETITION FOR AN ORDER SENDING A DEFECTIVE TO AN INSTITUTION OR CERTIFIED HOUSE OR PLACING HIM UNDER GUARDIANSHIP, PRESENTED BY AN OFFICER OF THE LOCAL HEALTH AUTHORITY

In the matter of A.B., of , in the county (borough) of , an alleged defective.

To S.T., a judicial authority (1) under the Mental Deficiency Act, 1913.

The petition of E.F., of , in the county (borough) of , sheweth as follows :—

1. The petitioner is 21 years of age or over and is an officer of the local health authority of the county (borough) (2) of , authorized to present petitions under section 5 of the Mental Deficiency Act, 1913.

2. The petitioner last saw the said A.B. at on the day of , 19 (2).

3. The said A.B. to the best of the petitioner's knowledge and belief is a defective within the meaning of the said Act, being (3) and is subject to be dealt with under the said Act.

4. A statement of particulars concerning the said A.B. accompanies this petition.

The petitioner therefore prays that an Order may be made for sending the said A.B. to ,(4) [or for placing the said A.B. under the guardianship of (4)].

Dated the day of , 19 .

Signed

Date of presentation

[*Here set out S.* 1 *of the Mental Deficiency Act*, 1913.]

(1) *I.e.* a judge of county courts, a police or stipendiary magistrate or a justice specially appointed under the Lunacy Act, 1890.

(2) The petitioner must have seen the alleged defective within 28 days before presenting the petition.

(3) State whether an idiot, an imbecile, a feeble minded person or a moral defective. (*See* definitions.)

(4) The name of the institution, certified house, or guardian proposed may be inserted at any time before an order is made.

Form P3

STATEMENT OF PARTICULARS TO ACCOMPANY PETITION OR CONCERNING A DEFECTIVE PLACED BY PARENT OR GUARDIAN IN AN INSTITUTION OF CERTIFIED HOUSE OR UNDER GUARDIANSHIP

Names of defective in full.

Sex and age and date of birth if known.

Married, single or widowed.

Age when mental defectiveness first observed.

In case of a female, married or widowed, maiden name and name under any previous marriage.

Rank, profession or previous occupation (if any).

Religious persuasion.

Residence.

Whether previously detained under the Lunacy and Mental Treatment Acts, 1890 to 1930, or the Mental Deficiency Acts, 1913 to 1938, or placed in an approved home, or under guardianship, or under care as a defective.

If so, between what dates and where.

Whether subject to epilepsy.

Whether blind or partially blind.

Whether deaf or partially deaf.

Whether suicidal.

Whether of violent or dangerous propensities, and in what way these are shown.

Whether any near relative has been insane or mentally defective.

Names and addresses in full of one or more relatives of the defectives.

Names and addresses in full (if not already given) of the persons to whom notice of death is to be sent.

Dated the day of , 19 .

Signed

N.B.—*Where the defective is a child, those particulars which are inapplicable to children need not be filled in.*

Form P4

MEDICAL CERTIFICATE

[To be used in all cases to be dealt with by Petition.]

In the matter of A.B., of , in the county (borough) of , an alleged defective.

I, the undersigned, K.L., hereby certify as follows :—

1. I am a person registered under the Medical Acts [and approved (1) by the local health authority for the county (borough) of or by the Minister of Health, for the purpose of giving medical certificates under the Mental Deficiency Acts, 1913 to 1938].

2. On the day of (2), at , in the county (borough) of , I personally examined the said A.B., and having read the definitions on this form I have satisfied myself that he is a mental defective within the meaning of section 1 of the Mental Deficiency Act, 1913, being (3) .

3. I have formed this conclusion on the following grounds, viz. :—

(*a*) facts observed by myself :—

(*i*) at the time of examination ;

(*ii*) prior to examination ; (4)

(*b*) facts communicated by others.

4. The said A.B. appeared to me to be (or not to be) in a fit condition of bodily health to be removed.

Dated the day of , 19 .

Signed

Address.

[*Here set out S.* 1 *of the Mental Deficiency Act*, 1913.]

(1) No certificate may be given by a medical officer of any certified institution or house to which defective is proposed to be sent. If the person signing the certificate has *not* been so approved the bracketed words must deleted.

(2) The examination must have taken place not more than 21 clear days before the date of the presentation of the petition.

(3 State whether an idiot, an imbecile, a feeble minded person or a moral defective. (*See* definitions.)

(4) Give date when observed.

Form P5

MEDICAL CERTIFICATE

[To be used in all cases dealt with under Section 3 of the Mental Deficiency Act, 1913.]

In the matter of A.B., of , in the county (borough) of , an alleged defective.

I, the undersigned, K.L., hereby certify as follows :—

1. I am a person registered under the Medical Acts [and approved (1) by the local health authority for the county (borough) of or by the Minister of Health, for the purpose of giving medical certificates under the Mental Deficiency Acts, 1913 to 1938].

2. On the day of , (2) at in the county (borough) of I, personally examined the said A.B., and having read the definitions on this form I have satisfied myself that he is a mental defective within the meaning of section 1 of the Mental Deficiency Act, 1913, being (3)

3. I have formed this conclusion on the following grounds, viz. :—

(*a*) facts observed by myself :—

(i) at the time of examination ;
(ii) prior to examination ; (4)

(*b*) facts communicated by others.

Dated the day of , 19 .

Signed

Address.

[*Here set out S.* 1 *of the Mental Deficiency Act*, 1913.]

(1) No certificates may be given by a medical officer of any certified institution or house to which defective is proposed to be sent. If the person signing the certificate has not been so approved the bracketed words must be deleted.
(2) The examination must have taken place not more than two months before the patient is placed in the institution or certified house.
(3) State whether an idiot, an imbecile, a feeble minded person or a moral defective. (*See* definitions.)
(4) Give date when observed.

Form P6

CERTIFICATE AS TO THE IMPRACTICABILITY OF A MEDICAL EXAMINATION

In the matter of A.B., of , in the county (borough) of , an alleged defective.

I, the undersigned, O.P., of , in the county (borough) of , hereby certify that a medical examination of the above-named A.B. is impracticable.

Dated the day of , 19 .

Signed

Form P7

STATUTORY DECLARATION TO ACCOMPANY PETITION

In the matter of A.B., of , in the county (borough) of , an alleged defective.

We, the undersigned, C.D., of , in the county (borough) of , and I.J., of , in the county (borough) of , solemnly and sincerely declare as follows :—

1. The said C.D. is the person who presents the accompanying petition.

2. A.B., named in the accompanying petition, is to the best of our knowledge and belief a defective within the meaning of section 1 of the Mental Deficiency Act, 1913, being (1).

3. The said A.B., is subject to be dealt with under the said Act by reason of the following circumstances—(2).

4. A petition under the said Acts [*or* a petition for a reception order under the Lunacy and Mental Treatment Acts, 1890 to 1930] was presented on the day of , with the following result—(3).

[4. No petition under the said Acts or for a reception order under the Lunacy and Mental Treatment Acts, 1890 to 1930, has been presented in respect of the said A.B.]

5. A medical examination of the said A.B. is impracticable by reason of the following circumstances—(4).

And we make this solemn declaration, conscientiously believing the same to be true, and by virtue of the provisions of the Statutory Declarations Act, 1835.

(1) State whether an idiot, an imbecile, a feeble minded person or a moral defective (*See* definitions.)

(2) Insert here such of the circumstances on this form as are applicable to this case.

(3) If the previous petition was dismissed a copy of the statement of reasons for the dismissal must be obtained from the Board of Control and appended hereto.

(4) Delete this paragraph if there has been a medical examination.

Declared by the said C.D.	Signed C.D.
.....	.....
and I.J.	
.....	
at	
.....	Signed I.J.
.....	.....
on the day of	
.....	
Before me	
Signed	
.....	
Justice of the Peace, Commissioner of Oaths.	

N.B.—*This form must be signed by the two declarants in the presence of the Justice of the Peace, or Commissioner of Oaths.*

[*Here set out S.* 1 *of the Mental Deficiency Act*, 1913.]

Circumstances which render a person, being a defective, liable to be dealt with, upon Petition, under the Mental Deficiency Acts, 1913 *to* 1938.

He is found { (*a*) neglected; (*b*) abandoned; (*c*) without visible means of support; (*d*) cruelly treated.

He is a person (*e*) with respect to whom a representation has been made to the local health authority by his parent or guardian that he is in need of care or training which cannot be provided in his home.

He is
- (*f*) found guilty of any criminal offence ;
- (*g*) ordered
- (*h*) found liable to be ordered

  } to be sent to an approved school under the Children and Young Persons Act, 1933 ;
- (*i*) undergoing imprisonment (except imprisonment under civil process) ;
- (*j*) undergoing penal servitude ;
- (*k*) undergoing detention in a place of detention by order of a Court ;
- (*l*) undergoing detention in an approved school ;
- (*m*) undergoing detention in an inebriate reformatory ;
- (*n*) undergoing detention in an institution for persons of unsound mind ;
- (*o*) undergoing detention in a Criminal Lunatic Asylum ;
- (*p*) an habitual drunkard within the meaning of the Inebriates Acts, 1879 to 1900 ;
- (*q*) a person with respect to whom a report has been issued under the enactments relating to education that he has been found incapable of receiving education at school, or that by reason of a disability of mind he may require supervision after leaving school.

Form P8

ORDER SENDING A DEFECTIVE TO AN INSTITUTION OR CERTIFIED HOUSE OR PLACING HIM UNDER GUARDIANSHIP

I, the undersigned, S.T., being a Justice for , specially appointed under the Lunacy Act, 1890,(1) having considered the documents hereto annexed, namely—

The petition of C.D. in the matter of A.B. ;

The medical certificates of K.L. and M.N.,

[or the certificate of O.P. that a medical examination of the said A.B. is impracticable ;]

The statutory declaration made by the said C.D. and by I.J. ;

[The consent in writing of Q.R., the (2) of the said A.B. (3) ;]

[The undertaking of the said C.D. to visit the said A.B. personally or by someone specially appointed by the said C.D. once at least in every six months while the said A.B. is detained [*or* kept under guardianship] under this Order (4) ;]

Having personally seen the said A.B. [and having caused him to be medically examined by U.V. of] (5) ;

Hereby find—

That the said A.B. is a defective within the meaning of section 1 of the Mental Deficiency Act, 1913, being (6)

Is subject to be dealt with under the said Act by reason of the following circumstances—

[That the consent of Q.R. the (2) of the said A.B. has been unreasonably withheld :

or That no parent or guardian of, or person who undertakes or performs the duty of a parent or guardian towards, the said A.B. can be found or that by reason of the parent or guardian being abroad

(1) Or the judge of the County Court of , *or* the Stipendiary Magistrate for , *or* a Metropolitan Police Magistrate.

(2) Father, mother, guardian, or person who undertakes or performs the duty of a parent or guardian.

(3) This paragraph only to be filled up if the petition is not presented by the parent or guardian.

(4) Delete this paragraph if the petition is presented by an officer of the local health authority.

(5) Delete words in brackets if the petition is accompanied by medical certificates.

(6) State whether an idiot, an imbecile, a feeble minded person *or* a moral defective. [*See* definitions.]

any attempt to obtain his consent would result in undue delay in dealing with the petition] (3):

And I hereby order the said A.B. who is a (7) to be sent to (8) to be detained there or in any other institution to which he may be transferred in accordance with the regulations for the time being in force under the Mental Deficiency Act, 1913, [*or* And I hereby appoint (8) of to be the guardian of the said A.B.]

Dated the day of , 19 . Signed

(3) This paragraph only to be filled up if the petition is not presented by the parent or guardian.
(7) State religious persuasion, if any.
(8) Insert name of the institution, certified house or guardian.

N.B.—Where a local health authority will by virtue of the Mental Deficiency Acts, 1913 to 1938, be responsible for the expenses of a defective ordered to be placed under guardianship, the order must recite that that local health authority has been given an opportunity of being heard, and must find that the defective resides within the area of the local health authority.

[*Here set out S.* 1 *of the Mental Deficiency Act*, 1913.]

Form P9

CERTIFICATE BY A JUDICIAL AUTHORITY IN THE CASE OF A FEEBLE MINDED PERSON OR A MORAL DEFECTIVE UNDER THE AGE OF 21 PLACED BY HIS PARENT IN AN INSTITUTION OR CERTIFIED HOUSE OR UNDER GUARDIANSHIP

(*To be appended to each Medical Certificate.*)

I, the undersigned S.T., being a Justice for specially appointed under the Lunacy Act, 1890,(1) do hereby certify that, having enquired into the case of A.B., of , in the county (borough) of , I am satisfied that the said A.B. is a (2) within the meaning of section 1 of the Mental Deficiency Act, 1913.

Dated the day of , 19 . Signed

[*Here set out S.* 1 *of the Mental Deficiency Act*, 1913.]

(1) *Or* the judge of the County Court of , or the Stipendiary Magistrate for , or a Metropolitan Police Magistrate.
(2) State whether a feeble minded person or a moral defective.

Form P10

FORM TO BE USED IN CONNECTION WITH THE PLACING OF A DEFECTIVE IN AN INSTITUTION OR CERTIFIED HOUSE OR UNDER GUARDIANSHIP IN ACCORDANCE WITH SECTION 3 OF THE MENTAL DEFICIENCY ACT, 1913

I, (1) of , in the county (borough) of , being the person having power under section 3 of the Mental Deficiency Act, 1913, to place (2), the defective named in the attached statement of particulars and medical certificates, hereby place him in (3) [*or* under the guardianship of (4)] at .

Dated day of , 19 .(5) Signed

To (6)

(1) Name of "parent" or "parent or guardian".
(2) Name of defective.
(3) Institution or certified house.
(4) Name and address of guardian.
(5) This date must not be prior to the dates of the medical certificates and statement of particulars.
(6) Superintendent of institution or certified house or guardian.

Form R1

[Name of institution, certified house, *or* of dwelling where a patient is residing under guardianship.]

NOTICE OF ADMISSION

Date of reception order.

Notice is hereby given that was admitted into this institution [or certified house *or* dwelling] as a private [health service] patient on the day of , and I hereby transmit a copy of the order and other documents (if any) on which he was received.

Subjoined is a statement with respect to the mental and bodily condition of the patient.

Signed

Superintendent, Clerk *or* person having charge of the patient.

Dated the day of , 19 .

To the Board of Control.

Medical Statement.

I have this day [*some day not earlier than the third day nor later than the seventh day after the day of admission*] examined the above-named patient, and hereby certify that the mental condition of the patient is as follows.*

* State with supporting facts whether an idiot, an imbecile, a feeble minded person or a moral defective.

and his bodily health and condition are as follows :—

Dated the day of , 19 .

Signed

Medical Officer *or* Medical Attendant.

Form R2

[Name of institution, certified house, *or* of dwelling where a patient is residing under guardianship.]

NOTICE OF TRANSFER FROM PRIVATE TO HEALTH SERVICE CLASS OR VICE VERSA

Notice is hereby given that , admitted into this institution [*or* certified house *or* dwelling] as a private [health service] patient on the day of , was on the day of transferred to the health service [private] class.

Dated the day of , 19 .

Signed

Superintendent, Clerk *or* person having charge of the patient.

Form R3

[Name of institution, certified house, *or* of dwelling where a patient is residing under guardianship.]

NOTICE OF TRANSFER

Date of reception order.

Notice is hereby given that , a private [health service] patient received into this institution [*or* certified house *or* dwelling] on

the day of , was, on the day of , transferred to by the authority of

Dated the day of , 19 .

Signed

Superintendent, Clerk *or* person having charge of the patient.

Form R4

[Name of institution, certified house, *or* of dwelling where a patient is residing under guardianship.]

NOTICE OF DISCHARGE

Date of reception order.

Notice is hereby given that , a private [health service] patient, received into this institution [*or* certified house *or* dwelling] on the day of , was discharged therefrom on the day of , by the authority of

Dated the day of , 19 .

Signed

Superintendent, Clerk *or* person having charge of the patient.

Form R5

[Name of institution *or* certified house.]

NOTICE OF ESCAPE

Notice is hereby given that , a private [health service] patient, received into this institution [*or* certified house] on the day of , escaped therefrom on the day of

The circumstances and manner of the escape were as follows :—

Dated the day of , 19 .

Signed

Superintendent *or* Clerk.

Form R6

[Name of institution *or* certified house.]

NOTICE OF RECAPTURE

Notice is hereby given that , a private [health service] patient who was received into this institution [*or* certified house] on the day of and escaped therefrom on the day of , was on the day of recaptured under the following circumstances :—

Dated the day of , 19 .

Signed

Superintendent *or* Clerk.

Form R7

[Name of institution, certified house, *or* of dwelling where a patient is residing under guardianship.]

NOTICE OF DEATH

Date of reception order.

Notice is hereby given that , a private [health service] patient received in this institution [*or* certified house *or* dwelling] on the day of , died therein on the day of

Dated the day of , 19 .

Signed

Superintendent or Guardian.

STATEMENT RESPECTING THE ABOVE-NAMED PATIENT

Name.

Sex and Age. Married, single *or* widowed.

Profession or Occupation (if any).
Usual residence (postal address) before admission. [If the patient has been transferred from any public or charitable institution or from a dwelling other than his usual residence, the residence before admission to such place should be given.]

Cause of Death

I.

Immediate cause.* *a*.....
Morbid conditions, if any, giving rise to immediate cause (stated in order proceeding backwards from immediate cause). *b*.....
c.....

II.

Other morbid conditions (if important) contributing to death, but not related to immediate cause. .....
.....

Whether or not ascertained by post mortem examination.

Time of and any unusual circumstances attending the death; also a description of any injuries known to exist at time of death or found subsequently on body of deceased, or a statement that there were none.

Names and description of persons present at the death.

I hereby certify that the particulars contained in the above statement are true to the best of my knowledge and belief.

Dated the day of , 19 .

Signed

Medical Officer *or*
Medical Attendant of patient.

* This means the disease, injury or complication which caused death—*not* the mode of dying, as, *e.g.*, heart failure, asphyxia, asthenia, etc.

Form R8

GENERAL REGISTER

Date of Admission	Date of Order of Authority for Detention	Reference Number	Full Names	Sex		Age on Admission	Classification		Mode of Admission (indicate whether Section 3, 6, 8, or 9)			Statutory Class				Discharged or Transferred		Date of Death	Observations
				M.	F.		Private	Health Service	Direct	Indirect		Idiot	Imbecile	Feebleminded	Moral Defective	To	Date		
										By Statutory re-admission after previous irregular Order of lapsing of Order	By transfer from								

NOTE.—In case of death the Cause of Death should be stated in the Observations column.

Form R9

REGISTER OF MECHANICAL RESTRAINT AND SECLUSION

Duration of Seclusion in Hours	Reasons for Seclusion	Date	Names of Patients		Means of Restraint Employed	Duration of Restraint in Hours	Certificate of Medical Officer stating grounds upon which restraint was employed
			Males	Females			
							I certify that restraint was employed in this case on the following grounds :—
							Signed *Medical Officer or practitioner.*

Note.—At the beginning of this register a printed copy of any regulation or rule made by the Board and for the time being in force which relates to mechanical restraint or defines seclusion must be inserted.

Form R10

GUARDIANSHIP BOOK

For Patients under Guardianship and under Private Care

Date	Medical and Progress Reports	Dates and form of application of mechanical restraint* or dates and duration of seclusion	Signature and status of visitor

* In respect of each period of mechanical restraint a report must be obtained as soon as possible from a medical officer of the local health authority describing the means used and stating the grounds upon which restraint was employed.

In the case of a patient under private care the report should be obtained from the patient's medical attendant.

See Regulation 68 as to entry of above mentioned report.

Form V1

ORDER MADE UNDER SECTION 7 (1) OF THE MENTAL DEFICIENCY ACT, 1913, VARYING A PREVIOUS ORDER AND SENDING A DEFECTIVE TO AN INSTITUTION.

Whereas on the an Order was made by appointing of to be the guardian of , a defective within the meaning of section 1 of the Mental Deficiency Act, 1913, being (1) ;

(1) State whether an idiot, an imbecile, a feeble minded person or a moral defective.

And Whereas the said has become unsuitable for guardianship ;

And Whereas parent or guardian of the said have been given an opportunity of being heard :

Now, Therefore, I, , upon application made to me by the said , who is a (2) hereby order that be removed to .

(2) State religious persuasion, if any.

Dated the day of , 19 .

Signed

A Justice for specially appointed under the Lunacy Act, 1890, *or* the Judge of the County Court of *or* the Stipendiary Magistrate for , *or* a Metropolitan Police Magistrate.

Form V2

ORDER MADE UNDER THE MENTAL DEFICIENCY (AMENDMENT) ACT, 1925, VARYING A PREVIOUS ORDER AND PLACING A DEFECTIVE UNDER GUARDIANSHIP

Whereas on the an Order was made by sending of in the county (borough) of , a defective within the meaning of section 1 of the Mental Deficiency Act, 1913, being (1) to the in the county (borough) of ;

(1) State whether an idiot, an imbecile, a feeble minded person or a moral defective.

[And Whereas on the day of the said defective was duly transferred to the in the [said] county [borough) of ;]

And Whereas the said defective has now become suitable for guardianship ;

And Whereas the responsible local health authority of and the parent or guardian of the said defective have been given an opportunity of being heard :

Now, Therefore, I, , upon application made to me by , hereby appoint of , to be the guardian of the said defective.

Dated the day of , 19 .

Signed

A Justice for
specially appointed under the Lunacy Act, 1890, *or* the Judge of the County Court of
or the Stipendiary Magistrate for , *or* a Metropolitan Police Magistrate.

[2976]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Regulations, but is intended to indicate their general purport.*)

The amendments to the Mental Deficiency Acts, 1913 *to* 1938, *effected by Part V of the National Health Service Act,* 1946, *and the Ninth Schedule to that Act, have necessitated corresponding amendments in the Mental Deficiency Regulations. These amendments are so numerous and extensive that rewriting of the whole of the Regulations has been found to be the only practical course.*

The new Regulations follow the lines of the existing Regulations and all the major alterations are consequential on the amendments to the Mental Deficiency Acts referred to in the first paragraph of this Note.

MENTAL TREATMENT RULES, 1948

S.I. 1948 *No.* 1071

May 21, 1948

The Board of Control, in exercise of the powers conferred on them by subsection (1) of Section 338 of the Lunacy Act, 1890, as extended by Section 15 of the Mental Treatment Act, 1930 and amended by Section 50 of the National Health Service Act, 1946, and with the approval of the Minister of Health and the concurrence of the Lord Chancellor, hereby make the following Rules.

PART I

General

1. Short title and interpretation.—These Rules may be cited as the Mental Treatment Rules, 1948. [2977]

2.—(1) In these Rules, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them—

"The principal Act" means the Lunacy Act, 1890, as amended by the National Health Service Act, 1946;

"The Act of 1930" means the Mental Treatment Act, 1930, as amended by the National Health Service Act, 1946;

"Minister" means the Minister of Health;

"The Board" means the Board of Control;

"Commissioner" includes Senior Commissioner and Commissioner other than Senior Commissioner;

"Hospital Management Committee" means a Hospital Management Committee appointed by a Regional Hospital Board under section eleven of the National Health Service Act, 1946;

"Medical Officer" in relation to a mental hospital means the Medical Superintendent, or if the Superintendent is not a medical practitioner the resident Medical Officer, or if none the medical practitioner who visits the mental hospital as the Medical Officer thereof; in relation to other premises vested in the Minister and designated by him for the purposes of the Act of 1930 means the resident medical practitioner, or if none the medical practitioner who visits the premises as the medical attendant thereof; in relation to a registered hospital means the Superintendent; in relation to a licensed house means the resident medical practitioner, or if none the medical practitioner who visits the house as the medical attendant thereof;

"Person in charge" in relation to a person received or about to be received under the principal Act into an institution means the medical officer of the mental hospital, the medical officer of the registered hospital or the resident licensee of the licensed house into which he is or is about to be so received; in relation to a person received or about to be received under the Act of 1930 as a voluntary or temporary patient (not being a person received or about to be received as a single patient) means the medical superintendent or other person in charge of the institution, hospital, home or place into which he is or is about to be so received; and in relation to a person received or about to be received as a single patient under the principal Act or the Act of 1930 means the person into whose charge he is or is about to be so received.

"Clerk" in relation to an institution means the clerk of a mental hospital or an institution vested in the Minister and designated by him

for the purposes of the Act of 1930, but not of a registered hospital or licensed house.

"Health service patient" means a patient other than a private patient or a criminal lunatic.

(2) The forms set out in the Schedule to these Rules shall be used in all cases to which those forms are applicable.

(3) The Interpretation Act, 1889, applies to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament. [2978]

3. Date of commencement.—These Rules shall come into operation on the 5th day of July, 1948, on which day the Mental Treatment Rules, 1930, the Mental Treatment (Emergency Provisions) Rules, 1940, the Mental Treatment (Emergency Provisions) Rules, 1942, and the National Health Service (Mental Treatment) Amendment Rules, 1947, shall cease to have effect. [2979]

PART II

APPLICATION, WITH MODIFICATIONS AND ADAPTATIONS, TO VOLUNTARY AND TEMPORARY PATIENTS OF SECTIONS 55, 56, 58, 59, 61, 64, 66, 67 AND 70, AND SECTIONS 275, 319, 322 AND 324 OF THE PRINCIPAL ACT

Leave of Absence of Temporary Patients

4. Absence of temporary patients on trial or for health or on short leave.—(1) Subject to the provisions of Section 5 of the Act of 1930, the person in charge of an institution *, hospital or nursing home may permit a temporary patient to be absent on trial or for the benefit of his health for such period as the person in charge thinks fit:

Provided that before permission is granted to any patient, the approval in writing of the person having authority to discharge the patient shall be obtained unless, in the opinion of the person in charge, there is adequate reason for dispensing with such approval.

(2) Seven clear days before any such permission is granted to a temporary patient in a nursing home, notice of the impending absence shall be sent to the Board and similar notice with respect to any extension of the period of absence shall also be sent to the Board.

(3) The Hospital Management Committee of an institution vested in the Minister may make an allowance to a temporary patient absent on trial therefrom, not exceeding the amount of the expense of his maintenance in the institution.

(4) Where any temporary patient detained in a registered hospital or hospital in pursuance of a contract with a Regional Hospital Board is permitted under this Rule to be absent upon trial, two members of the managing committee or governing body of the hospital, as the case may be, may make an allowance to the patient during the period of his absence not exceeding the amount payable under the contract for his maintenance in the hospital and the allowance shall either be paid to him or for his benefit as the members of the managing committee or governing body may direct.

(5) The person in charge of a registered hospital, licensed house, hospital or nursing home may, of his own authority, permit any temporary patient to be absent from the registered hospital, house, hospital or nursing home for a period not exceeding forty-eight hours.

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* The expression "institution" is defined by the Act of 1930 with the following meaning and in these Rules has the same meaning, viz., a mental hospital and other premises vested in the Minister and designated by him for the purposes of the Act of 1930, a registered hospital or licensed house.

(6) The person in charge of an institution vested in the Minister and designated by him for the purposes of the Act of 1930 may of his own authority permit any temporary patient to be absent from the institution for a period not exceeding four days. [2980]

Change of Residence and Leave of Absence of Single Patient

5. Change of residence of voluntary and temporary single patients.—(1) Any person having charge of a voluntary single patient or temporary single patient may change his residence and remove the patient to any new residence which he takes up in England or Wales.

(2) Seven clear days before a change of residence, the person having charge of the patient shall give notice in writing to the Board of the proposed change, and of the place of the new residence, and, in the case of a voluntary patient under the age of sixteen years and of a temporary patient, he shall also give the like notice to the person on whose application the patient was received. If a temporary patient residing in the jurisdiction of visitors has not been seen by them in accordance with the provisions of section 5 (9) of the Act of 1930, a like notice shall also be given to the clerk of the visitors, and on the arrival of the patient at his new residence, if such residence is within the jurisdiction of any other visitors, the clerk of the latter visitors shall be notified.

(3) **Absence of temporary single patients on trial or for health.**—The person in charge of a temporary single patient may, with the advice in writing of the medical attendant, permit him to be absent on trial or for the benefit of his health for such period as, subject to the provisions of section 5 of the Act of 1930, the person in charge thinks fit.

(4) Before any such permission is granted, the approval in writing of the person having authority to discharge the patient shall be obtained unless in the opinion of the person in charge there is adequate reason for dispensing with such approval.

(5) Seven clear days before any such permission is granted, notice of the impending absence of the patient shall be sent to the Board and similar notice with respect to any extension of the period of absence shall also be sent to the Board. [2981]

Removal of Temporary Patients

6. Removal of private temporary patient by person authorised to discharge.—The person having authority to discharge a private temporary patient from an institution, hospital or nursing home or to discharge a temporary single patient may, with the previous consent in writing of a Commissioner, by order in writing, direct the removal of the patient to an institution, hospital or nursing home or to the charge of any person named in the order. [2982]

7. Removal of temporary patient by Board or Commissioner.—(1) A Commissioner may by order direct the removal of a temporary patient from an institution, hospital or nursing home or from the charge of any person to any other institution, hospital or nursing home or to the charge of another person.

(2) Upon the death of a person having charge of a temporary single patient the Board may, upon the application of the person having authority to discharge the patient, or, if he does not apply within seven days after the death, upon their own motion, direct the patient to be removed to the charge of a person named in the order, or to an institution, hospital or nursing home. [2983]

8. Removal of temporary patient treated under contract.—Where a temporary patient is detained in a registered hospital, or hospital in pursuance

of a contract with a Regional Hospital Board, that Board may make an order for the removal of the patient, and may direct the mode of removal, and on production to the person in charge of a copy of the order he shall forthwith remove the patient or permit him to be removed in accordance with the order. [2984]

9. Removal of temporary patient to mental hospital.—Any two members of the Hospital Management Committee of an institution vested in the Minister may by order authorise the removal of a temporary patient to that institution from any other institution, hospital or nursing home in which he may be detained. [2985]

10. Directions as to execution of order for removal.—The members of the Hospital Management Committee making an order for the removal of a temporary patient may by the order require the local health authority for the area where the institution is situated, or may authorise any other person, to execute the same. [2986]

11. Restriction upon removal of temporary patient.—A temporary patient shall not be removed under any order for removal made by two members of a Hospital Management Committee without a medical certificate signed by the medical officer of the institution from which the patient is to be removed, or in the case of a hospital or nursing home by the medical practitioner in charge of the case, certifying that he is in a fit condition of bodily health to be removed. [2987]

12. Removal orders to be in duplicate.—(1) Every order for the removal of a temporary patient from an institution, hospital or nursing home or from the charge of any person shall be made in duplicate and any written consent to a removal which is given by a Commissioner shall also be in duplicate. One duplicate shall be delivered to the person in charge of the institution, hospital or nursing home from which, or to the person from whose care, the patient is removed, and the other to the person in charge of the institution, hospital or nursing home into which, or to the person into whose care, the patient is removed.

(2) **Authority for removal and reception.**—Every such order, accompanied, where requisite, by the necessary consent, shall be sufficient authority for the removal and reception of the patient, in accordance with the order.

(3) **Copy of documents to be delivered.**—The person in charge of the institution, hospital or nursing home from which, or the person from whose care a temporary patient is removed under any such order, shall deliver, free of expense, copies of the application for admission and of the medical recommendation accompanying the same to the person executing the order for removal, to be by him delivered to the person in charge of the institution, hospital or nursing home into which, or to the person into whose care, the patient is removed.

(4) Every such copy shall be certified under the hand of the person whose duty it is to deliver it. [2988]

Notice to Coroner

13. Death of temporary patient.—If the person in charge of an institution, hospital or nursing home or of a single patient omits to send to the coroner within the time prescribed by Rule 65, Rule 86, or Rule 102, as the case may be, notice of the death of a temporary patient, he shall be guilty of a misdemeanour. [2989]

Ill-Treatment

14. Ill-treatment.—If any person in charge, officer, nurse, attendant, servant or other person employed in an institution, hospital or nursing home

or in a place approved for the reception of voluntary patients, or any person having charge of a voluntary or temporary patient ill-treats or wilfully neglects a patient he shall be guilty of a misdemeanour and, on conviction on indictment, shall be liable to a fine or imprisonment, or to both fine and imprisonment at the discretion of the court, or be liable on summary conviction for every offence to a penalty not exceeding twenty pounds nor less than two pounds. [2990]

Abuse of Female Patient

15. Abuse of female voluntary or temporary patient.—If any person in charge, officer, nurse, attendant or other person employed in an institution, hospital or nursing home or in a place approved for the reception of voluntary patients, or any person having the care or charge of any voluntary or temporary single patient, or any attendant of any such single patient, carnally knows or attempts to have carnal knowledge of any female under care or treatment in the institution, hospital, nursing home or place or as a single patient, he shall be guilty of a misdemeanour, and, on conviction on indictment, shall be liable to be imprisoned with or without hard labour for any term not exceeding two years; and no consent or alleged consent of such female thereto shall be any defence to an indictment or prosecution of such offence. [2991]

PART III

APPLICATION, WITH MODIFICATIONS AND ADAPTATIONS, TO TEMPORARY PATIENTS OF SECTIONS 40, 41, 42, 49, 50, 51 AND 85 OF THE PRINCIPAL ACT

Mechanical Restraint

16. Mechanical means of restraint.—(1) Mechanical means of bodily restraint shall not be applied to any temporary patient unless the restraint is necessary for purposes of surgical or medical treatment or to prevent the patient from injuring himself or others.

(2) In every case where such restraint is applied, a medical certificate shall, as soon as it can be obtained, be signed, describing the mechanical means used, and stating the grounds upon which the restraint was employed.

(3) The certificate shall be signed, in the case of a patient in an institution by the medical officer, in the case of a patient in a hospital or nursing home by the medical practitioner in charge of the patient, and in the case of a single patient by his medical attendant.

(4) A full record of every case of restraint by mechanical means shall be kept from day to day; and a copy of the records and certificates under this rule shall be sent to the Board by the person in charge at the end of every quarter.

(5) In the application of this rule "mechanical means" shall be such instruments and appliances as are specified in the Regulation made by the Board on the 7th day of January, 1925, under Section 40 (6) of the principal Act or in such other regulations under that section as may from time to time be in force.

(6) Any person who wilfully acts in contravention of this rule shall be guilty of a misdemeanour. [2992]

Correspondence

17. Letters of temporary patients.—(1) The person in charge of each institution, hospital and nursing home and every person having charge of a single patient shall forward unopened all letters written by any temporary patient and addressed to the Lord Chancellor or any Judge in Lunacy, or to

the Minister of Health, or to the Board or any Commissioner, or to the person who made the application for the reception of the patient or, if such person was not a relative, to the relative named therein, or to the person having authority to discharge the patient, or to the Chancery Visitors or any Chancery Visitor or to any other visitors or visitor, or to the Hospital Management Committee or any member of the Hospital Management Committee of the institution in which the patient writing such letters may be, and may also at his discretion forward to its address any other letter written by a temporary patient.

(2) If any person in charge of an institution, hospital or nursing home or of a temporary single patient makes default in complying with the obligation imposed on him by this rule, he shall for each offence be liable to a penalty not exceeding twenty pounds. [2993]

Notices

18. Notices as to letters and interviews.—(1) Whenever the Board so direct, there shall be posted up in every institution, hospital and nursing home, printed notices setting forth :—

(*a*) the right conferred by the last preceding rule on temporary patients in regard to the forwarding of their letters ;

(*b*) the right of every temporary patient to request a personal and private interview with any Commissioner or member of the Hospital Management Committee or visitor at any visit which he may make to the institution, hospital or nursing home.

(2) The notices shall be posted in each institution, hospital and nursing home so that every temporary patient may be able to see them.

(3) The visiting Commissioners or, in the case of a licensed house, the visitors may give directions as to the places in which such notices are to be posted.

(4) If the person in charge of any institution, hospital or nursing home makes default in posting such notices, or does not within ten days carry out any directions as to such notices given by any visiting Commissioner or visitors, he shall for each offence be liable to a penalty not exceeding twenty pounds. [2994]

Examination of Patients

19. Application for examination of temporary patient.—An order for the examination by two medical practitioners, authorised by the Board, of any temporary patient in an institution, hospital or nursing home or of a temporary single patient may be obtained from the Board upon the application of any person, whether a relative or friend or not, who satisfies the Board that it is proper for them to grant such order ; and on production to the Board of the certificates of the medical practitioners so authorised, certifying that after two separate examinations with at least seven days intervening between the first and the second examination, they are of opinion that the patient may, without risk or injury to himself or the public be discharged, the Board may order the patient to be discharged at the expiration of ten days from the date of the order. [2995]

Inquiries as to Property

20. Inquiry as to property of temporary patient.—(1) Where the Board represent to the Lord Chancellor that it is desirable that the extent and nature of the property of a temporary patient, and its application, should be ascertained, the Lord Chancellor may, if he thinks fit, through the Master in Lunacy, require that the person upon whose application the patient was received or other the person paying for the care and maintenance of the

patient or having the management of his property, shall transmit to the Lord Chancellor a statement in writing, to the best of his knowledge, of the particulars of the property of the patient and of its application.

(2) The Board may also, whenever they think it expedient, make inquiries as to the property of any temporary patient. [2996]

Application for a Search

21. Information as to persons treated as temporary patients.—If any person applies to the Board in order to be informed whether any particular temporary patient is treated in any institution, hospital or nursing home or as a single patient and it appears that the patient is or has been so treated, the Board may, if they think fit, deliver to the applicant a statement in writing specifying the situation of the institution, hospital, nursing home or house in which the patient appears to be or to have been treated, and also (so far as the Board can ascertain the same from any register or return in their possession) the name of the person in charge, and the date of admission, and (in case of the patient's removal or discharge) the date of his removal or discharge. The applicant shall pay to the Board such sum not exceeding seven shillings as the Minister may fix. [2997]

Escape and Recapture

22. Escape and recapture.—If a temporary patient escapes, he may, subject to the provisions of section 5 of the Act of 1930, without a fresh application for admission and medical recommendation, be retaken at any time within fourteen days after his escape by the person in charge of the institution, hospital or nursing home in which he was detained, or any officer or servant thereof, or by the person in whose charge he was as a single patient, or by anyone authorised in writing by that person. [2998]

PART IV

APPLICATION, WITH MODIFICATIONS AND ADAPTATIONS, TO TEMPORARY PATIENTS OF SECTIONS 72, 73, 74, 76, 77, 78, 79, 80, 82 AND 83 OF THE PRINCIPAL ACT

Discharge of Temporary Patients

23. Discharge of temporary patient.—(1) A temporary patient detained in an institution, hospital or nursing home, or under care as a single patient, shall be discharged on a direction in writing given under his hand—

(*a*) by the person on whose application the patient was received as a temporary patient, other than an officer of the local health authority;

(*b*) if that person is dead or incapable by reason of insanity, absence from England and Wales, or otherwise, of signing an order for discharge, by the person who made the last payment on account of the patient, or by the appropriate relative.

(2) If there is no person qualified to direct the discharge of a temporary patient under this rule, or no person able or willing to act, the Board may order his discharge.

(3) In this rule the expression " appropriate relative " means the husband or wife, or if there is no husband or wife, or the husband or wife is incapable by reason of insanity, absence from England or Wales, or otherwise, of signing an order for discharge, the father, or if there is no father, or if he is incapable as aforesaid, the mother, or if there is no mother, or she is incapable as aforesaid, then any one of the next of kin. [2999]

24. Discharge of temporary patient treated under contract.—Where any temporary patient is detained in a registered hospital or hospital in pursuance of a contract with a Regional Hospital Board, that Board may make an order for the discharge of the patient and may direct the mode of discharge, and on production to the person in charge of a copy of the order, he shall forthwith discharge the patient or permit him to be discharged in accordance with the order. [3000]

25. Restriction on discharge of temporary patient.—A temporary patient shall not be discharged under the foregoing provisions if the medical officer of the institution, or in the case of a patient in a hospital or nursing home the medical practitioner in charge of the patient, or in the case of a single patient his medical attendant, certifies in writing that the patient is dangerous and unfit to be at large, together with the grounds on which the certificate is founded, unless two members of the Hospital Management Committee in the case of an institution vested in the Minister, or a Commissioner visiting the registered hospital, licensed house, hospital or nursing home, or the visitors of the licensed house, or, in the case of a single patient, a Commissioner, after the certificate has been produced, consent in writing to the patient's discharge. [3001]

26. Notice of order of discharge.—(1) The Board when they have made an order of discharge shall forthwith serve it upon the person in charge and shall give notice of such order, in the case of a private patient, to the person on whose application the patient was received or who made the last payment on account of the patient.

(2) Any person who has been duly served with any such order of discharge and detains a temporary patient after the date of discharge appointed thereby shall be guilty of a misdemeanour. [3002]

27. Discharge by members of Hospital Management Committee.—(1) Any three members of the Hospital Management Committee of an institution vested in the Minister may order the discharge of any temporary patient detained therein, whether he is recovered or not.

(2) Any two such members, with the advice in writing of the medical officer, may order the discharge of any temporary patient detained therein. [3003]

28. Discharge by visitors of temporary patients in licensed houses.—(1) If after two visits by two visitors to a licensed house, it appears to the visitors that any temporary patient is detained without sufficient cause, the visitors may make such order as they think fit for his discharge.

(2) In the case of visits under this rule, one of the visitors shall be a medical practitioner.

(3) The two visits shall be made by the same visitors with an interval of not less than seven days between the visits.

(4) Seven days' notice of the second visit shall be given to the person in charge either by post or by an entry in the patients' book, and he shall forthwith send by post a copy of the notice to the person on whose application the patient was received or by whom the last payment on account of the patient was made, and also to the clerk of the visitors.

(5) The visitors before making an order under this rule shall examine the medical officer of the licensed house as to his opinion respecting the fitness of the temporary patient to be discharged, if he tenders himself for examination.

(6) If, after such examination, an order for discharge is made, and the medical officer furnishes to the visitors a statement of his reasons against the discharge, they shall forthwith send the statement to the clerk of the visitors.

(7) Every order under this rule shall be signed by the visitors by whom it is made. [3004]

29. Discharge of temporary patient on application of relative or friend.—(1) When application is made to the Hospital Management Committee of an institution vested in the Minister by a relative or friend of a temporary patient detained therein, requiring that he may be delivered over to the custody and care of such relative or friend, any two of the members thereof may, if they think fit, discharge the patient upon the undertaking of the relative or friend, to their satisfaction, that the patient shall be properly taken care of and prevented from doing injury to himself or others.

(2) In the case of such a patient detained in a registered hospital or hospital in pursuance of a contract with a Regional Hospital Board, the provisions of paragraph 1 of this rule shall apply with the substitution of the managing committee or governing body of that hospital, as the case may be, for the Hospital Management Committee of an institution vested in the Minister. [3005]

30. Notice of impending discharge of temporary patient by Hospital Management Committee.—When the Hospital Management Committee of an institution vested in the Minister order a temporary patient detained therein to be discharged, except on the application of a relative or friend, they may, when they think fit, send, by post or otherwise, to the local health authority, a notice in writing, signed by the clerk of the institution or if there is no clerk on the staff by the person in charge, of their intention to discharge the patient. [3006]

31. Copy of reception documents to be furnished.—The Secretary to the Board shall, upon the discharge of a person who considers himself to have been unjustly detained as a temporary patient, furnish to him upon his request, free of expense, copies of the application for reception and of the medical recommendation accompanying the same. [3007]

32. Notice to be given on recovery of temporary patient.—(1) The person in charge of every registered hospital, licensed house, hospital and nursing home and of a temporary single patient, shall forthwith, upon the recovery of a temporary patient, send notice thereof, to the person on whose application the patient was received or by whom the last payment on account of the patient was made.

(2) The notice shall state that unless the patient is removed within seven days from the date of the notice he will be discharged.

(3) In case the patient is not removed within seven days from the date of the notice he shall be forthwith discharged. [3008]

PART V

APPLICATION TO HOSPITALS, NURSING HOMES, HOUSES AND PLACES RECEIVING VOLUNTARY OR TEMPORARY PATIENTS (NOT BEING HOSPITALS, HOMES, HOUSES OR PLACES FOR THE VISITATION AND INSPECTION OF WHICH PROVISION IS MADE BY THE PRINCIPAL ACT) OF CERTAIN PROVISIONS OF THE PRINCIPAL ACT RELATING TO VISITATION AND INSPECTION

Visitation and Inspection

Hospitals

33. Commissioners to visit.—One or more Commissioners shall once at least in each year visit every hospital receiving voluntary or temporary patients, and shall enquire as to any such matters relating to those patients as they think fit. [3009]

34. Books to be produced to visiting Commissioners.—The person in charge of each hospital receiving voluntary or temporary patients shall when so required by any visiting Commissioner lay before him :—

(*a*) a list of all voluntary and temporary patients then in the hospital ;
(*b*) the several books required to be kept by these Rules or by any other rules applicable to the hospital which may be made under the principal Act and may be for the time being in force. [3010]

Nursing Homes and Places

35. Commissioners to visit.—One or more Commissioners shall once at least in each year visit every nursing home and place receiving voluntary or temporary patients and shall enquire as to such matters relating to these patients as they think fit. [3011]

36. Inspection of premises by visiting Commissioners.—Any such nursing home or place may at any time of the day or night be visited by a Commissioner who may inspect any or every part of the buildings and grounds used by voluntary or temporary patients. [3012]

37. Person in charge to show every part and every patient.—(1) The person in charge of each nursing home or place shall when so required by any visiting Commissioner show to him every person residing therein as a voluntary or temporary patient, and any or every part of the buildings or grounds used by such patients.

(2) Any person in charge of a nursing home or place shall be guilty of a misdemeanour if he conceals or attempts to conceal from or refuses or wilfully neglects to show to any visiting Commissioner, or any person authorised under the Act of 1930 to visit and inspect the nursing home or place or the patients therein or any of them, any part of the buildings or grounds used by voluntary or temporary patients or any such patient therein, or if he does not give full and true answers to the best of his knowledge to all questions which any visiting Commissioner or other person authorised to visit asks in the execution of his office. [3013]

38. Books to be produced to visiting Commissioners.—The person in charge of each nursing home or place receiving voluntary or temporary patients shall when so required by any visiting Commissioner lay before him :—

(*a*) a list of all voluntary and temporary patients then in the nursing home or place ;
(*b*) the several books required to be kept by these Rules or by any other rules applicable to the nursing home or place which may be made under the principal Act and may be for the time being in force. [3014]

Houses receiving Voluntary and Temporary Single Patients

39. Annual visit to single patient.—One or more Commissioners shall once at least in each year visit every house in which a voluntary or temporary single patient is resident and inquire into and report to the Board on the treatment and state of bodily and mental health of the patient. [3015]

40. Power to visit and report.—(1) A Commissioner, on the direction of the Board, may at all reasonable times visit a voluntary or temporary single patient, and inquire into and report to the Board or to the Lord Chancellor on the treatment and state of health, both bodily and mental, of the patient, and as to the moneys paid on his account.

(2) Any one or more of the visitors appointed for any county or borough shall, upon the request in writing of the Board to visit, have the like power as regards any voluntary or temporary single patient in such county or borough.

(3) Upon every visit under this rule the medical journal shall be produced to the person making the visit, and he shall sign the same.

(4) A copy of any report under this rule shall, if the Board think it expedient, be laid before the Lord Chancellor. [3016]

41. Power to inspect.—(1) Any Commissioner visiting a house in which a voluntary or temporary single patient is resident may inspect any or every part of the house or grounds used by the patient.

(2) If the person having charge of a patient refuses to show to any Commissioner, at his request, any part of the house or grounds used by the patient, he shall be guilty of a misdemeanour. [3017]

PART VI

PROVISION PRESCRIBING THE EVIDENCE REQUIRED ON APPLICATION FOR EXTENSION OF TEMPORARY TREATMENT

42.—(1) In any case in which it is desired to extend the period of treatment for a temporary patient the application required under Section 5 (13) of the Act of 1930 shall be addressed to the person in charge, who shall transmit it to the Board not more than one month nor less than fourteen days before the expiration of the current period of treatment together with a statement as to the mental and bodily condition of the patient which shall be signed—

(*a*) in the case of a patient in an institution by the medical officer;
(*b*) in the case of a patient in a hospital or nursing home by the medical practitioner in charge of the case;
(*c*) in the case of a single patient by the medical attendant.

(2) The Board may also require a recommendation from the usual medical attendant of the patient or from a medical practitioner approved by the Board. [3018]

PART VII

PROVISIONS PRESCRIBING THE BOOKS AND RECORDS TO BE KEPT IN INSTITUTIONS

43. Application and interpretation.—(1) This Part of these Rules applies to institutions, that is to say, mental hospitals and other premises vested in the Minister and designated by him for the purposes of the Act of 1930, registered hospitals and licensed houses.

(2) In this Part of these Rules the expression "ward" in relation to a hospital or licensed house includes a suitable division or section of the hospital or house. [3019]

44. Books and records to be kept.—(1) There shall be kept in every institution the following books and records for voluntary, temporary and certified patients:—

(*a*) a visitors' book;
(*b*) a patients' book;
(*c*) an alphabetical register (which may, if desired, be kept by means of a card index);
(*d*) a general register;
(*e*) a register of mechanical restraint and seclusion;
(*f*) a post-mortem record;

(*g*) a casualty book for each ward ;
(*h*) a clinical record ;
(*i*) a dispensary book or medicine card or sheet ;
(*j*) caution cards for actively suicidal cases, tuberculous cases and intestinal infection cases.

(2) There shall be kept in every mental hospital a register of dysentery and diarrhoea. [3020]

45. Post-mortem record.—A member of the medical staff shall enter in the post-mortem record notes of all post-mortem examinations. [3021]

46. Nurses' reports.—In every institution vested in the Minister the nurse in charge of each ward shall make day reports and night reports and shall also keep a list of the patients in the ward. [3022]

47. Casualty book.—The nurse in charge of each ward shall keep the casualty book for that ward and shall enter therein a note of any injury or casualty to a patient immediately after its occurrence, and shall at the same time inform a member of the medical staff. [3023]

48. Clinical records.—(1) The clinical record shall be either in book form or in loose leaf form, and subject to the requirements of this rule the method of keeping the record shall be such as the medical officer may determine.

(2) The following entries shall be made by a member of the medical staff in the clinical record in respect of each patient admitted—

(*a*) the name ; date of admission ; general reference number ; age ; sex ; occupation ; civil state ; nationality ; whether subject to epilepsy, suicidal or dangerous to others ; whether voluntary, temporary or certified ; whether of the private, health service or criminal class, and the name of the local health authority in whose area the patient ordinarily resides ; whether a direct or indirect case ; and in the latter event the name of the institution from which transferred ; and religion ;
(*b*) a record of a complete physical examination of the patient ;
(*c*) a description of the phenomena of the mental illness ;
(*d*) a diagnosis of the case ;
(*e*) the family history of the patient, with special attention to the presence or absence of mental or nervous disorder in the relatives ;
(*f*) the personal history of the patient including the question of previous attacks of mental or nervous disorder ;
(*g*) the history of the present illness including the aetiological factors of the disease in so far as they are ascertainable.

(3) Copies of the following documents shall be made on or attached to the clinical record—

(*a*) in the case of voluntary patients under the age of sixteen, the medical recommendation ;
(*b*) in the case of temporary patients, the medical recommendation ;
(*c*) in the case of certified patients, the medical certificate or certificates accompanying the urgency or reception order, and the statement of particulars supplied by the relative or duly authorised officer at whose instance the order was made.

(4) In the event of the death of a patient, a copy of the death notice and statement is to be attached to, or entered on, the clinical record. [3024]

49. How often entries to be made.—(1) Subsequent entries describing the course and progress of the case and recording the medical and other treatment and its result shall be made in the clinical record by a member of the medical staff at the following times, that is to say, once at least in every week,

or oftener, if necessary, during the first month after admission, and once at least in every month during the ensuing eleven months except in protracted cases in which cases entries shall be made as frequently as necessary. At the end of twelve months entries shall be made at least twice a year, and one of these entries shall contain the record of a complete physical examination.

(2) All special circumstances affecting a patient, including any special form of treatment given, and the results of bacteriological or other investigations made, shall be recorded in the clinical record by a member of the medical staff.

(3) All entries in the clinical record must be signed or initialled by the member of the medical staff making them, and a printed copy of this and the last preceding rule shall be issued to each member of the medical staff on appointment. [3025]

50. Medicine records.—All medicines, except simple aperients and occasional draughts shall be prescribed in writing by the member of the medical staff in charge of the case either by means of an entry in the dispensary book or on a separate card or sheet for each patient, and all repetitions shall be initialled by a member of the medical staff. A record of the prescription of simple aperients and occasional draughts shall also be kept in such form as the medical officer thinks fit. [3026]

51. Entries to be made and notices to be sent on admission.—(1) The clerk of an institution, or in the case of an institution having no clerk on the staff the person in charge, shall on the admission of a patient make the appropriate entries with respect to the patient in the alphabetical register and in the general register.

(2) The clerk of an institution, or in the case of an institution having no clerk on the staff the person in charge, shall before the expiration of the second day after that on which a patient was received send to the Board a notice of his admission and also—

(*a*) in the case of a voluntary patient under the age of sixteen, a copy of the medical recommendation ;

(*b*) in the case of a temporary patient, copies of the application for reception and of the medical recommendation ;

(*c*) in the case of a certified patient admitted on an urgency order, copies of the urgency order, and of the statement of particulars and medical certificate which accompanied the order ;

(*d*) in the case of a certified patient admitted on a reception order, copies of the reception order, and of the statement of particulars and medical certificate or certificates on which the order was made, and if the reception order was made on petition, a copy of the petition.

(3) Where a patient has been admitted on an urgency order which is followed by a reception order made on petition, a copy of the reception order together with copies of the petition and medical certificates shall, before the expiration of the second day after that on which the reception order was obtained, be sent to the Board by the person who under this rule is required to send notice of admission to the Board.

(4) Within the times prescribed by this rule a notice of admission and copies of the documents referred to in paragraph (2) of this rule shall also be sent—

(*a*) in the case of temporary patients, by the clerk of an institution which has a Hospital Management Committee to the clerk of the Hospital Management Committee, and by the person in charge of a registered hospital within the jurisdiction of visitors to the clerk of the visitors ;

(*b*) in the case of temporary or voluntary patients, by the person in charge of a licensed house within the jurisdiction of visitors to the clerk of the visitors.

(5) In the case of certified patients the person in charge of a licensed house shall also send a notice of admission to the clerk of the visitors.

(6) Where a criminal lunatic is admitted to an institution, the clerk or in the case of an institution having no clerk on its staff the person in charge, shall within the times prescribed by this rule send to the Board a notice of admission and copies of the Home Secretary's warrant and of the documents accompanying it. If the patient is subsequently detained under an order of a justice made under the Acts relating to criminal lunatics, the same person shall send notice thereof to the Board before the expiration of the second day after the day on which the patient has ceased to be a criminal lunatic, together with a copy of the justice's order* for continued detention, and shall after the expiration of the second day and before the end of the seventh day send to the Board a medical statement. [3027]

52. Medical statement.—The clerk of every institution, or in the case of an institution having no clerk on the staff the person in charge, shall, after the expiration of the second day and before the end of the seventh day after the day on which a temporary or certified patient, a person of unsound mind so found by inquisition, or a criminal lunatic was received, send to the Board a medical statement. [3028]

53. Form of report under s. 39 of principal Act.—The report which under section 39 of the principal Act is required to be sent to the Board at the expiration of one month after the reception of a patient under a reception order made on petition shall be in the form set out in Form 18 in the Schedule to these Rules. [3029]

54. Notice to relatives and friends.—The clerk of an institution, or in the case of an institution having no clerk on the staff the person in charge, shall—

(*a*) on the admission of every certified patient, send a notice of the times and conditions of visitation to all persons whose names appear as relatives or friends of the patient on the statement of particulars accompanying the reception order, and on the admission of every temporary patient send to the person (other than an officer of the local health authority) who made the application for reception, and also, if the application was not made by a relative, to any relative named therein, a similar notice. The notice shall embody the substance of Section 79 of the principal Act, or Rule 29 as the case may require.

(*b*) **Notice to person having power to discharge.**—On the admission of every certified or temporary patient to an institution, send to the person empowered to give direction for the patient's discharge a notice giving the substance of Sections 72 and 74 of the principal Act, or Rules 23 and 25 as the case may require. [3030]

55. Statement as to physical condition.—On the admission of every temporary or certified patient into an institution vested in the Minister, a written statement shall be furnished to the duly authorised officer of the local health authority, or other person bringing the patient, that a physical examination has been made by a member of the medical staff. The statement shall also describe the general physical condition of the patient and indicate whether bruises or other injuries or marks of violence or neglect were observed at the examination. [3031]

* For the purposes of s. 38 of the principal Act and s. 7 of the Lunacy Act, 1891, this order is the reception order.

56. Special reports and certificates.—In the case of patients detained by virtue of orders made under subsections (3) and (4) of section 24 of the principal Act or section 19 of the Act of 1930 which, by reason of the provisions of subsection (3) of section 50 of the National Health Service Act 1946 or any other enactment, have effect as if they were summary reception orders made on the 5th day of July, 1948, the special reports and certificates under section 38 of the principal Act and section 7 of the Lunacy Act 1891 shall be included in one list. In the case of all other patients detained under reception orders, a special report and certificate shall be made for each patient. [3032]

57. Record of seclusion.—(1) The total number of hours during which a patient in an institution is kept in seclusion shall be recorded every week in the register of mechanical restraint and seclusion.

(2) For the purposes of this rule a patient shall be deemed to be kept in seclusion if at any time between the period commencing at 8 a.m. and ending at 7 p.m. he is isolated in a room the door of which is fastened or held so that he is unable to leave the room at will, but not if he is isolated in a room in which the lower half of the door is so fastened or held but the upper half left open. [3033]

58. Register of mechanical restraint and seclusion.—The person in charge of an institution shall, at the end of each quarter, send to the Board copies of all entries of mechanical restraint made during the quarter in the register of mechanical restraint and seclusion. [3034]

59. Copies of records.—The person in charge of an institution shall, whenever so required by the Minister or the Board, send to them copies of all records or of any particular record relating to any specified patient, who is or may have been confined or resident in the institution. [3035]

60. Schedule of rates of payments for private patients.—(1) The clerk of an institution, or in the case of an institution having no clerk on the staff the person in charge shall prepare and keep lists of the private patients for the time being on the books of the institution, showing the rates of payment made for the maintenance and care and treatment of such patients. The lists shall be at all times accessible to the Commissioners visiting the institution, and, in the case of a house within the jurisdiction of visitors, to the visitors.

(2) The presence of any boarders lodged under Section 4 of the Act of 1930 shall also be recorded. [3036]

61. Transfer of patients.—When application is made to the Board for their consent to the transfer of a private temporary or private certified patient from one institution to another, or to a hospital, or nursing home or to single care, the medical officer of the institution from which the patient is to be removed shall furnish the Board with a report with regard to the patient's mental and bodily condition, and fitness for transfer, stating in particular whether he is suicidal or dangerous to others. [3037]

62. Leave of absence.—An application to the Board or to visitors for consent to leave of absence from a licensed house for a private certified patient whether for the benefit of the patient's health or on trial shall be accompanied by a recommendation from the medical officer. [3038]

63. Entries to be made on removal, departure, discharge or death.—The clerk of an institution, or in the case of an institution having no clerk on the staff the person in charge shall, before the expiration of the second day after the day of the removal, departure, discharge, death, or transfer from or to the private to or from the health service class, of any patient, make the appropriate entry thereof in the general register. [3039]

64. Notices to be sent on removal, departure or discharge.—(1) The clerk of an institution, or in the case of an institution having no clerk on the staff the person in charge shall, before the expiration of the second day after the day of the removal, departure or discharge of a patient, or his transfer from or to the private to or from the health service class, send written notice thereof to the Board and, if the patient was a health service patient, to the local health authority from whose area he was admitted, and also, in the case of a person of unsound mind so found by inquisition, to the Chancery Visitors.

(2) The clerk of an institution vested in the Minister shall within the same period after the removal, departure or discharge of a patient send written notice—

(*a*) in the case of a temporary patient to the clerk of the Hospital Management Committee and to the person (other than an officer of the local health authority) who made the application for reception and, if the application was not made by a relative, to any relative named therein; and

(*b*) in the case of a certified patient to the relative to whom notice of death is required to be sent.

(3) The person in charge of a licensed house within the jurisdiction of any visitors shall within the same period send a like notice to the clerk of the visitors.

(4) The person in charge of a registered hospital within the jurisdiction of any visitors shall in the case of a temporary patient send within the same period a like notice to the clerk of the visitors. [8040]

65. Notice and statement as to death of temporary or certified patient.—(1) The person in charge shall before the expiration of the second day after the day of the death of a temporary or certified patient in an institution send notice thereof, together with the statement relating thereto, to the coroner of the district.

(2) The clerk of an institution, or in the case of an institution having no clerk on the staff the person in charge, shall within the like time send a like notice and statement—

(*a*) to the Board;

(*b*) to the registrar of deaths for the district;

(*c*) to the local health authority from whose area the patient was admitted, if the patient was a health service patient; and

(*d*) in the case of the death—

(i) of a patient in a licensed house within the jurisdiction of any visitors, to the clerk of the visitors;

(ii) of a temporary patient, to the person (other than an officer of the local health authority) who made the application for reception and, if the application was not made by a relative, to any relative named therein; and, if the patient had been transferred from the health service to the private class, to the person who made the last payment on account of the patient;

(iii) of a temporary patient in an institution vested in the Minister, to the clerk of the Hospital Management Committee;

(iv) of a temporary patient in a registered hospital within the jurisdiction of any visitors, to the clerk of the visitors;

(v) of a certified patient, to the relative or one of the relatives named in the statement of particulars accompanying the order for the reception of the patient, or, if none is so named, to the person named for the purpose in such statement;

(vi) of a private certified patient, to the person who made the last payment on account of the patient;

(vii) of a person of unsound mind so found by inquisition, to the Chancery Visitors.

(3) The notice required under the last preceding paragraph to be sent to the Board shall be accompanied by a copy of any letter written or a summary in writing of any verbal report made to the coroner concerning the death.

(4) In any case in which mechanical restraint was applied within seven days before the death of a patient particulars of its character and duration shall be given in the statement. [3041]

66.* Notice and statement as to death of voluntary patient.—(1) The clerk of an institution, or in the case of an institution having no clerk on the staff the person in charge, shall before the expiration of the second day after the day of the death of a voluntary patient send notice thereof, together with the statement relating thereto, to the Board.

(2) The person in charge of a house licensed by justices shall also within the same period send a like notice and statement to the clerk of the visitors. [3042]

67. Copies to be sent of entries on visitation.—(1) The clerk of an institution, or in the case of an institution having no clerk on the staff the person in charge, shall within two clear days after the visit of any Commissioner send to the Board and, in the case of a licensed house within the jurisdiction of visitors, also to the clerk of the visitors, copies of all entries made by the Commissioner at such visit in the visitors' book or patients' book.

(2) The person in charge of a licensed house within the jurisdiction of visitors shall also within two clear days after the visit of any visitor send to the Board and to the clerk of such visitors copies of all entries made by the visitor at such visit in either of the last-mentioned books. [3043]

68. Notice of change in staff.—The clerk of an institution, or in the case of an institution having no clerk on the staff the person in charge, shall within seven days after the happening thereof send to the Board notice of the appointment or resignation of the superintendent or of any change in the medical staff, including the visiting and consulting staff and temporary medical staff, of the institution. Any change of clerk of an institution vested in the Minister shall also be notified within the same period. [3044]

69. Notice of dismissal of member of the staff.—The clerk of an institution, or in the case of an institution having no clerk on the staff the person in charge, shall within two clear days of the happening thereof send to the Board notice in writing of the dismissal or resignation to escape dismissal of any member of the staff who was or was about to be dismissed on the ground of misconduct in connection with a patient, and such notice shall state the circumstances giving rise to the dismissal or resignation. [3045]

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* In addition to the requirements of this rule in the case of a voluntary patient dying in an institution, the registered medical practitioner who attended the patient during his last illness is required pursuant to the provisions of the Births and Deaths Registration Acts, 1836 to 1929 and regulations made by the Registrar-General thereunder to deliver to the registrar of deaths for the district a certificate of cause of death in the form prescribed by the said regulations and to sign and give to some person required to give information concerning the death notice in the form prescribed by the said regulations that he has signed the said certificate of cause of death.

70. Entries and returns.—All entries required to be made under these Rules shall be made in such a manner as to admit of being easily referred to and extracted whenever the Minister or the Board so require. [3046]

71. Institutions to furnish plans.—The Minister or the Board may require the person in charge to furnish at the cost of the institution such plans of any of the buildings or of the estate used for the purposes of the institution as the Minister or the Board may think fit. [3047]

72. Abstract of accounts of registered hospital.—(1) The superintendent of a registered hospital shall, within one month next after the accounts of the hospital shall have been submitted to the Charity Commissioners, or have been audited, as the case may be, send to the Minister an abstract of the accounts in such form as the Minister shall from time to time prescribe.

(2) **Annual Report.**—He shall also send to the Minister a printed copy of the annual report of the hospital within a month after its publication. [3048]

PART VIII

PROVISIONS PRESCRIBING THE BOOKS AND RECORDS TO BE KEPT IN HOSPITALS AND NURSING HOMES

73. Application.—This Part of these Rules applies to hospitals, other than registered hospitals, and to nursing homes. [3049]

74. Books and records to be kept.—There shall be kept in every hospital and nursing home receiving voluntary and temporary patients the following books and records :—

(*a*) a general register ;
(*b*) a register of mechanical restraint and seclusion ;
(*c*) a clinical record of the condition of each patient. [3050]

75. Clinical records.—(1) The medical practitioner in charge of a case shall keep a clinical record of the condition of the patient.

(2) A copy of the medical recommendation shall be made on or attached to the clinical record :—

(*a*) in the case of a voluntary patient under the age of sixteen ; and
(*b*) in the case of a temporary patient.

(3) In the event of any change of classification or status, or of the departure, discharge or transfer of a patient the fact shall be noted on the clinical record with the date thereof and, in the case of departure, discharge or transfer, the destination of the patient.

(4) In the event of the death of a patient, a copy of the death notice and statement shall be attached to or entered on the clinical record. [3051]

76. Notices to be sent on admission.—(1) The person in charge shall, before the expiration of the second day after that on which a patient was received, send to the Board a notice of his admission and also—

(*a*) in the case of a voluntary patient under the age of sixteen, a copy of the medical recommendation ;
(*b*) in the case of a temporary patient, copies of the application for reception and of the medical recommendation.

(2) In the case of the admission of a temporary patient into a hospital not vested in the Minister or a nursing home within the jurisdiction of visitors the person in charge shall within the time prescribed by this rule send to the clerk of the visitors a notice of admission and copies of the application for reception and of the medical recommendation. [3052]

77. Statement as to physical condition.—On the admission of a health service temporary patient a written statement shall be furnished to the duly authorised officer of the local health authority or other person bringing the patient that a physical examination has been made by a medical practitioner. The statement shall also describe the general physical condition of the patient and indicate whether bruises or other injuries or marks of violence or neglect were observed at the examination. [3053]

78. Medical statement.—The person in charge shall, after the expiration of the second day and before the end of the seventh day after the day on which a temporary patient is received, send to the Board a medical statement to be made and signed by the medical practitioner in charge of the case. [3054]

79. Record of seclusion.—(1) The total number of hours during which a patient in a hospital or nursing home is kept in seclusion shall be recorded every week in the register of mechanical restraint and seclusion.

(2) For the purposes of this rule seclusion has the meaning assigned to it in Rule 57. [3055]

80. Register of mechanical restraint and seclusion.—The person in charge shall at the end of each quarter send to the Board copies of all entries of mechanical restraint in the register of mechanical restraint and seclusion made during the quarter. [3056]

81. Copies of records.—The person in charge shall, whenever so required by the Minister or the Board, produce to them, or send to them copies of, all or any of the records relating to any specified voluntary or temporary patient who is or may have been resident or detained in the hospital or nursing home. [3057]

82. Schedule of rates of payment for private patients.—The person in charge shall prepare and keep lists of the private voluntary and private temporary patients for the time being on the books of the nursing home, showing the rates of payment made for the maintenance and care and treatment of such patients, and such lists shall be at all times accessible to the visiting Commissioners. [3058]

83. Transfer of patients.—When application is made to the Board for their consent to the transfer of a private temporary patient, the person in charge shall furnish the Board with a report by the medical practitioner in charge of the case as to the patient's mental and bodily condition, and fitness for transfer. [3059]

84. Notices to be sent on removal, departure or discharge.—(1) Before the expiration of the second day after the day of the removal, departure or discharge of a voluntary or temporary patient, the person in charge shall send written notice thereof to the Board, and in the case of a temporary patient, to the person (other than an officer of the local health authority) who made the application for reception and, if the application was not made by a relative, to any relative named therein, and, if the patient was a health service patient, to the local health authority from whose area he was admitted.

(2) The person in charge of a hospital not vested in the Minister or a nursing home within the jurisdiction of any visitors shall in the case of a temporary patient send a like notice to the clerk of the visitors within the same period. [3060]

85. Notice of dismissal of member of staff.—The person in charge shall, within two clear days of the happening thereof, send to the Board notice in writing of the dismissal or resignation to escape dismissal of any member of the staff who was or was about to be dismissed on the ground of misconduct in connection with a voluntary or temporary patient, and such notice shall state the circumstances giving rise to the dismissal or resignation. [3061]

86. Notice and statement as to death of temporary patient.—(1) The person in charge shall, before the expiration of the second day after the day of the death of a temporary patient, send notice of death, together with the statement relating thereto—

(*a*) to the coroner of the district;
(*b*) to the Board;
(*c*) to the registrar of deaths for the district;
(*d*) to the local health authority from whose area the patient was admitted, if the patient was a health service patient;
(*e*) to the person (other than an officer of the local health authority) who made the application for reception and, if such person is not a relative, to any relative named therein;
(*f*) if the patient had been transferred from the health service to the private class, to the person who made the last payment on account of the patient;
(*g*) if the hospital, not being vested in the Minister, or nursing home is within the jurisdiction of any visitors, to the clerk of the visitors; and

(2) The notice required under paragraph 1 (*b*) of this rule to be sent to the Board shall be accompanied by a copy of any letter written or a summary in writing of any verbal report made to the coroner concerning the death.

(3) In any case where mechanical restraint was applied within seven days before the death of a patient particulars of its character and duration shall be given in the statement. [3062]

87.* Notice and statement as to death of voluntary patient.—The person in charge shall, before the expiration of the second day after the day of the death of a voluntary patient send notice thereof, together with the statement relating thereto, to the Board. [3063]

88. The notice of the death of a voluntary or temporary patient together with the statement relating thereto, shall be prepared and signed by the medical practitioner who attended the patient in his last illness. [3064]

PART IX

PROVISIONS PRESCRIBING THE BOOKS AND RECORDS TO BE KEPT IN HOUSES FOR SINGLE PATIENTS

89. Application.—This Part of these Rules applies to houses in which persons are received as single patients. [3065]

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* In addition to the requirements of this rule in the case of a voluntary patient dying in a hospital or nursing home, the registered medical practitioner who attended the patient during his last illness is required pursuant to the provisions of the Births and Deaths Registration Acts, 1836 to 1929 and regulations made by the Registrar-General thereunder to deliver to the registrar of deaths for the district a certificate of cause of death in the form prescribed by the said regulations and to sign and give to some person required to give information concerning the death notice in the form prescribed by the said regulations that he has signed the said certificate of cause of death.

90. Medical journal.—A medical journal shall be kept in every house in which a voluntary, temporary, or certified patient is received. [3066]

91. Notices to be sent on admission.—(1) The person in charge shall before the expiration of the second day after the day on which a patient was received send to the Board a notice of his admission and also—

(*a*) in the case of a voluntary patient under the age of sixteen, a copy of the medical recommendation;

(*b*) in the case of a temporary patient, copies of the application for reception and of the medical recommendation;

(*c*) in the case of a certified patient, if admitted on an urgency order, copies of the urgency order and of the statement of particulars and medical certificate which accompanied the order, or if admitted on a reception order, copies of the reception order, petition, statement of particulars and medical certificates.

(2) Where a patient has been admitted on an urgency order which is followed by a reception order made on petition, a copy of the reception order together with copies of the petition and medical certificates shall be sent by the person in charge to the Board before the expiration of the second day after that on which the reception order was obtained.

(3) In the case of a temporary patient admitted to a house within the jurisdiction of visitors the person in charge shall within the time prescribed by this rule send to the clerk of the visitors a notice of admission and copies of the application for reception and of the medical recommendation. [3067]

92. Medical statement.—The person in charge shall, after the expiration of the second day and before the end of the seventh day after the day on which a temporary or certified patient was received, send to the Board a medical statement signed by the patient's medical attendant. [3068]

93. Form of report under s. 39 of principal Act.—The report which under section 39 of the principal Act is required to be sent to the Board by the medical attendant of a certified single patient at the expiration of one month after his reception shall be in the form set out in Form 18 in the Schedule to these Rules. [3069]

94. Special report and certificate.—The special report and certificate under section 38 of the principal Act, and section 7 of the Lunacy Act, 1891, shall be signed by the medical attendant of a certified single patient in the form set out in Form 20 of the Schedule to these Rules. [3070]

95. Record of seclusion.—(1) The total number of hours during which a single patient is kept in seclusion shall be recorded every week in the medical journal.

(2) For the purposes of this rule seclusion has the meaning assigned to it in Rule 57. [3071]

96. Copies of entries of mechanical restraint.—The person in charge shall at the end of each quarter send to the Board copies of all entries of mechanical restraint made in the medical journal during the quarter. [3072]

97. Duties of medical attendant of single patient.—(1) The medical attendant of a single patient shall, as soon as possible after the admission of the patient, enter at the beginning of the medical journal a sketch of the previous history of the case and full particulars of the mental and bodily condition of the patient on admission.

(2) Such medical attendant shall also at each visit enter in the medical journal the mental and bodily condition of the patient, and all the other particulars indicated in Form 26 in the Schedule to these Rules.

(3) If the Board allow a single patient to be visited less often than once in every two weeks, and the patient is in the house or in the charge of a medical practitioner, the practitioner shall once at least in every two weeks enter in the medical journal the particulars referred to in the last preceding paragraph together with the date of the entry.

(4) Every entry relating to the mental condition of a voluntary or temporary patient shall contain a statement as to the fitness of the patient to remain as such. [3073]

98. Transfer of patients.—When application is made to the Board for their consent to the transfer of a temporary or certified single patient, the medical attendant of the patient shall furnish the Board with a report as to the patient's mental and bodily condition, and fitness for transfer, and especially as to whether he is suicidal or dangerous to others. [3074]

99. Leave of absence.—An application to the Board for consent to leave of absence for a certified single patient from the house in which he is received, whether for the benefit of his health or on trial, shall be accompanied by a recommendation from the medical attendant of the patient. [3075]

100. Notices to be sent on removal, departure or discharge.—(1) The person in charge shall, before the expiration of the second day after the day of the removal, departure, or discharge of a patient, send written notice thereof to the Board and also, in the case of a person of unsound mind so found by inquisition, to the Chancery visitors.

(2) In the case of a temporary single patient residing within the jurisdiction of visitors, the like notice shall within the same period be sent to the clerk of the visitors. [3076]

101. Notice of dismissal of nurse or attendant.—The person in charge shall, within two clear days of the happening thereof, send to the Board notice in writing of the dismissal or resignation to escape dismissal of any nurse or attendant who was or was about to be dismissed on the ground of misconduct in connection with a patient, and such notice shall state the circumstances giving rise to the dismissal or resignation. [3077]

102. Notice and statement as to death of temporary or certified patient.—(1) The person in charge shall, before the expiration of the second day after that of the death of a temporary or certified patient, send notice thereof, together with the statement relating thereto—

(*a*) to the coroner of the district;

(*b*) to the Board;

(*c*) to the registrar of deaths for the district; and

(*d*) in the case of death—

(i) of a temporary patient, to the person who made the application for reception and, if the application was not made by a relative, to any relative named therein, or to the person who made the last payment on account of the patient;

(ii) of a temporary patient within the jurisdiction of any visitors, to the clerk of the visitors;

(iii) of a certified patient, to the relative or one of the relatives named in the statement of particulars accompanying the order

for the reception of the patient, or if none is so named, to the person named for the purpose in such statement, and also to the person upon whose petition the order was made, or who made the last payment on account of the patient;

(iv) of a person of unsound mind so found by inquisition, to the Chancery Visitors.

(2) The notice required under paragraph 1 (*b*) of this rule to be sent to the Board shall be accompanied by a copy of any letter written or a summary in writing of any verbal report made to the coroner concerning the death.

(3) In any case in which mechanical restraint was applied within seven days before the death of a patient particulars of its character and duration shall be given in the statement. [3078]

103.* Notice and statement as to death of voluntary patient.—The person in charge shall, before the expiration of the second day after the day of the death of a voluntary patient, send notice thereof, together with the statement relating thereto, to the Board. [3079]

104. The notice of the death of a patient, together with the statement relating thereto, shall be prepared and signed by the medical attendant or the medical practitioner who attended the patient in his last illness. [3080]

PART X

PROVISIONS RELATING TO APPLICATIONS FOR LICENCES, ETC.

105. Applications for licences.—(1) Every person desiring to apply for a licence under the principal Act for a house in substitution for a house already licensed shall—

(*a*) if the house is within the immediate jurisdiction of the Minister, apply in writing to the Minister;

(*b*) if the house is situate elsewhere, give not less than 30 days' notice to the clerk of the peace for the county or borough in which it is situate, and to the Minister of his intention to apply to quarter or special sessions of the licensing justices, as the case may be.

(2) The application or notice, as the case may be, shall contain—

(*a*) the full names, place of abode, and occupation of the proposed licensee;

(*b*) the full names of the person who is to reside in the house; and a full description of the estate or interest therein of the proposed licensee.

(3) The applicant shall send with the application or notice the following documents:—

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* In addition to the requirements of this rule in the case of a voluntary patient dying in a house, the registered medical practitioner who attended the patient during his last illness is required pursuant to the provisions of the Births and Deaths Registration Acts, 1836 to 1929 and regulations made by the Registrar-General thereunder to deliver to the registrar of deaths for the district a certificate of cause of death in the form prescribed by the said regulations and to sign and give to some person required to give information concerning the death notice in the form prescribed by the said regulations that he has signed the said certificate of cause of death.

(*a*) a general description of the property, including its situation, and total area, the character of the buildings, the method of warming and lighting, and the water supply and drainage ;

(*b*) an Ordnance or other map or plan showing the property, including the buildings, the exercise ground, gardens, and roads of approach, and indicating by colour the land and buildings which are to be included in the licence, and distinguishing those buildings which are to be occupied by patients ;

(*c*) a statement of the number of patients of each sex to be received, and of the means by which they are to be kept apart both in the house and in the grounds ;

(*d*) plans to a scale not smaller than sixteen feet to an inch of each floor of every building to be included in the licence, indicating the proposed use, height, and cubical contents of each room, and differentiating by colour the rooms to be occupied respectively by male and female patients and by the staff. [3081]

106. On renewal of licence, statement to be furnished of the number and class of patients detained.—Every person desiring to apply for a renewal of a licence shall—

(*a*) in the case of a house licensed by the Minister, apply in writing to the Minister, and shall send with his application a statement of the names and number of the patients and boarders of each sex then detained or residing in such house ;

(*b*) in the case of a house licensed by justices, give not less than 14 days' notice to the clerk of the peace for the county or borough and to the Minister of his intention to apply for a renewal and shall send therewith a similar statement of the names and number of the patients and boarders and copies of all entries made in the visitors' book by the Visiting Commissioners since the last renewal of the licence. [3082]

107. Notice of alterations and additions to licensed houses.—(1) Before any alteration or addition is made to, or in, a licensed house, or its appurtenances, the licensee shall send notice in writing of the proposed alteration or addition to the Minister, and also in the case of a house licensed by justices to the Clerk of the Peace of the county or borough.

(2) The notice shall be accompanied by a full description and a plan or plans of the proposed alteration or addition. [3083]

108. Plans of registered hospitals.—Every person desiring to apply for the registration of a hospital for the reception of persons of unsound mind shall apply in writing to the Minister and shall send with his application the like description, statement and plans, as are required to be sent under Rule 105. [3084]

109. Notice of alterations and additions to registered hospitals.—(1) Before any alteration or addition is made to, or in, any registered hospital, the superintendent shall send notice in writing of the proposed alteration or addition to the Minister.

(2) The notice shall be accompanied by a full description and a plan or plans of the proposed alteration or addition. [3085]

SCHEDULE

Form 1

Application for Extension of period of Temporary Treatment

Application is hereby made for the extension of the period of treatment (which ends on the day of next) of a temporary patient in for a further period of

(1) Full names of applicant.....

(2) Postal address of applicant .....

(3) How related to or connected with the patient .....

(4) If the application is not signed by the husband or wife or a relative of the patient

(*a*) State the reason .....

(*b*) State the circumstances in which he or she makes the application .....

Dated the day of (Signed)

To the person in charge

Name of Institution, Hospital or Nursing Home, or name and address of person in charge. } .....
.....

I have this day examined the above-named patient and report that his mental condition is as follows

and that his physical condition is as follows

The above-named patient is still incapable of expressing himself as willing or unwilling to receive treatment. I anticipate that the patient will not recover within the above-mentioned period of treatment, which ends on the..... day of....., but his early recovery thereafter appears to me reasonably probable. He is still in need of care and treatment and I recommend that he should continue to be detained for that purpose for a period (or further period) of

(Signed)

Medical Superintendent, Medical Officer, Medical Practitioner in charge of the case, or Medical Attendant.

Dated the day of

To the Board of Control.

FORM 2

GENERAL REGISTER

Date of Admission	General Reference Number	Full Names	Sex		Age on Admission	Status			Classification			Mode of Admission						Previously dealt with under the Lunacy Act or the Mental Treatment Act	Temporary Patients		Certified Patients		Discharged, Transferred or Removed		Date of Death	Observations
												Direct	Indirect													
													By Statutory Transfer	By Statutory re-admission after previous irregular Reception Order or Kaplay of Reception Order	By Recording of Status from				Extension granted by Board of period of treatment	Date of Permission	Period of Extension	Urgency Order	Reception Order (Summary or upon Petition)	Date of	To	Date		
															V.	T.	C.										
1.	2.	2.	4.	5.	6.	7.	8.	9.	10.	11.	12.	14.	15.	16.	17.	18.	19.	20.	21.	22.	23.	24.	25.	26.	27.	28.	29.
			M.	F.		V.	T.	C.	Private	Health Service	Children																

NOTES.—(1) Mental condition on leaving the Hospital, *i.e.* Recovered, Relieved or Not Improved should be noted in Column 29 as should also a discharge after escape or "not now insane".
(2) In case of death the Cause of Death should be stated in Column 29.
(3) Column 21 should be completed in accordance with the Mental Treatment Act, 1930. Licensed houses and registered hospitals should ignore Columns 10 and 20.
(4) Hospitals and nursing homes approved under sections *7 (1) and 5 (1) (iii) of the Mental Treatment Act, 1930, should ignore* Columns 9, 16, 19, 24 and 25.

Form 3

REGISTER OF MECHANICAL RESTRAINT AND SECLUSION

Hours Secluded	Reasons for Seclusion	Date	Names of Patients		Status (Temporary or Certified)	Means of Restraint Employed	Duration of Restraint in Hours	Certificate stating grounds upon which restraint was employed
			Males	Females				I certify that restraint was employed in this case on the following grounds :— (Signed) *Medical Superintendent or Medical Officer or Medical Practitioner in charge of the case.*

(*Note.*—At the beginning of this register a printed copy of any regulation or rule made by the Board and for the time being in force which relates to mechanical restraint or defines seclusion must be inserted.)

Form 4

(Name of institution)

POST MORTEM RECORD

Name and General Reference Number.....

Status (voluntary, temporary, or certified).....

Sex, age, and previous occupation .....

Date of admission .....

Date of death .....

Form of mental disorder { on admission ..... / at death.....

Certified cause of death.....

Date and hour of post mortem examination .....

Condition of body and external appearances, including bedsores if any.

Head.....

Thorax (describe condition of ribs) .....

Abdomen.....

Weights of organs .....

Microscopic appearances and any special notes .....

(Signed)

(*Note.*—This record may be either in book or in loose leaf form. The form may be elaborated at will.)

Form 5

CASUALTY BOOK

WARD.

Date	Name of Patient	Apparent Casualty or Injury	How caused	Time	Persons present	Signed by Nurse in charge	Initialled by Medical Officer in charge of case

(*Note.*—This book must be kept in duplicate. The duplicate must be detachable and may take the form of a carbon copy.)

Form 6

SUICIDAL CAUTION CARD

A.B. is regarded as being actively *suicidal* and must on no account be allowed out of observation.

This Card must be shown and explained to every Nurse doing duty in the Ward, and each Nurse must acknowledge by his (or her) signature that this has been done.

(*Note.*—This Card may be elaborated at will *but must be totally dissimilar in appearance to any other Caution Card.*)

Form 7

TUBERCULOSIS CAUTION CARD

Date of issue.....

A.B. is regarded as suffering from *Tuberculosis* and therefore shall not be allowed to work in any department where food is handled, or in the laundry, unless the special permission of the Medical Superintendent * is previously given and noted on the Card.

This Card must be shown and explained to every Nurse doing duty in the Ward, and each Nurse must acknowledge by his (or her) signature that this has been done.

---

* In the case of a licensed house the permission must be given by the Medical Officer or the Medical Practitioner visiting the house.

(*Note.*—This Card may be elaborated at will.)

Form 8

INTESTINAL INFECTIONS CAUTION CARD

Date of issue.....

A.B. is regarded as suffering from.....and in future shall not be allowed to work in any department where food is handled, or in the laundry unless the special permission of the Medical Superintendent * is previously given and noted on the Card.

This Card must be shown and explained to every Nurse doing duty in the Ward, and each Nurse must acknowledge by his (or her) signature that this has been done.

---

* In the case of a licensed house the permission must be given by the Medical Officer or the Medical Practitioner visiting the house.

(*Note.*—This Card may be elaborated at will.)

FORM 9

REGISTER OF CASES OF DYSENTERY (COLITIS) AND DIARRHOEA

Name	Member of Staff	Patient	Sex	Age	Date of admission or entrance into the Mental Hospital	Ward (at time of onset)	Date of onset	Dysentery	Diarrhoea		Date of Recovery	Date of Death	Remarks
									Slight	Severe			

Form 10

DAY REPORT

Ward..... Date.....

Total of Patients in Ward { Morning / Evening Subject to seizures		Actively Suicidal.....	

Names of Staff on Duty :—

Knives, forks, spoons, scissors and keys correct in number.

NAMES OF PATIENTS

Admitted	Transferred to another Ward	Discharged	Died

Ward temperature { at 8 a.m. / at 6 p.m.

Special Remarks and details of unusual occurrences :—

To be filled in once a week only

	Nos.		Nos.
Usual No. attending religious services.....		Usual No. occupied	
Usual No. attending entertainments		Usual No. given exercise outside the grounds	
		Usual No. on parole—	
		(*a*) Outside the grounds	
		(*b*) Within the grounds	

(Signed)

Nurse in Charge.

This form must be read and initialled by a member of the medical staff and the Night Nurse who takes over.

(*Note.*—The form may be elaborated at will.)

Form 11

NIGHT REPORT

Ward.....Night of the.....and.....19...

Names of Visiting Officers and times of visits.....

Numbers of—

Patients in Ward .....

Subject to seizures.....

Actively suicidal.....

Names of patients—

Incontinent .....

Sleeping in strong clothes .....

Receiving special treatment during night .....

Ward temperature at or about 2 a.m.....

Special remarks and details of unusual occurrences .....

(Signed)

Night Nurse.

N.B.—This form must be read and initialled by a member of the medical staff and the Day Nurse who takes over.

(*Note.*—This Report may be combined for several wards and the form may be elaborated at will.)

Form 12

NOMINAL LIST OF PATIENTS IN WARD

Name	Status			Religion	Date of Admission to Institution	Health Service or Private	Previous Occupation	Present Occupation
	Voluntary	Temporary	Certified					

(*Note.*—This form may be elaborated at will.)

Form 13

[Name of Institution, *or* Hospital, *or* Nursing Home, *or* Place, *or* Name and Address of Person in charge of Patient.]

NOTICE OF ADMISSION OF VOLUNTARY PATIENT

I hereby give you notice that
was received into this mental hospital [*or* institution *or* registered hospital *or* licensed house *or* hospital *or* nursing home *or* place *or* house] as a private voluntary patient [*or* as a health service voluntary patient] on the day of .

†[I transmit a copy of the medical recommendation which accompanied the application for the reception of the patient.]

(Signed)

Clerk, *or* Person in charge.

Dated the day of

*[Full name of occupier of house
Occupation
Postal address
Full name of person in charge of patient
Occupation
Postal address
To the Board of Control .]
[*or as the case may be*]

* To be filled in by the person in charge of a voluntary single patient.

† This paragraph should be struck out except in the case of a patient under the age of sixteen.

Form 14

[Name of Institution, *or* Hospital, *or* Nursing Home, *or* Name and Address of Person in charge of Patient.]

NOTICE OF ADMISSION OF TEMPORARY PATIENT

I hereby give you notice that
was received into this mental hospital [*or* institution *or* registered hospital *or* licensed house *or* hospital *or* nursing home *or* house] as a private temporary patient [*or* as a health service temporary patient] on the day of ,
and I transmit copies of the application and of the medical recommendation on which he [*or* she] was received.

A statement with respect to the mental and bodily condition of the patient will be forwarded in due course.

(Signed)

Clerk, *or* Person in charge.

Dated the day of

*[Full name of occupier of house
Occupation
Postal address
Full name of person in charge of patient
Occupation
Postal address
To the Board of Control .]
[*or as the case may be*]

* To be filled in by the person in charge of a temporary single patient.

Form 15

[Name of Institution *or* Name and Address of Person in charge of Patient.]

NOTICE OF ADMISSION OF CERTIFIED PATIENT [OR CRIMINAL LUNATIC]

Date of reception order, the day of

I hereby give you notice that
was admitted into this mental hospital [*or* registered hospital *or* licensed house *or* house] as a private [*or* health service] certified patient [*or* as a criminal lunatic] on the day of , and I transmit a copy of the urgency order and medical certificate [*or* a copy of the order and medical certificates and of the petition and statement of particulars *or* a copy of the order and statement of particulars and medical certificate, *or* a copy of the warrant of the Secretary of State and of the documents which accompanied it] on which he [*or* she] was received.

[I certify that the provisions of Section 8 (1) and (2) of the Lunacy Act, 1890, have been complied with.]

A statement with respect to the mental and bodily condition of the patient will be forwarded in due course.

(Signed)

Clerk, *or* Person in charge.

Dated the day of

*[Full name of occupier of house

Occupation

Postal address

Full name of person in charge of patient

Occupation

Postal address

To the Board of Control .]
[*or as the case may be*]

---

* To be filled in by the person in charge of a certified single patient.

Form 16

[Name of Institution]

NOTICE OF TRANSFER FROM THE CRIMINAL TO THE HEALTH SERVICE CLASS

Date of reception order, the day of

I hereby give you notice that who was
received into this mental hospital [*or* registered hospital *or* licensed house] as a criminal lunatic on the was on the
transferred to the health service class, and I herewith transmit a copy of the justice's order on which he is detained.

A statement with respect to the mental and bodily condition of the patient will be forwarded in due course.

(Signed)

Clerk, *or* Person in charge.

Dated the day of

To the Board of Control.

Form 17

[Name of Institution, *or* Hospital, *or* Nursing Home, *or* Name and Address of Person in charge of Patient]

MEDICAL STATEMENT *

I have this day† seen and examined
admitted into this mental hospital [*or* institution, *or* registered hospital, *or* licensed house, *or* hospital, *or* nursing home, *or* house] as a private [*or* health service] temporary [*or* certified] patient on the day of [*or* who was admitted as a criminal lunatic on the day of and ceased to be such on the day of], and hereby certify that the mental state of the patient is as follows
and his bodily health and condition are as follows

Dated the day† of

(Signed)

Medical Superintendent, Medical Officer, Medical Practitioner in charge of the case, *or* Medical Attendant.

To the Board of Control.

---

* Any marks, bruises or injuries present on admission, or the absence of them, should be noted.

† This must be some day after the expiration of the second day and before the end of the seventh day after the day on which the patient was received or ceased to be a criminal lunatic.

Form 18

[Name of Institution, *or* Name and Address of Person in charge of Patient.]

REPORT AS TO PATIENT RECEIVED UNDER A RECEPTION ORDER MADE ON PETITION

(To be sent at the expiration of one month after reception)

I have this day seen and examined
received here on the day of
and report that the mental condition of the patient is as follows
and that his bodily condition is as follows

Dated the day of

(Signed)

Medical Superintendent, Medical Officer, *or* Medical Attendant.

To the Board of Control.

Form 19

[Name of Institution]

SPECIAL REPORTS AND CERTIFICATES as to Patients under Orders having effect as summary reception orders from the 5th day of July, 1948.

(LUNACY ACT, 1890, SECTION 38; LUNACY ACT, 1891, SECTION 7)

Date of original order under section 24 (3) and (4) of Lunacy Act, 1890 or section 19 of Mental Treatment Act, 1930	Names of Patients	Report as to Mental Condition	Report as to Bodily Condition

I certify that all the patients named on this sheet are still of unsound mind, and proper persons to be detained under care and treatment.

(Signed)

Medical Superintendent, Medical Officer, *or* Medical Attendant.

Dated the day of 19 .

To the Board of Control.

Note.—Male and female patients must be returned in separate lists. The names must be in alphabetical order of the initial letters, and those of each initial in order of date of admission.

Form 20

(Private or health service)

[Name of Institution, *or* Name and Address of Person in charge of Patient]

SPECIAL REPORT AND CERTIFICATE

(LUNACY ACT, 1890, SECTION 38; LUNACY ACT, 1891, SECTION 7)

No.*

Name of Patient

Date of admission

Date of reception order

I have this day seen and examined the above-named patient, and beg to report that the mental condition of the patient is as follows and his bodily condition is as follows I hereby certify that he is still of unsound mind, and a proper person to be detained under care and treatment.

(Signed)

Medical Superintendent, Medical Officer, *or* Medical Attendant.

Dated the day of

To the Board of Control.

* For use of Board of Control only.

Form 21

[Name of Institution, *or* Hospital, *or* Nursing Home, *or* Name and Address of Person in charge of Patient]

NOTICE OF REMOVAL

Date of reception order, the day of

I hereby give you notice that a private [*or* health service] temporary [*or* certified] patient [*or* a criminal lunatic] received into this mental hospital [*or* institution, *or* registered hospital, *or* licensed house, *or* hospital *or* nursing home, *or* house] on the day of was, on the day of removed to and that on that date the patient was relieved [or not improved]. The removal was effected on the authority of

(Signed)

Clerk, *or* Person in charge.

Dated the day of

To the Board of Control.
[*or as the case may be.*]

Form 22

[Name of Institution, *or* Hospital, *or* Nursing Home, *or* Place, *or* Name and Address of Person in charge of Patient]

NOTICE OF DEPARTURE

I hereby give you notice that a private [*or* health service] voluntary patient received into this mental hospital [*or* institution, *or* registered hospital, *or* licensed house, *or* hospital, *or* nursing home, *or* place, *or* house], on the day of left on the day of [*or* ceased to be a voluntary patient, and was re-admitted as a temporary [*or* certified] patient on the day of].

(Signed)

Clerk, *or* Person in charge.

Dated the day of

To the Board of Control.
[*or as the case may be.*]

Form 23

[Name of Institution, *or* Hospital, *or* Nursing Home, *or* Name and Address of Person in charge of Patient]

NOTICE OF DISCHARGE

Date of reception order, the day of

I hereby give you notice that a private [*or* health service] temporary [*or* certified] patient [*or* a criminal lunatic], received into this mental hospital [*or* institution, *or* registered hospital, *or* licensed house, *or* hospital *or* nursing home, *or* house] on the day of was discharged recovered [*or* relieved, *or* not improved] on the day of [and was re-admitted as a voluntary [*or* certified] patient]. The discharge was effected on the authority of

(Signed)

Clerk, *or* Person in charge.

Dated the day of

To the Board of Control.
[*or as the case may be.*]

Form 24

[Name of Institution]

NOTICE OF TRANSFER FROM PRIVATE TO HEALTH SERVICE CLASS, OR VICE VERSA

I hereby give you notice that
admitted into this mental hospital [*or* institution, *or* registered hospital, *or* licensed house] as a private [*or* health service] voluntary [*or* temporary, *or* certified] patient on the day of , was on the day of transferred to the health service [*or* private] class.

[In the case of a transfer from the health service to the private class of a temporary or certified patient, the name and address of the person who is responsible for the payments on account of the patient must be stated here.]

(Signed)

Clerk, *or* Person in charge.

Dated the day of

To the Board of Control.

Form 25

[Name of Institution *or* Hospital, *or* Nursing Home, *or* Place, *or* Name and Address of Person in charge of Patient]

NOTICE OF DEATH

Date of reception order, the day of

I hereby give you notice that , a private [*or* health service] voluntary [*or* temporary, *or* certified] patient received into this mental hospital [*or* institution *or* registered hospital, *or* licensed house, *or* hospital, *or* nursing home, *or* place, *or* house] on the day of , died therein on the day of

(Signed)

Clerk, *or* Person in charge, *or* Medical Attendant *or* Medical Practitioner who attended patient in last illness.

Dated the day of

To the Board of Control.
[*or as the case may be.*]

STATEMENT RESPECTING THE ABOVE-NAMED PATIENT

Name

Sex and Age Married, single, or widowed.

Profession or occupation.

Usual residence (postal address) before admission. If the patient has been transferred from another Institution (including Workhouses, etc.), the place of residence before admission to the first Institution should be given.

Cause of Death

I.

Immediate cause.* *a*.....

Morbid conditions, if any, giving rise to immediate cause (stated in order proceeding backwards from immediate cause). *b*.....

c.....

II.

Other morbid conditions (if important) contributing to death, but not related to immediate cause. .....

.....

* This means the disease, injury or complication which caused death, not the mode of dying, as, e.g., heart failure, asphyxia, asthenia, etc.

Whether or not ascertained by post-mortem examination.

Time of and any unusual circumstances attending the death; also a description of any injuries known to exist at time of death or found subsequently on body of deceased, or a statement that there were none.

Names and description of persons present at the death.

I hereby certify that the particulars contained in the above statement are true to the best of my knowledge and belief.

(Signed)

Medical Superintendent, Medical Officer. Medical Practitioner in charge of the case, *or* Medical Attendant *or* Medical Practitioner who attended patient in last illness.

Dated the day of

Form 26

MEDICAL JOURNAL FOR SINGLE PATIENTS

Date	Mental condition, what evidence of mental disorder; any and what change since last visit	If fit to remain on present status	Bodily health and condition	*Dates and duration (in hours) of application of Mechanical Restraint and Seclusion	Names of friends visiting and dates of visits	State of house and furniture, bed and bedding; supply and condition of wearing apparel	Is the dietary proper? If not, state in what respect	Employment, exercise, and amusements

* In respect of each period of mechanical restraint a certificate must be given as soon as possible by the medical attendant stating the grounds upon which restraint was employed.

* * * * *

EXPLANATORY NOTE

(This Note is not part of these Rules, but is intended to indicate their general purport.)

These Rules are a revised version of the Mental Treatment Rules 1930. *The revision has been necessary because of the amendments made in the Lunacy and Mental Treatment Acts,* 1890 *to* 1930 *by the National Health Service Act,* 1946, *and the administrative changes which are the result of those amendments.*

NATIONAL HEALTH SERVICE (EMERGENCY MENTAL TREATMENT) REGULATIONS, 1948

S.I. 1948 *No.* 1075

May 14, 1948

The Minister of Health, in exercise of his powers under Section 12 of the National Health Service Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

1. These regulations may be cited as the National Health Service (Emergency Mental Treatment) Regulations, 1948, and shall come into operation on the fifth day of July, 1948. **[3087]**

2. The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. **[3088]**

3. The Hospital Management Committee of every hospital or part of a hospital (in these regulations referred to as " the hospital ") vested in the Minister and designated by him for the purposes of Section 20 of the Lunacy Act, 1890, shall make provision for and take all necessary steps to secure the carrying out of the following duties :—

(i) The keeping of a register in Form A in the Schedule to these regulations of the admission and discharge or death of every patient admitted to the hospital under the provisions of Section 20 or Section 21 of the Lunacy Act, 1890 ;

(ii) The examination by the medical officer of every such patient as soon as practicable after his admission to the hospital and also immediately before his removal to a mental hospital or other establishment, and the entry by the medical officer in the said register of a statement of the bodily condition of the patient at the date of the examination and of any bruises or marks of violence found on him ;

(iii) In every case in which such a patient is placed in a padded room, or is kept in seclusion (as defined by Rule 57 of the Mental Treatment Rules, 1948) between the hours of eight in the morning and seven in the evening, the recording thereof in a book in the Form B in the Schedule to these regulations, which may be included in the Register of Mechanical Restraint, and the production of the book or register to every Commissioner or Inspector of the Board of Control visiting the hospital ;

(iv) Within 48 hours of the death of any patient detained under the provisions of Sections 20, 21 and 21A of the Lunacy Act, 1890, the giving of notice thereof by the medical officer to the Coroner in Form C in the Schedule to these regulations. **[3089]**

SCHEDULE

FORM A

REGISTER OF PATIENTS ADMITTED UNDER SECTIONS 20 AND 21 OF THE LUNACY ACT, 1890

Date of Admission	NAME	Age on Admission	By whose Order Detained and Date Authority Expires			RESULT OF EXAMINATION ON ADMISSION (Note any bodily defects, bruises, marks, old scars, signs of pregnancy, or the like)	Date of Discharge or Death	RESULT OF EXAMINATION ON DISCHARGE (Say whether any bodily defects, bruises, marks, signs of pregnancy, or the like)	Method of Disposal (If removed to a mental hospital state where and whether as a voluntary, temporary or certified patient)					
			Duly Authorised Officer or Constable (3 days)	Justice (14 days)	Certificate of Medical Officer (14 days)				For psychiatric treatment		To other hospital	Dealt with under Mental Deficiency Acts	To care of friends or own home	Otherwise disposed of
									To mental hospital	To other hospital				
						Dated this day of (Signed) Medical Officer of the Hospital.		Dated this day of (Signed) Medical Officer of the Hospital.						

Form B

RECORD OF SECLUSION

Hours Secluded	Reasons for Seclusion	Date	Names of Patients	
			Males	Females

(*Note.*—At the beginning of this register a printed copy of any regulation or rule made by the Board and for the time being in force which relates to or defines seclusion must be inserted.)

FORM C

[Name of Hospital]

NOTICE OF DEATH OF PATIENT RECEIVED UNDER SECTION 20 OR 21 OF LUNACY ACT, 1890

I hereby give you notice that , a patient received into this hospital under the provisions of Section *20/*21 of the Lunacy Act, 1890, on the day of , died therein on the day of .

* Delete whichever is inapplicable

(Signed)

Medical Officer.

Dated the day of .

To the Coroner for the County of [or as the case may be].

STATEMENT RESPECTING THE ABOVE-NAMED PATIENT

Name

Sex and Age Married, single, or widowed.

Profession or occupation.

Usual residence (postal address) before admission. If the patient has been transferred from another Hospital or Institution, (including Workhouses, etc.), the place of residence before admission to the first Institution should be given.

Cause of Death	
I.	
Immediate cause* ...	*a*.....
Morbid conditions, if any, giving rise to immediate cause (stated in order proceeding backwards from immediate cause)	*b*.....
	c.....
II.	
Other morbid conditions (if important) contributing to death but not related to immediate cause.	.....
	.....

* This means the disease, injury or complication which caused death, not the mode of dying, as, e.g., heart failure, asphyxia, asthenia, etc.

Whether or not ascertained by post-mortem examination.

Time of and any unusual circumstances attending the death; also a description of any injuries known to exist at time of death or found subsequently on body of deceased, or a statement that there were none.

Names and description of persons present at the death.

I hereby certify that the particulars contained in the above statement are true to the best of my knowledge and belief.

(Signed)

Medical Officer.

Dated the day of . [3090]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Regulations, but is intended to indicate their general purport.*)

The regulations contain provisions for safeguarding the welfare of persons, alleged to be of unsound mind, who for their protection or the public safety are removed to hospitals designated for the purpose pending the taking of further proceedings for their reception into mental hospitals.

MENTAL TREATMENT (ADAPTATION OF FORMS) RULES, 1948

S.I. 1948 *No.* 1082

May 24, 1948

I, William Allen Viscount Jowitt, Lord High Chancellor of Great Britain, in exercise of the powers conferred upon me by subsection (2) of Section 338

of the Lunacy Act, 1890 and of all other powers enabling me in this behalf, do hereby make the following Rules :—

1. The following amendments shall be made in the forms contained in the Second Schedule to the Lunacy Act, 1890 :—

(*a*) In Forms 1, 3 and 4, the word " private " shall be omitted ;

(*b*) In Form 7 after the word " judge " there shall be inserted the words " of county courts " and the words " having jurisdiction in the district within which I am detained " shall be omitted.

(*c*) The following form shall be substituted for Form 10 :—

" FORM 10

Certificate as to patient in hospital designated for the purposes of Section 20 of the Lunacy Act, 1890

I hereby certify that I have carefully examined into the state of health and mental condition of and that he is in my opinion of unsound mind and that it is expedient for his welfare that he should be detained in this hospital for a further period not exceeding fourteen days from the date of this certificate.

The grounds for my opinion that the said is of unsound mind are as follows :—

(Signed)

Dated. Medical Officer, Hospital."

(*d*) The following form shall be substituted for Form 12 :—

" FORM 12

Summary Reception Order

I, C.D., having called to my assistance E.F., of , a registered medical practitioner, and being satisfied that A.B. [describing him] is a person of unsound mind [or, an idiot] and a proper person to be taken charge of and detained under care and treatment, [or, that A.B. [describing him] is a person of unsound mind [or, an idiot], and was wandering at large, and is a proper person to be taken charge of and detained under care and treatment,] hereby direct you to receive the said A.B., as a patient into your mental hospital [or, hospital, or, house]. Subjoined is a statement of particulars respecting the said A.B.

(Signed) C.D.

A Justice of the Peace for .

Dated the day of 19 .

To the Superintendent of the mental hospital [or, the hospital ; or, E.F., Proprietor of the licensed house (describing it)].

Statement of Particulars

Statement of particulars referred to in the above or annexed order.

The following is a statement of particulars relating to the said A.B. (1) :—

Name of patient, with Christian name at length.

Sex and age.

*Married, single or widowed.

*Rank, profession, or previous occupation (if any).

*Religious persuasion.

Residence at or immediately previous to the date hereof.

*Whether first attack.

Age on first attack.

When and where previously under care and treatment as a person of unsound mind or as an idiot.

*Duration of existing attack.

Supposed cause.

Whether subject to epilepsy.

Whether suicidal.

Whether dangerous to others, and in what way.

Whether any near relative has been afflicted with insanity.

Brief description of any property owned by patient (if over £100 in value).

Names, Christian names, and full postal addresses of one or more relatives of the patient.

Name of the person to whom notice of death to be sent, and full postal address if not already given.

(Signed) G.H.

To be signed by a duly authorised officer of the local health authority.

(1) If any particulars are not known, the fact is to be so stated.

[Where the patient is in the order described as an idiot omit the particulars marked *.] "

(*e*) In Forms 18, 19 and 20, for references to the Commissioners of the Board of Control there shall be substituted references to the Minister of Health and for references to the Common Seal of the said Commissioners there shall be substituted references to the Official Seal of the said Minister.

(*f*) Forms 11, 15 and 21 shall cease to have effect. [3091]

2. In the form contained in Part II of the First Schedule to the Mental Treatment Act, 1930, for the reference to the Board of Control, there shall be substituted a reference to the Minister of Health. [3092]

3. These Rules may be cited as the Mental Treatment (Adaptation of Forms) Rules, 1948, and shall come into operation on the fifth day of July, 1948. [3093]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Rules, but is intended to indicate their general purport.*)

These Rules adapt certain of the forms contained in the Second Schedule to the Lunacy Act, 1890, *and in the First Schedule to the Mental Treatment Act,* 1930 *to the changes in the law made by the National Health Service Act,* 1946.

SUMMARY JURISDICTION (MENTAL DEFICIENCY) RULES, 1948

S.I. 1948 *No.* 1353

June 22, 1948

I, William Allen Viscount Jowitt, Lord High Chancellor of Great Britain, in exercise of the powers conferred upon me by section 29 of the Summary Jurisdiction Act, 1879, and sub-section (5) of section 44 of the Mental Deficiency Act, 1913 and of all other powers enabling me in this behalf, do hereby make the following Rules :—

1. Whenever a court of summary jurisdiction has to determine the place of residence of a defective, it shall have the same powers as in the case of a complaint upon which an order can be made under the Summary Jurisdiction Acts, and the Summary Jurisdiction Acts shall apply to such proceedings accordingly. [3094]

2. The petty sessional court to which a local health authority aggrieved by a decision as to the place of residence of any person may apply for a transfer of the liability for the cost of the conveyance of such person to an institution or of making provision for his guardianship shall, where the decision was given by a judicial authority within the meaning of the Lunacy Act, 1890 or by a court of summary jurisdiction, be a petty sessional court acting in and for the place in which the decision was given, and in the case of an order made by the Secretary of State, shall be a petty sessional court having jurisdiction within the area of the aggrieved authority. [3095]

3. No order determining the place of residence of a defective or for the transfer of liability shall be made unless a summons has been served at least five days before the hearing thereof upon the local health authority which by virtue of the order will be responsible for the cost of the conveyance of the defective to an institution or of making provision for his guardianship. [3096]

4. The forms in the Schedule to these Rules may be used for the purposes of the Mental Deficiency Act, 1913, with such variations as circumstances may require. [3097]

5. These Rules may be cited as the Summary Jurisdiction (Mental Deficiency) Rules, 1948, and shall come into operation on the fifth day of July, 1948, on which date the Summary Jurisdiction (Mental Deficiency Act) Rules, 1933, shall cease to have effect. [3098]

* * * * *

SCHEDULE

I

MENTAL DEFICIENCY ACT, 1913, SECTION 44 (1)

Application for Order Determining Place of Residence

In the County of , Petty Sessional Division of

The complaint of A.B. (here set out status of A.B.) who states that on the day of , 19 , an order was made at the (Assizes) (Quarter Sessions) holden for ( ) (ordering C.D., a defective, to be sent to the Institution at) (appointing E.F. to be the Guardian

of C.D., a defective) and who claims that the County (County Borough) of should be determined to be the place of residence of the said C.D.

Made before me,

J.P.

Justice of the Peace for the (County) of .

(L.S.) this day of , 19 .

II

MENTAL DEFICIENCY ACT, 1913, SECTION 44 (1)

Order Determining Place of Residence

In the County of , Petty Sessional Division of .

Before the Court of Summary Jurisdiction sitting at

On the complaint of A.B. (here set out status of A.B.) it is adjudged that C.D., a defective, who at the (Assizes) (Quarter Sessions) holden at on the day of , 19 , was (ordered to be sent to the Institution at) (placed under the Guardianship of E.F.), resided in the (County) (County Borough) of .

Dated the day of , 19 .

J.P.

(L.S.) Justice of the Peace for the (County) of .

III

MENTAL DEFICIENCY ACT, 1913, SECTION 44 (3)

Application for Order Transferring Liability

In the County of , Petty Sessional Division of .

The complaint of A.B. (here set out status of A.B.) who states that on the day of , 19 , an Order was made by directing that C.D., a defective, should be (sent to an Institution) (placed under Guardianship) and specifying the County (County Borough) of as the place in which the said C.D. resided, and who claims that the liability of the Council of the County (County Borough) of should be transferred to the County (County Borough) of .

Made before me,

J.P.

Justice of the Peace for the (County) of .

(L.S. this day of , 19 .

IV

MENTAL DEFICIENCY ACT, 1913, SECTION 44 (3)

Order Transferring Liability

In the County of , Petty Sessional Division of .

Before the Court of Summary Jurisdiction sitting at .

On the complaint of A.B. (here set out status of A.B.) it is adjudged that C.D., a defective, who on the day of , 19 , was ordered

to be (sent to an Institution) (placed under Guardianship) the County (County Borough) of being specified in the Order as the place where the said C.D. resided, was resident in the County (County Borough) of and that the liability of the said Council of the County (County Borough) of is accordingly transferred to the said Council of the County (County Borough) of .

Dated the day of , 19 .

J.P.

(L.S.) Justice of the Peace for the (County) of .

[3099]

EXPLANATORY NOTE

(This Note is not part of the Rules, but is intended to indicate their general purport.)

These Rules replace the Summary Jurisdiction (Mental Deficiency Act) Rules, 1933, in a form designed to give effect to the changes in the law made by the National Health Service Act, 1946. After 5th July, 1948, the cost of maintaining a defective in an institution will no longer fall upon the local health authority, but the authority will still be liable to provide for a defective placed under guardianship and for the cost of conveying a defective to an institution. For these purposes, it will still be necessary to determine the defective's place of residence.

POLICE

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STATUTES

POLICE PENSIONS ACT, 1948

(10 & 11 Geo. 6, c. 24)

PRELIMINARY NOTE

The principal objects of the Police Pensions Act, 1948, which received the Royal Assent on March 24, 1948, are, first, to replace by a single code of law the Police Pensions Act, 1921 (12 Halsbury's Statutes 873), and a large number of other provisions relating to police pensions, and, secondly, to integrate police pensions with the benefits receivable under the National Insurance Acts, 1946. Minor provisions of the Police Pensions Act, 1921, *supra*, and the Metropolitan Police Act, 1933 (26 Halsbury's Statutes 631), are repealed as from the passing of the Act (s. 9 (2) and Sched. II), and the bulk of the Act of 1921, the whole of the Police Pensions Act, 1926 (12 Halsbury's Statutes 897), and other statutory provisions, rules and regulations are repealed as from July 5, 1948, the date of coming into operation of the national insurance schemes (s. 3 (4) and Sched. I).

A uniform code governing pensions, allowances and gratuities of members of police forces, their widows, children and dependants, was prescribed by the Police Pensions Act, 1921 (12 Halsbury's Statutes 873). This Act was from time to time amended and applied by various statutes and regulations with a view to adjusting the code to changing social conditions, and in the result there had grown up a somewhat complicated body of legislation on the subject. The coming into force of the National Insurance Acts, 1946, necessitated the making of arrangements for the integration of police pensions with the benefits under those Acts, and opportunity has, at the same time, been taken to repeal the existing provisions and to enable the Home Secretary to make regulations, within the framework of a single enabling statute, for dealing with police pensions.

Accordingly, s. 1 (1) of the present Act empowers the Home Secretary to make regulations as to (*a*) the pensions to be paid to and in respect of members of police forces; (*b*) the contributions to be paid by such members into the police fund; and (*c*) the times at which and the circumstances in which members may be required to retire otherwise than by reason of misconduct. Succeeding subsections specify other matters for which regulations may provide, and there is an express saving in sub-s. (6) for the provisions of the National Insurance Act, 1946 (39 Halsbury's Statutes 412), and the National Insurance (Industrial Injuries) Act, 1946 (39 Halsbury's Statutes 322).

Retirement pensions granted before July 5, 1948, are not to be affected by the regulations, and the existing law (see *supra*), except for ss. 4 and 5 of the present Act, will, accordingly, continue to apply in relation to such pensions. Apart from a number of other special cases, the regulations may, however, apply to any existing or future member of the police force, and also to the pension granted on the death of a person who had ceased to be a member of the police force before July 5, 1948, but who died on or after that date (s. 3 (1)).

A measure of protection is given to existing members of the police force in that they are not to be obliged to accept an earlier age of compulsory retirement or a less favourable scale of pensions than would otherwise have been applicable to them (s. 2 (1)). Regulations which fail to secure these objects are not thereby to be invalid, but provision is made for their retrospective amendment (s. 2 (2)).

Persons who left the police force before July 5, 1948, to undertake war service or compulsory national service are, subject to detailed provisions, to be treated as if they were still members of that police force (s. 3 (2)).

The events on the happening of which pensions may be forfeited are specified in s. 4, which is a re-enactment, with modifications, of s. 15 of the Act of 1921 (12 Halsbury's Statutes 881). The new forfeiture provisions apply in relation to all existing and future pensions, and it is expressly provided that, except in the events specified in the section, pensions are not to be subject to forfeiture. The validity of a forfeiture before the passing of the Act is unaffected by s. 4 and the existing provisions continue to apply thereto.

A right of appeal to a court of quarter sessions against the rejection of a claim

for a pension or for an increase in pension under the regulations or against the forfeiture of a pension granted either under the regulations or the earlier provisions is given by s. 5 (1), while s. 5 (3) provides for appeal on a point of law to the High Court from any decision of a court of quarter sessions under the section. These rights correspond to those conferred by s. 17 of the Act of 1921 (12 Halsbury's Statutes 882).

On July 2, 1948, the Secretary of State made, under ss. 1, 3 and 5 of the Act, the Police Pensions Regulations, 1948 (S.I. 1948 No. 1531, *post*), which came into operation on July 5, 1948. These regulations were, as required by the Act, made with the consent of the Treasury and after consultation with the Police Council and they were approved under s. 1 (7) of the Act by both Houses of Parliament by affirmative resolution on June 24, 1948, and July 1, 1948, respectively (452 H. of C. Official Report 1497–1520; 157 H. of L. Official Report 173–178). These regulations were amended on December 22, 1948, by the Police Pensions (No. 2) Regulations, 1948 (S.I. 1948 No. 2802), which came into operation on January 3, 1949, having been similarly approved by parliamentary resolutions on December 15 and 8, 1948, respectively (459 H. of C. Official Report 1335–1340; 159 H. of L. Official Report 900).

Though members of a police force were exempted from earlier schemes of State insurance, they are all insurable under the new provisions for national insurance which took effect on July 5, 1948, and are contained in the National Insurance Act, 1946 (39 Halsbury's Statutes 412), and the National Insurance (Industrial Injuries) Act, 1946 (39 Halsbury's Statutes 322), known collectively as the National Insurance Acts, 1946 (see s. 80 (1) of the former Act; 39 Halsbury's Statutes 490). Accordingly, such members will qualify for retirement pensions under the former Act and for awards under the latter, so that some adjustment of the rules relating to police pensions became desirable to avoid overlapping, both police pensions and national insurance being subsidised by public money. Such adjustment is made in the 1948 Regulations, e.g., in regs. 7, 13, 41, and Scheds. I–III. New entrants to the police pensions scheme, for instance, are eligible for slightly reduced grants on account of the national insurance retirement pension, while members of a police force serving on July 5, 1948, may elect to take either (*a*) reduced police pension benefits, or (*b*) full payment of police pensions in addition to national insurance pensions.

The result works out something like this. Under the pre-1948 law each member of a police force was subject to a deduction for pension purposes at the rate of 5 per cent. of his annual pay (s. 19 of the Act of 1921; 12 Halsbury's Statutes 883, as amended by s. 1 of the Police Pensions Act, 1926; 12 Halsbury's Statutes 897). Under reg. 41 of the 1948 Regulations these deductions are reduced to an amount equal to 1s. 2d. per week less than 5 per cent. of his pensionable pay, the police pension being correspondingly reduced; but each member will be required to pay an additional 4s. 11d. per week under the national insurance schemes to secure the benefits of those schemes, which include pension rights at the age of sixty-five for a man and sixty for a woman. Members of a force serving on July 5, 1948, and certain pensioners, however, may elect either (1) to pay a higher contribution amounting to only 2d. per week less than 5 per cent. of their pensionable pay (the 2d. represents a sum in respect of the industrial injuries side of the national insurance schemes, some of the risks covered being already covered by the police pensions scheme) in which case no deduction of police pension will be made, or (2) to make the smaller payments and qualify for the reduced benefits.

Reductions in pension are provided for in Part III of Sched. I to the 1948 Regulations. Where a pensioner being a man attains sixty-five or being a woman attains sixty, the annual reduction is to be £1 14s. 0d., multiplied, in broad terms, by the number of years at which the member has paid contributions as a regular policeman at the lower rate mentioned above. Where, however, a serving member or a serviceman of certain types who has elected to pay the lower rate of contributions attains one of the same ages, a sliding scale set out in the Table in Part III of the said Sched. I applies.

Special provision is also made by the 1948 Regulations for widows and children entitled to national insurance benefit (see Scheds. III and IV thereto).

Before the 1948 Regulations were made, consultation took place with the Police Council as required by s. 1 (1) of the Act, and where the Council made unanimous recommendations on the proposed regulations their suggestions were accepted by the Government and incorporated in the regulations. Where, however, the Council

were not unanimous in their recommendations but yet raised points of principle the Government remitted the questions to a Committee on Police Conditions of Service under the chairmanship of Lord Oaksey which was appointed by the Secretary of State and is examining the whole field of police pay and pensions (see 452 H. of C. Official Report 1497). [3100]

An Act to make provision as to the pensions to be paid to and in respect of members of police forces and as to the length of the period of their service, to amend and repeal with savings certain statutory provisions relating to the pensions to be paid to and in respect of members of police forces and as to the length of their service, and for purposes connected with the matters aforesaid. [3101] [24th March 1948.]

1. Police pension regulations.—(1) Regulations to be made by the Secretary of State, with the consent of the Treasury and after consultation with the Police Council, shall make provision—

(*a*) as to the pensions which are to be paid to and in respect of members of police forces, whether as of right or otherwise ; and

(*b*) as to the contributions in respect of pension rights which are to be made by members of police forces ; and

(*c*) as to the times at which and the circumstances in which members of police forces are or may be required to retire otherwise than on the ground of misconduct. [3102]

(2) Without prejudice to the generality of the provisions of the preceding subsection, any such regulations shall provide for the payment subject to the provisions of the regulations—

(i) of pensions to and in respect of persons who cease to be members of a police force after having served for such period as may be prescribed by the regulations ;

(ii) of pensions to and in respect of persons who cease to be members of a police force after such shorter period as may be prescribed by the regulations by reason of infirmity of mind or body ;

(iii) of pensions to and in respect of persons who cease to be members of a police force by reason of injury received in the execution of their duty ;

(iv) of pensions to and in respect of persons who cease to be members of a police force on the ground of age ; and

(v) of pensions in respect of persons who die while serving as members of police forces,

and may provide that where a person ceases to be a member of a police force in order to undertake compulsory national service, the period of his compulsory national service and such further period, if any, as may be specified in the regulations may be treated, in such manner, to such extent and on such conditions as to contributions or otherwise as may be so specified, as a period of service as a member of a police force. [3103]

(3) Regulations made under this section may contain such consequential or incidental provisions as appear to the Secretary of State to be necessary or expedient, including, in particular, provision as to the cases in which pensions are to be varied, suspended or terminated, or are to be applied otherwise than by being paid to the persons to whom they were awarded. [3104]

(4) Without prejudice to the generality of the preceding provisions of this section, regulations made under this section may contain such provision as appears to the Secretary of State to be necessary or expedient in relation to a person who transfers from or to service in a police force to or from other service or employment, whether in a police force or not, including provisions

enabling that other service or employment to be reckoned in whole or in part as service in a police force and provisions authorising or requiring payments to be made by or to the person or into or out of the fund out of which a pension may become or might have become payable to or in respect of the person in question as a member of a police force, including payments of contributions, payments of transfer values, payments towards the burden of a pension payable by another person or out of another fund, or other payments directed to the creation or preservation of pension rights of the person in question. [3105]

(5) Regulations made under this section shall specify the persons by and to whom and the funds into or out of which pensions and contributions in respect of pension rights are to be payable, may provide for the establishment or continuance of special funds for the purpose, and, subject to the provisions of this subsection, may provide for payments of contributions or pensions, and such other payments as are mentioned in subsection (4) of this section, being made into the Exchequer or out of moneys provided by Parliament:

Provided that no regulations shall provide for payments into the Exchequer or out of moneys provided by Parliament except in relation to a person who is or has been such a person as is mentioned in subsection (1) of section one of the Police (Overseas Service) Act, 1945, or any other person whose salary or remuneration is or was wholly or partly payable out of moneys provided by Parliament, or who is or may become entitled to or eligible for a pension so payable, so, however, that regulations shall not be treated for the purpose of this proviso as providing for payments out of moneys provided by Parliament by reason only that, as a result of the making of the regulations, an increased sum may be payable out of moneys provided by way of a grant towards the expenses of a police force. [3106]

(6) Nothing in this section or in any regulations made thereunder shall affect any of the provisions of the National Insurance Act, 1946, or the National Insurance (Industrial Injuries) Act, 1946. [3107]

(7) Any power to make regulations under this section shall be exercisable by statutory instrument, and before any such instrument is made, a draft of the regulations shall be laid before each House of Parliament, and the instrument shall not be made until that draft has been approved by resolution of each House. [3108]

General note.—Sub-s. (1) requires the Secretary of State to make regulations, by statutory instrument (see sub-s. (7), *supra*, and the notes thereto, *infra*), subject to safeguards, as to police pensions and on the coming into force of the first of such regulations (see *infra*) the repeals specified in Sched. I, *post*, take effect except so far as the regulations themselves may provide to the contrary (s. 3 (4), *post*). In this way the great bulk of the existing legislation on police pensions is brought to an end (except as regards existing pensions) and replaced by the new pensions code.

The various kinds of pension for which the regulations are to provide are detailed in sub-s. (2), while sub-ss. (3) to (5) make further proivsion as to the contents of the regulations, and sub-s. (6) contains a saving for the provisions of the National Insurance Acts, 1946 (see *infra*).

Regulations.—The first regulations to be made under the present section, by statutory instrument with prior parliamentary approval, with due consent and after proper consultation, are the Police Pensions Regulations, 1948 (S.I. 1948 No. 1531; reproduced as amended, *post*), referred to hereafter as "the 1948 Regulations", which came into force on July 5, 1948, the same date as the National Insurance Acts, 1946 (see *infra*) took effect. With the present Act the regulations comprise a complete code as to awards to or in respect of persons serving in the police force, the precise application of the regulations being defined by s. 3, *post*, and reg. 1 of the 1948 Regulations. It is expected that additional regulations will be necessary under the present section, and s. 3, *post*, is careful to refer to the "coming into force of the first regulations" made under the present section.

Consultation.—There is no obligation upon the Secretary of State to consult personally (see the observations of Lord GREENE, M.R., in *Carltona, Ltd.* v. *Works Commissioners*, [1943] 2 All E. R. 560). As to the nature and fact of consultation, see *Fletcher* v. *Minister of Town and Country Planning*, [1947] 2 All E. R. 496.

Police Council.—Regulations are made after discussion with the Police Council for England or that for Scotland as the case may be. The various interests in the police force are represented on these Councils, which comprise representatives from the police federation, the police authorities, chief officers and superintendents of police, under the chairmanship of the Home Secretary or Secretary of State for Scotland, or an official from their respective departments.

The lower ranks of the police force are represented on the Council by the police federation, which was a body formed to enable the police forces of England and Wales to discuss and bring to the notice of the Secretary of State matters affecting their welfare and efficiency other than questions of discipline and promotion affecting individuals (s. 1 (1) of the Police Act, 1919; 12 Halsbury's Statutes 867).

Pensions which are to be paid to and in respect of members.—This is the subject of Parts I to III of, and Scheds. I, II and III to, the 1948 Regulations, reproduced, as amended, *post.*

Contributions in respect of pension rights.—This is the subject of Part V of the 1948 Regulations, *post.*

Retirement otherwise than on the ground of misconduct.—This is the subject of Part IX of the 1948 Regulations, *post.*

Sub-s. (2).—The matters here referred to are provided for in Parts II and III of, and Scheds. I, II and III to, the 1948 Regulations, reproduced as amended, *post.* As to compulsory national service, see Part IV of the 1948 Regulations, reproduced as amended, *post.*

Injury.—See s. 8 (1), *post*, and reg. 69 (1) of the 1948 Regulations, *post.*

To be varied, suspended or terminated.—See regs. 21 and 24 and Part VI of the 1948 Regulations, *post.*

Applied otherwise than . . . to the persons to whom they were awarded.—See reg. 53 of the 1948 Regulations, *post.*

Persons by whom pensions are payable.—See reg. 2 of the 1948 Regulations, *post.*

Persons by and to whom contributions are payable.—See reg. 41 of the 1948 Regulations, *post.*

Funds into or out of which pension contributions are to be payable.—See reg. 58 of the 1948 Regulations, *post.*

S. 1 (1) *of the Police (Overseas Service) Act*, 1945.—38 Halsbury's Statutes 363. This subsection provides for the payment out of public moneys of any expenses incurred by a Secretary of State, to such amount as may be sanctioned by the Treasury, in respect of persons engaged under his control in the performance of police duties in any foreign country for the time being in the occupation of His Majesty, or in the performance of police duties on behalf of the government of any country or territory outside the United Kingdom. As to the special police corps of the Control Commission for Germany (British Element), see S. R. & O., 1947, Nos. 1088 and 2194; as to the public safety branch of the Allied Commission for Austria (British Element), see S. R. & O., 1947, Nos. 1188 and 2198, and as to the Police Mission to Greece, see S.I. 1948 Nos. 313 and 1642. Certain provisions of these regulations are repealed by s. 3 (4) and Sched. I, Part II, *post*, and replaced by provisions of the 1948 Regulations, as amended.

Any other person whose salary or remuneration is . . . payable out of moneys provided by Parliament.—This refers to officers such as the commissioner and assistant commissioner of police for the City of London, whose pension contributions are paid to, and whose pensions are payable out of, the Exchequer.

National Insurance Act, 1946, *and National Insurance (Industrial Injuries) Act*, 1946.—39 Halsbury's Statutes 412, 322. The 1948 Regulations are designed to prevent the overlapping of police awards with pensions and benefits under these Acts (see the Preliminary Note, *ante*), but forfeiture, cancellation or withdrawal of a police pension is not to prevent the recipient from continuing to receive national insurance benefit where applicable.

Exercisable by statutory instrument.—Statutory instruments are governed by the Statutory Instruments Act, 1946 (39 Halsbury's Statutes 783), which came into full operation on January 1, 1948 (see S.I. 1948 No. 3). The practical effect of making the regulations referred to in sub-s. (7), *supra*, statutory instruments is to apply to them the provisions of ss. 2 and 3 of that Act, as to numbering, printing, publication and citation. Ss. 4 to 7 of the Act, however, are all inapplicable because the "affirmative resolution procedure" applies, that is to say, the present Act prohibits the making of the instruments without the approval of Parliament.

Approved by resolution of each House.—As to the approval of the 1948 Regulations by both Houses of Parliament, see the Preliminary Note, *ante.*

Definitions.—For definitions of "pension", "police force", "pension rights" and "compulsory national service", see s. 8 (1), *post.*

2. Protection of serving members.—(1) Any regulations made under section one of this Act shall be so framed as to ensure—

(*a*) that the times at which an existing member of a police force is or may be required under those regulations to retire on the ground of age do not, unless he at any time elects otherwise, differ from those which would have been applicable in his case if those regulations had not come into force; and

(*b*) that the scale of pensions payable under those regulations to an existing member of a police force who ceases to be a member of that police force either—

(i) after having served for any period prescribed by those regulations; or

(ii) by reason of infirmity of mind or body after having served for any shorter period so prescribed, not being infirmity due to injury received in the execution of his duty,

is not, unless he elects otherwise within such time and in such manner as may be prescribed in those regulations, less favourable than the scale applicable in his case immediately before the coming into force of those regulations.

In this subsection, the expression "existing member", in relation to any police force, means a person who is serving in that police force at the date when the regulations in question come into force. [3109]

(2) Regulations made under the said section one shall not be invalid by reason that in fact they do not secure the results specified in the preceding subsection, but if the Secretary of State is satisfied, or it is held by the High Court or by the Court of Session, that any such regulations have failed to secure those results, the Secretary of State shall so soon as may be make under the said section one the necessary amending regulations, and any such amending regulations shall have effect as from the date of the coming into force of the regulations which they amend. [3110]

General note.—This section, which is mandatory, did not appear in the Bill as originally presented but was included on consideration in the House of Commons of the Bill as amended in Committee with the object of providing serving members of a police force with a statutory guarantee that their basic pension conditions would not be worse under the present Act and the regulations to be made thereunder than they would have been under the repealed provisions.

Regulations.—See the notes to s. 1, *ante.*

Elects.—See the proviso to reg. 54 (1) of the 1948 Regulations, *post.*

Held by the High Court.—It has been suggested in this connection that application may be made under R.S.C., Ord. 59, r. 1 (*a*), by way of certiorari directed to the Secretary of State as the maker of regulations to quash the offending regulation. This would not, however, seem completely to cover the situation for the opening words of the subsection expressly validate the regulations even if defective and therefore apparently they may not be quashed.

It would seem, therefore, that though the validity of such an instrument as a scheme, order or regulation can in practice be brought before the Court by application for certiorari in an appropriate case (as to procedure, see *R.* v. *Minister of Health* v. *R.*, *Ex parte Yaffé*, [1931] A. C. 494), that remedy is unlikely to be appropriate in the present instance; the subsection seems to be directed to the case in which, in the course of determining that a certain right has not been conferred upon a particular person, the court might also hold that the regulations fail to secure the results referred to.

Definitions.—For definitions of "police force", "pension" and "injury", see s. 8 (1), *post.*

3. Application of regulations.—(1) Subject to the provisions of the last preceding section and of this subsection, any regulations made under section one of this Act may be so framed as to apply in relation to persons who, at the date when the regulations come into force are, or thereafter become, members of any police force, and also so as to apply to pensions granted on the death of a person who had ceased to be a member of a police force before the said date, where the death occurs on or after the said date and also so as to authorise or require the payment of pensions or increased pensions to widows and children of persons dying before the said date (whether before or after the passing of this Act) where the deceased had been a member of a police force and, in the case of a widow, where the marriage was in existence when he ceased (whether on death or otherwise) to be a member thereof:

Provided that nothing in any such regulations shall—

(*a*) affect any pension granted on the retirement of any person if the retirement occurred before the said date, notwithstanding that that person is on the said date, or thereafter becomes, again a member of a police force; or

(*b*) affect any pension granted by virtue of subsection (3) of section four of the Police and Firemen (War Service) Act, 1939, if the expiration of the period (or last period, if more than one) which, by virtue of subsection (1) of section two of that Act, is treated as a period of approved service in the case of the person in question is before the date of the coming into force of the first regulations so made as aforesaid; or

(*c*) apply to any pension to or in respect of a person to whom the National Fire Service (Preservation of Pensions) (Police Firemen) Regulations, 1941, apply; or

(*d*) apply to any pension to any person who, having formerly been a member of a police force, is at the date of the coming into force of the first regulations so made as aforesaid serving in any capacity mentioned in paragraph (i) of subsection (1) of section ten of the Police Pensions Act, 1921, and does not thereafter again become a member of a police force;

and the pensions enactments in force immediately before the coming into force of the first regulations so made as aforesaid shall (subject, in the case of the pensions mentioned in paragraph (*c*) of this proviso, to the provisions of any regulations made under the Fire Services Act, 1947) continue to apply in relation to such pensions as are mentioned in this proviso as though the provisions of this Act (other than the two next succeeding sections) had not been passed. [3111]

(2) A person who, before the date of the coming into force of the first regulations made under section one of this Act, has ceased to be a member of a police force in order to undertake any service by virtue of which he is a person to whom section one of the Police and Firemen (War Service) Act, 1939, applies, or in order to undertake compulsory national service, shall, in such circumstances and to such extent as may be provided by regulations so made, be treated as if he were at that date still a member of a police force. [3112]

(3) The provisions of this Act shall—

(*a*) have effect as if commissioners and assistant commissioners of the metropolitan police force and commissioners of the City of London police force were members of those forces respectively; and

(*b*) in relation to any person who at the date of the coming into force of the first regulations made under section one of this Act is or has been the surgeon of the City of London police force or a clerk or other person employed in or in connection with that force, have effect as if such surgeons, clerks or other persons employed in or in connection with that force were members thereof;

and references in this Act to membership of a police force shall be construed accordingly. [3113]

(4) On the coming into force of the first regulations made under section one of this Act, the Acts specified in Part I of the First Schedule to this Act and the rules and regulations specified in Part II of that Schedule, shall, save as provided in the proviso to subsection (1) of this section, cease to have effect to the extent specified in those Parts of that Schedule respectively, except so far as the contrary may be provided by the first mentioned regulations; and the enactments mentioned in Part III of that Schedule shall, save as aforesaid and except so far as the contrary may be so provided, have effect subject to the provisions of the said Part III, being provisions consequential on the repeals effected by the preceding provisions of this subsection. [3114]

General note.—This section determines how far new pensions regulations made under the present Act may supersede the pension scheme embodied in the Act of 1921, as amended. The first provisions of sub-s. (1) are enabling in character and the actual application is left to be determined in detail by the regulations (see reg. 1 of the 1948 Regulations, reproduced, as amended, *post*). Nevertheless, there are in the section detailed provisions for securing that existing pensions are not to be affected (sub-s. (1), proviso), and for ensuring that the rights of persons on war service or compulsory national service continue to be safeguarded (sub-s. (2)). Sub-s. (3), bringing certain persons within the scope of the term "members of police forces",

repeats similar provisions in s. 26 (1) of the Police Pensions Act, 1921 (12 Halsbury's Statutes 886). Finally, provision is made for the replacement of the main provisions applicable to police pensions by the first regulations under s. 1, *ante*, as from the coming into force of the latter, which in fact took place on July 5, 1948.

Regulations.—See the notes to s. 1, *ante*.

So as to authorise . . . the payment of pensions.—This provision was included to enable police authorities to increase the pensions of police widows and children whose husbands or fathers have died before the appointed day (July 5, 1948), up to the rates of benefit for widows and children of insured persons, the intention being that supplementation shall be kept closely in step with the benefits under the National Insurance Acts, 1946 (447 H. of C. Official Report 1524). Power is included in sub-s. (1) to make some provision in the case of widows of men who die between July 5, 1948, and July 5, 1951, during which time the widows would not otherwise get the benefit of their husbands' payments into the National Insurance Schemes (*ibid.*). The subsection also enables the Secretary of State, if he thinks fit, to mitigate a number of cases of hardship, including cases where a widow was not entitled to a pension because her husband had not completed at least five years' pensionable service under the Police Pensions Act, 1921, and where a widow was not entitled to a pension owing to the death of her husband before September 1, 1918. To this extent the Act can be made to apply to past cases. As to the exercise of the power, see regs. 18 and 24 of the 1948 Regulations, reproduced, as amended, *post*.

Police and Firemen (War Service) Act, 1939.—32 Halsbury's Statutes 1149. Under s. 4 (3) of that Act (32 Halsbury's Statutes 1153) members of a police force thereby affected who were prevented by wounds or disease contracted during service in the Armed Forces from resuming police service were, subject to certain provisos, to be treated as incapacitated otherwise than in consequence of injuries received in the execution of their duty and as having retired on medical certificate. S. 2 (1) of the same Act (32 Halsbury's Statutes 1151) provided that periods of service in the Armed Forces during the emergency and any periods after such service during which payments were made in lieu of pay or allowances were to be treated as periods of approved police service subject to the persons concerned having attained the minimum age for such service.

S. 1 of the Act of 1939 (32 Halsbury's Statutes 1150), referred to in sub-s. (2), *supra*, applies, *inter alia*, to constables who ceased to serve as such during the period of the emergency in order to serve in His Majesty's Forces. The emergency that was the occasion of the passing of the Act of 1939 came to an end on December 31, 1946 (see S. R. & O., 1947, No. 152), though certain time limits (not including that last referred to) had previously been extended to one year after the emergency by s. 4 of the Police and Firemen (War Service) Act, 1944 (37 Halsbury's Statutes 406).

Coming into force of the first regulations.—July 5, 1948 (see Preliminary Note, *ante*).

National Fire Service (Preservation of Pensions) (Police Firemen) Regulations, 1941.—S. R. & O., 1941, No. 1271. These regulations, made by the Secretary of State under the Fire Services (Emergency Provisions) Act, 1941 (34 Halsbury's Statutes 223), as amended, apply to members of a police force transferred to the war-time National Fire Service; former members of a police force, who before becoming members of the National Fire Service had retired without a pension but who were nevertheless designated as being within the regulations; and members of a police force on war service who later became whole-time members of the National Fire Service. The general effect of the regulations was to make whole-time service in the National Fire Service equivalent to police service for pension purposes.

Police Pensions Act, 1921, s. 10 (1) (*i*).—12 Halsbury's Statutes 878. The capacities mentioned in this paragraph comprise service as a civil servant within the meaning of the Superannuation Act, 1887 (16 Halsbury's Statutes 566), or as an officer of the staff of the metropolitan police within the meaning of the Metropolitan Police Staff (Superannuation) Act, 1875 (12 Halsbury's Statutes 835).

Regulations made under the Fire Services Act, 1947.—For this Act, see 40 Halsbury's Statutes 984. An example of regulations so made affecting the position of persons to whom the National Fire Service (Preservation of Pensions) (Police Firemen) Regulations, 1941, *supra*, apply is the Fire Services (Pensionable Employment) Regulations, 1948 (S.I. 1948 No. 581; title FIRE PROTECTION, *ante*) (see particularly regs. 6, 9 and 12 thereof, and the Schedule thereto).

Definitions.—For definitions of "police force", "pension" and "compulsory national service", see s. 8 (1), *post*.

4. Forfeiture of pensions.—(1) Every pension granted under regulations made under this Act is granted, and every pension (whether described as a pension or as an allowance) granted under any of the enactments specified in Part I of the First Schedule to this Act shall be deemed to have been granted, only upon condition that it may be forfeited by the police authority in any of the following cases, that is to say, if the grantee—

(*a*) is convicted of any offence and is sentenced to penal servitude [preventive detention or corrective training] or to imprisonment for a term exceeding twelve months; or

(*b*) enters into or continues to carry on any business, occupation or employment which is illegal, or in which the grantee has made use of the fact of former employment in a police force in a manner which is discreditable or improper; or

(*c*) supplies to any person or publishes in a manner which is discreditable or improper any information which the grantee had obtained in the course of employment in a police force ; or

(*d*) solicits or, without the consent of the police authority, accepts directly or indirectly any testimonial or gift having any pecuniary value on retirement from the police force or otherwise in connection with his service in a police force ; or

(*e*) enters into or continues in any business, occupation or employment as a private detective, after the police authority have given him notice in writing requiring him on any reasonable grounds not to do so :

Provided that a pension shall not be forfeited under paragraph (*b*) of this subsection unless reasonable warning has previously been given in writing by the police authority. [3115]

(2) A forfeiture under this section may affect the pension wholly or in part, and may be permanent or temporary as the police authority may determine. [3116]

(3) Save as aforesaid, such a pension as aforesaid shall not be capable of being forfeited :

Provided that where a pension granted under any of the enactments specified in Part I of the First Schedule to this Act has been forfeited before the passing of this Act, nothing in this Act shall affect the validity of the forfeiture, and the provisions of the Police Pensions Act, 1921, shall apply in relation to the forfeiture as if this Act had not passed. [3117]

(4) The preceding provisions of this section shall apply in relation to the rules and regulations specified in Part II of the First Schedule to this Act as it applies in relation to the enactments specified in Part I of that Schedule, subject, however, to any necessary adaptations. [3118]

(5) Section fifteen of the Police Pensions Act, 1921, is hereby repealed. [3119]

General note.—Under the pre-1948 law a pension could be forfeited or withdrawn, wholly or in part, where the grantee : (1) was convicted of any offence and was sentenced to penal servitude or imprisonment for more than three months ; or (2) knowingly associated with thieves or reputed thieves ; or (3) refused to give assistance to the police for the detection of crime, the apprehension of criminals or the preservation of the peace ; or (4) engaged in any business, occupation or employment which was illegal or in which he made use of his employment in the police in a manner the police authority considered discreditable or improper ; or (5) supplied or published any information obtained in the course of his employment with the police in a manner which the police authority considered discreditable or improper ; or (6) solicited or accepted without the consent of the police authority a testimonial or gift on retirement or in connection with his police service ; or (7) engaged in a business or employment as a private detective after being prohibited from so doing by the police authority on reasonable grounds (s. 15 of the Act of 1921 ; 12 Halsbury's Statutes 881).

The existing provisions as to forfeiture have been modified by the present Act, which repeals s. 15 of the Act of 1921, *supra*. The new Act substitutes a period of twelve months for that of three months in condition (1), *supra*. Secondly, it is no longer a ground for forfeiture that the grantee associates with thieves or reputed thieves. Thirdly, it ceases to be a ground for forfeiture that the grantee fails to give information for the detection of crime, because there seemed no good reason why an ex-policeman should be under a heavier duty in this respect than an ordinary citizen. Next, reasonable warning against carrying on an illegal, discreditable or improper business must now be given before steps are taken to forfeit a pension. As regards the condition against carrying on business as a private detective, this has also been amended by replacing the former general clause by a provision that the prohibition must in each case be notified in writing to the policeman concerned. In any event forfeiture of a police pension will not prejudice any national insurance pension.

The present section applies to pensions granted *both under the new and the old pension codes*, subject to a proviso confirming existing forfeitures (sub-ss. (1) and (3), *supra*).

As to appeals against forfeiture, see s. 5, *post*.

Regulations.—See the Preliminary Note and the notes to s. 1, *ante*.

Penal servitude.—By s. 1 (1) of the Criminal Justice Act, 1948 (11 & 12 Geo. 6, c. 58), penal servitude is abolished and relevant enactments are to be construed as conferring power to pass sentences of imprisonment for terms not exceeding the maximum term of penal servitude for which a sentence could previously have been passed.

Preventive detention or corrective training.—These words, which appear in square brackets in the text, were inserted in the Act by s. 79 of, and Sched. IX to, the Criminal Justice Act, 1948, *supra*. Sentences of these kinds may be passed upon adult persistent offenders by virtue of s. 21 of that Act.

As a private detective.—A former member of a police force could set up as a private detective unless the police authority prohibited him from doing so (see s. 15 (*g*) of the Act of 1921; 12 Halsbury's Statutes 882). Under the present Act the prohibition must be (1) in writing and (2) notified to the particular individual. This prevents an individual overlooking a *general* prohibition by the police authority.

Provisions of the Police Pensions Act, 1921.—The principal provision relevant is, of course, s. 15 of that Act (12 Halsbury's Statutes 881), *supra*.

Definitions.—For definitions of "pension", "police authority" and "police force", see s. 8 (1), *post*.

5. Appeals.—(1) If any person (other than a person such as is mentioned in subsection (1) of section one of the Police (Overseas Service) Act, 1945), is aggrieved by—

(*a*) the refusal of the police authority to admit a claim to receive as of right a pension, or a larger pension than that granted, under the regulations made under this Act; or

(*b*) the forfeiture, under the provisions in that behalf contained in this Act, of any pension granted to him, whether under the regulations made under this Act or under any of the enactments specified in Part I of the First Schedule to this Act,

he may appeal to a court of quarter sessions and that court, after enquiring into the case, may make such order in the matter as appears to the court to be just:

Provided that—

(*a*) nothing in this section shall confer a right to appeal against anything done by the police authority in the exercise of any power which is conferred on them by regulations under this Act and is expressly declared by those regulations to be a power which they are to exercise in their discretion;

(*b*) regulations made under this Act may provide, in relation to questions arising out of those regulations, for the reference of any such matter as is specified in the regulations, either by the police authority or by the court, to a medical practitioner, whose decision thereon shall, subject to such rights of appeal as may be provided by the regulations to such tribunal as may be constituted thereunder, be final on the matter so referred. [3120]

(2) The court of quarter sessions to which a person may appeal under the preceding subsection shall be—

(*a*) if he last served in the metropolitan police force, the court of quarter sessions for the County of London;

(*b*) if he last served in the City of London police force, the court of quarter sessions for the City of London;

(*c*) if he last served in the police force of a borough having a separate police force and a separate court of quarter sessions, the court of quarter sessions for that borough; or

(*d*) in any other case, the court of quarter sessions for the county in which he last served in a police force. [3121]

(3) An appeal shall lie on a point of law from any decision of a court of quarter sessions under this section to the High Court in accordance with rules of court and the decision of the High Court shall be final. [3122]

(4) The Secretary of State shall by regulations made under sections one of this Act make provision as to the court or other person by whom appeals by persons such as are mentioned in subsection (1) of section one of the Police (Overseas Service) Act, 1945, who are aggrieved by any refusal of the Secretary of State to admit such a claim, or by any such forfeiture, as is mentioned in subsection (1) of this section are to be heard and determined, and the proviso to subsection (1) of this section shall with any necessary adaptations apply in relation to any such appeal. [3123]

(5) In the application of this section to Scotland, for any reference to a court of quarter sessions there shall be substituted a reference to the sheriff having jurisdiction in the place where the person concerned last served as a member of a police force, and for any reference to the High Court, there shall be substituted a reference to the Court of Session. [3124]

(6) Paragraph (*a*) of subsection (1) of section seventeen of the Police Pensions Act, 1921, is hereby repealed. [3125]

General note.—This section replaces, with modifications, s. 17 of the Police Pensions Act, 1921 (12 Halsbury's Statutes 882). In particular, the provisions of proviso (*b*) to sub-s. (1), relating to reference to medical practitioners, are new. Special provision is made by sub-s. (4) for appeals by persons affected by the Police (Overseas Service) Act, 1945.

S. 1 (1) *of the Police (Overseas Service) Act*, 1945.—38 Halsbury's Statutes 363. The persons mentioned in this subsection are those engaged under the control of the Secretary of State in the performance of police duties in any foreign country for the time being in the occupation of His Majesty, or in the performance of police duties on behalf of the government of any country or territory outside the United Kingdom. Police serving in Germany, Austria and Greece are affected (see the notes to s. 1, *ante*). As to the right of appeal in such cases, see sub-s. (4), *supra*.

Regulations.—See the Preliminary Note, *ante*.

Provisions . . . contained in this Act.—For the provisions as to forfeiture contained in the present Act, see s. 4, *ante*.

Reference to a medical practitioner.—See regs. 47 to 51 of the 1948 Regulations, *post*, for an exercise of the power to refer to a medical practitioner in the first regulations issued under s. 1, *ante*.

In accordance with rules of court.—The relevant Rules of Court have not yet been made, but analogous provisions will be found in R.S.C. Ord. 59.

Sub-s. (4).—See the notes, *supra*, as to appeals by persons subject to the Police (Overseas Service) Act, 1945 (38 Halsbury's Statutes 363). The present subsection is mandatory and reg. 51 of the 1948 Regulations, *post*, makes the necessary provision as to appeals by members of the overseas corps. In this case appeal is to a *ad hoc* tribunal of three members to be appointed by the Secretary of State for the particular appeal.

Police Pensions Act, 1921, *s.* 17 (1) (*a*).—12 Halsbury's Statutes 883. This paragraph relates to pensions and allowances which, after being granted, have subsequently in pursuance of that Act been declared to be forfeited.

Definitions.—For definitions of "pension" and "police authority", see s. 8 (1), *post*.

6. Amendment of Metropolitan Police Act, 1933.—Subsection (1) of section four of the Metropolitan Police Act, 1933 (which authorises the appointment of short service constables) is hereby repealed. [3126]

General note.—Under s. 4 (1) of the Metropolitan Police Act, 1933 (26 Halsbury's Statutes 632), the appointment of metropolitan police constables for a short-term maximum of ten years was authorised, and by the following subsection appropriate amendments were made in the Police Pensions Act, 1921, ss. 2, 9 and 10, and in Part I of Sched. I thereto (12 Halsbury's Statutes 874, 877, 878, 890) in order to allow short service of this kind to count towards pension or gratuity. No further short-service constables are to be appointed.

7. Miscellaneous provisions.—(1) Every assignment of or charge on a pension granted under the regulations made under section one of this Act, and every agreement to assign or charge such a pension, shall, except so far as it is made for the benefit of the family of the pensioner, be void, and on the bankruptcy of the pensioner such a pension shall not pass to any trustee or other person acting on behalf of the creditors. [3127]

(2) If any person obtains or attempts to obtain for himself or any other person any pension under any such regulations as aforesaid by means of any false declaration, false certificate, false representation, false evidence or personation, or by malingering or feigning disease or infirmity, or by maiming or injuring himself, or causing himself to be maimed or injured, or otherwise producing disease or infirmity, or by any other fraudulent conduct, he shall be liable on conviction on indictment to imprisonment for a term not exceeding two years, or on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding twenty-five pounds. [3128]

General note.—The pre-1948 law prohibiting a police pensioner from alienating his pension by assignment or charge, except for the benefit of his family, and providing that on bankruptcy the pension should not pass by operation of law to a pensioner's trustee in bankruptcy or to his creditors, was contained in s. 14 (1) of the Act of 1921 (12 Halsbury's Statutes 880) and is substantially re-enacted by sub-s. (1), *supra*. Nevertheless, the court may order part of the pension to be paid to the trustee for the benefit of creditors (*Re Garrett*, [1930] 2 Ch. 137),

Under s. 16 of the Act of 1921 (12 Halsbury's Statutes 882), it was an offence for any person to seek to obtain a pension by false declaration, certificate, misrepresentation or evidence, or by personation or pretended infirmity, and the offender was liable to forfeit the pension, allowance or gratuity so obtained; these provisions also are substantially reproduced in sub-s. (2), *supra*.

The reason for including these two provisions in the Act rather than leaving them for inclusion in the regulations is to avoid any possibility that the terms of the existing law might be replaced by more onerous provisions in future regulations.

Pension.—For definition, see s. 8 (1), *post*.

Regulations.—See the Preliminary Note and the notes to s. 1, *ante*.

Imprisonment . . . not exceeding three months.—Note that the imprisonment and the fine on summary conviction are alternative. As the maximum term of imprisonment on summary conviction does not exceed three months, the accused has no right to claim trial by jury under s. 17 of the Summary Jurisdiction Act, 1879 (11 Halsbury's Statutes 329), as amended by s. 79 of, and Sched. IX to, the Criminal Justice Act, 1948 (11 & 12 Geo. 6, c. 58).

8. Interpretation.—(1) In this Act, except so far as the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

"compulsory national service" means service in any of the armed forces of the Crown undertaken by virtue of an enlistment notice or a training notice served under the National Service Acts, 1939 to 1947, or work or training in pursuance of an order of a tribunal under section five of the National Service (Armed Forces) Act, 1939 (which relates to conscientious objectors);

"injury" includes disease;

"pension", in relation to a person, means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of him, and includes a lump sum or a gratuity so payable and a return of contributions;

"pension rights" includes, in relation to any person, all forms of right to, or eligibility for, the present or future payment of a pension to or in respect of that person;

"police authority". in relation to any regulations made under the Police (Overseas Service) Act, 1945, means the Secretary of State, and in any other case has the same meaning as in section thirty of the Police Pensions Act, 1921;

"police force" means any police force maintained for any police area mentioned in the Third Schedule to the Police Pensions Act, 1921, or maintained by virtue of any scheme under the Police Act, 1946, or under the Police (Scotland) Act, 1946, and, in respect of persons such as are mentioned in subsection (1) of section one of the Police (Overseas Service) Act, 1945, any body in which such persons are serving. **[3129]**

(2) Except so far as the context otherwise requires, any reference in this Act to any other Act or to any rules or regulations shall be construed as a reference to that Act or those rules or regulations as amended by or under any other Act, including this Act. **[3130]**

"*Compulsory national service.*"—As from January 1, 1949, the National Service Acts, 1939 to 1947, are consolidated in the National Service Act, 1948 (11 & 12 Geo. 6, c. 64) from which date s. 5 of the National Service (Armed Forces) Act, 1939, is replaced by s. 17 of that Act.

"*Injury.*"—The definition here given confirms the existing case law on the subject. See *Garvin* v. *City of London Police Authority*, [1944] K. B. 358; [1944] 1 All E. R. 378, (tuberculosis held to be an injury); *Huddersfield Police Authority* v. *Watson*, [1947] K. B. 842; [1947] 2 All E. R. 193 (duodenal ulcer held to be an injury); and *Gordon* v. *Barnsley Police Authority*, [1948] 2 All E. R. 79, *post* (heart disease). See further reg. 69 (1) of the 1948 Regulations, reproduced, as amended, *post*, as to the definition of the term for the purposes of those regulations.

Police (Overseas Service) Act, 1945.—38 Halsbury's Statutes 363.

Police Pensions Act, 1921, *s.* 30, *Sched. III.*—12 Halsbury's Statutes 888, 894.

Any scheme under the Police Act, 1946.—39 Halsbury's Statutes 616. This is a reference to voluntary and compulsory schemes for the amalgamation of county and county borough police forces (ss. 3 and 4; 39 Halsbury's Statutes 619, 620).

S. 1 (1) *of the Police (Overseas Service) Act*, 1945.—38 Halsbury's Statutes 363. The persons referred to in this subsection are those engaged under the control of the Secretary

of State in the performance of police duties in any foreign country for the time being in the occupation of His Majesty, or in the performance of police duties on behalf of the government of any country or territory outside the United Kingdom. The bodies in which such persons are serving are the special police corps of the Control Commission for Germany (British Element), the public safety branch of the Allied Commission for Austria (British Element) and the Police Mission to Greece (see also the notes to s. 1, *ante*).

9. Short title, repeals and extent.—(1) This Act may be cited as the Police Pensions Act, 1948. [3131]

(2) The enactments specified in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule with effect from the passing of this Act. [3132]

(3) This Act shall not extend to Northern Ireland:

Provided that this subsection shall not be construed as preventing any regulations such as are referred to in subsection (4) of section one of this Act from requiring payments to be made to a person or into a fund in Northern Ireland. [3133]

General note.—Only very minor repeals are effected by this section and Sched. II, *post*. The enactments repealed as from the passing of the present Act are s. 15 of the Police Pensions Act, 1921 (12 Halsbury's Statutes 881), relating to forfeiture of pensions, which is replaced by s. 4 of the present Act, *ante*; s. 17 (1) (*a*) of the same Act (12 Halsbury's Statutes 883), relating to appeals against forfeiture, which is replaced by s. 5 (1) (*b*), *ante*; and s. 4 (1) of the Metropolitan Police Act, 1933 (26 Halsbury's Statutes 632), relating to the appointment of short-service constables, which is also repealed by s. 6, *ante*.

The bulk of the repeals by the present Act are effected as from July 5, 1948, by s. 3 (4), *ante*, and Sched. I, *post*.

SCHEDULES

FIRST SCHEDULE

Section 3.

REPEALS TO COME INTO EFFECT WITH SAVINGS ON MAKING OF REGULATIONS AND PROVISIONS CONSEQUENTIAL ON THOSE REPEALS

General note.—In Parts I and II of this Schedule appears the bulk of the existing legislation on the subject of police pensions, the repeal of which took effect from July 5, 1948 (see the notes to s. 3, *ante*). The phrase "with savings", *supra*, should, however, be noted: this refers, first, to the proviso to s. 3 (1), *ante*, whereby in effect existing pensions are to continue to be governed by the old law except that ss. 4 and 5 of the present Act are to apply; and secondly, to the provision in s. 3 (4), *ante*, whereby the first regulations under s. 1, *ante*, may by special provision preserve all or any of the existing provisions.

Consequential provisions are contained in Part III of this Schedule.

PART I

Acts Repealed

1. *The Metropolitan Police Act*, 1829.

In section twelve, the words "or as a compensation for wounds or severe injuries received in the performance of their duty, or as an allowance to such of them as shall be disabled by bodily injury received, or shall be worn out by length of service".

2. *The County and Borough Police Act*, 1859.

Section twenty-two.

3. *The Police Superannuation Act*, 1865.

The whole Act.

4. *The Lincolnshire Police Superannuation Act*, 1888.

Sections four and five.

5. *The Police Reservists (Allowances) Act*, 1914.

Subsection (2) of section one.

6. *The Police Constables (Naval and Military Service) Act*, 1914.

The whole Act.

7. *The Police (Emergency Provisions) Act*, 1915.

The whole Act.

8. *The Police (Pensions) Act*, 1918.

The whole Act.

9. *The Police Act*, 1919.

In subsection (1) of section four the word " pensions " ; section five ; and in section fourteen the word " pensions ".

10. *The City of London (Various Powers) Act*, 1920.

Sections twelve and thirteen.

11. *The Police Pensions Act*, 1921.

The whole Act except so much of section thirty as precedes the provisos thereto subsection (1) of section thirty-five and the Third Schedule.

12. *The Police Pensions Act*, 1926.

The whole Act.

13. *The Metropolitan Police Act*, 1933.

Section two and subsection (2) of section four.

14. *The Police and Firemen (War Service) Act*, 1939.

In section two, the words " police force or ", in both places where those words occur, the words " constable or " wherever those words occur, and the words " sections nine and twenty of the Police Pensions Act 1921 and " ; in section three the words " constable or " wherever those words occur ; subsection (1) of section four ; in subsection (3) of section four, the words " police force or ", the words " constable or " wherever those words occur, and the words " in the case of a constable, by an injury received in the execution of his duty as a constable without his own default and " ; in subsection (4) of section four, the words " constable or " in both places where those words occur, and paragraph (i) ; in subsection (5) of section four, the words " (1) or ", the words " constable or " in both places where those words occur and the words " subsection (1) or " ; in section five, the words " constable or " in both places where those words occur ; subsection (1) of section six ; in subsection (2) of section ten the words " police force or ", wherever those words occur, and the words " constable or " ; in section eleven, the words " the Police Pensions Act, 1921 and " ; in subsection (3) of section thirteen the words " constable or ", wherever those words occur ; and in section fourteen, in the definition of " appropriate pension enactment ", the words " in relation to a person who has ceased to serve as a constable, means the Police Pensions Act, 1921, as amended by any subsequent enactment and ".

15. *The Pensions (Increase) Act*, 1944.

Paragraph 2 of Part II of the First Schedule.

16. *The Police and Firemen (War Service) Act*, 1944.

In subsection (1) of section one (which substitutes a new section four for section four of the Police and Firemen (War Service) Act, 1939) the same words as are specified in paragraph 14 of this Part of this Schedule in relation to section four ; in subsection (1) of section two the words " (1) or " and the words " constable or " ; in subsection (2) of section two the words " constable or " ; paragraph (*a*) of subsection (3) of section two ; in subsection (1) of section three, the words " (1) and " ; in subsection (3) of section three the words " police force or " and the words " constable or " ; in subsection (1) of section four the words " constable or " ; in section five the words " police force or " wherever those words occur and the words " constable or " ; in subsection (2) of section six the words " constables or " in both places where they occur.

17. *The Police (Overseas Service) Act*, 1945.

In subsection (2) of section one the words from " and may " to the end of the subsection ; subsections (3) and (4) of the said section one ; in subsection (1) of section two the words " subsect to the provisions of any regulations made under section one of this Act " and the words " the Police Pensions Act, 1921, and of ".

18. *The Police Act*, 1946.

Paragraphs (*b*) and (*c*) of, and the proviso to, subsection (3) of section eleven, and subsections (4) and (5) of that section ; paragraph 10 of the Second Schedule ; and in the Third Schedule, paragraph 3 and sub-paragraph (2) of paragraph 5.

19. *The Police (Scotland) Act*, 1946.

Paragraphs (*b*) and (*c*) of, and the proviso to, subsection (2) of section seven, and subsections (3) and (4) of that section; paragraph 7 of the First Schedule; and paragraphs 3 and 4 of the Third Schedule.

20. *The Pensions (Increase) Act*, 1947.

Subsection (3) of section two.

Metropolitan Police Act, 1829, *s.* 12.—12 Halsbury's Statutes 748.
County and Borough Police Act, 1859, *s.* 22.—12 Halsbury's Statutes 821.
Police Superannuation Act, 1865.—12 Halsbury's Statutes 827.
Lincolnshire Police Superannuation Act, 1888.—51 Vict. c. ix.
Police Reservists (Allowances) Act, 1914, *s.* 1 (2).—12 Halsbury's Statutes 861.
Police Constables (Naval and Military Service) Act, 1914.—12 Halsbury's Statutes 863.
Police (Emergency Provisions) Act, 1915.—5 & 6 Geo. 5, c. 41.
Police Pensions Act, 1918.—12 Halsbury's Statutes 867.
Police Act, 1919, *ss.* 4 (1), 5 *and* 14.—12 Halsbury's Statutes 868, 869, 870.
City of London (Various Powers) Act, 1920.—10 & 11 Geo. 5, c. xxvii.
Police Pensions Act, 1921.—12 Halsbury's Statutes 873.
Police Pensions Act, 1926.—12 Halsbury's Statutes 897.
Metropolitan Police Act, 1933, *ss.* 2 *and* 4 (2).—26 Halsbury's Statutes 631, 632.
Police and Firemen (War Service) Act, 1939, *ss.* 2, 3, 4 (1), (3), (4), (5), 5, 6 (1), 10 (2), 11, 13 (3), 14.—32 Halsbury's Statutes 1151, 1152, 1153, 1154, 1155, 1157, 1158, 1159.
Pensions (Increase) Act, 1944, *Sched. I, Part II, para.* 2.—37 Halsbury's Statutes 529.
Police and Firemen (War Service) Act, 1944, *ss.* 1 (1), 2 (1), (2), (3), 3 (1), (3), 4 (1), 5, 6 (2).—37 Halsbury's Statutes 400, 404, 405, 406, 407, 408.
Police (Overseas Service) Act, 1945, *ss.* 1 (2), (3), (4), 2 (1).—38 Halsbury's Statutes 363, 364.
Police Act, 1946, *s.* 11 (3), (4), (5), *Scheds. II and III.*—39 Halsbury's Statutes 626, 627, 634, 636.
Pensions (Increase) Act, 1947, *s.* 2 (3).—40 Halsbury's Statutes 1041.

PART II

Rules and regulations repealed

1. *The Police War Reserve Rules*, 1945.

Rule 31.

2. *The Police War Reserve (Scotland) Rules*, 1945.

Rule 35.

3. *The Women's Auxiliary Police Corps Rules*, 1945.

Part VII.

4. *The Women's Auxiliary Police Corps (Scotland) Rules*, 1945.

Part VII.

5. *The Police (Overseas Service) (Germany) Regulations*, 1947.

Part II and the Second Schedule.

6. *The Police (Overseas Service) (Austria) Regulations*, 1947.

Part II and the Second Schedule.

7. *The Police (Overseas Service) (Greece) Regulations*, 1948.

Part II and the Second Schedule.

Police War Reserve Rules, 1945.—S. R. & O., 1945, No. 361.
Women's Auxiliary Police Corps Rules, 1945.—S. R. & O., 1945, No. 362.
Police (Overseas Service) (Germany) Regulations, 1947.—S. R. & O., 1947, No. 1088. The provisions as to pensions in Sched. II thereto had been amended by S. R. & O., 1947, No. 2194, *post*. The repeals take effect subject to the proviso to s. 3 (1), *ante*. The repealed provisions are replaced, as respects regular policemen in England and Wales, by the Police Pensions Regulations, 1948 (S.I. 1948 No. 1531, reproduced, as amended, *post*).
Police (Overseas Service) (Austria) Regulations, 1947.—S. R. & O., 1947, No. 1188. The provisions as to pensions in Sched. II thereto had been amended by S. R. & O., 1947, No. 2198, *post*. As to repeal and replacement, see note to S. R. & O., 1947, No. 1088, *supra*.
Police (Overseas Service) (Greece) Regulations, 1948.—S.I. 1948 No. 313. As to repeal and replacement, see note to S. R. & O., 1947, No. 1088, *supra*. The schedule was deleted as from July 17, 1948, by S.I. 1948 No. 1642, *post*, though it is in fact repealed as from July 5, 1948, by Part II of Sched. II to this Act, where it has in error been referred to as Sched. II.

PART III

Provisions consequent on repeals

1. Regulations under this Act may amend subsection (4) of section four of the Police and Firemen (War Service) Act, 1944 (which relates to the period within which a constable may resume service without making a fresh declaration on accepting office as a constable) by substituting for the reference to any period which is to be treated as a period of approved service in his case by virtue of subsection (1) of section two of the Police and Firemen (War Service) Act, 1939, a reference to such other period as may be prescribed by or under the regulations.

2. The reference in subsection (1) of section two of the Police (Overseas Service) Act, 1945, to a pension, allowance or gratuity becoming payable to a person out of moneys provided by Parliament by virtue of regulations made under that Act shall be construed as including a reference to a pension (as defined for the purposes of this Act) payable by virtue of regulations made under this Act, being a pension which becomes payable in such circumstances as may be specified for the purposes of this paragraph by the last-mentioned regulations.

Police and Firemen (War Service) Act, 1944, *s.* 4 (4).—37 Halsbury's Statutes 407.
Police and Firemen (War Service) Act, 1939, *s.* 2 (1).—32 Halsbury's Statutes 1151.
Police (Overseas Service) Act, 1945, *s.* 2 (1).—38 Halsbury's Statutes 364.
Pension.—For definition, see s. 8 (1), *ante*.
Regulations made under this Act.—See *post*.

SECOND SCHEDULE

Section 9

ENACTMENT REPEALED AS FROM THE PASSING OF THIS ACT

Session and Chapter	Short Title	Extent of repeal
11 & 12 Geo. 5, c. 31.	The Police Pensions Act, 1921.	Section fifteen and paragraph (*a*) of subsection (1) of section seventeen.
23 & 24 Geo. 5, c. 33.	The Metropolitan Police Act, 1933.	Subsection (1) of section four.

Passing of this Act.—March 24, 1948.
Police Pensions Act, 1921, *ss.* 15 *and* 17. (1) (*a*).—12 Halsbury's Statutes 881, 883.
Metropolitan Police Act, 1933, *s.* 4 (1).—26 Halsbury's Statutes 632.

ORDERS, CIRCULARS AND MEMORANDA

POLICE (OVERSEAS SERVICE) (GERMANY) (NO. 2) REGULATIONS, 1947

S. R. & O., 1947, *No.* 2194

October 11, 1947

General note.—These regulations amend S. R. & O., 1947, No. 1088.

In pursuance of the powers conferred on me by section one of the Police (Overseas Service) Act, 1945, I, the Right Honourable Ernest Bevin, His Majesty's Principal Secretary of State for Foreign Affairs, hereby make the following Regulations :—

1. At the end of paragraph 5 of the Second Schedule to the Police (Overseas Service) (Germany) Regulations, 1947, there shall be added the following sub-paragraph :—

" (3) Where a reversionary member of a home police force has been notified that for the purpose of reducing the numbers of the Corps it is desired to vary the period of his overseas service by advancing the date of its termination and the period has been so varied by advancing the date of its termination from a date (hereafter in this sub-paragraph referred to as the " former date of termination ") at which the member would have been entitled without a medical certificate to retire and receive a pension and the member gives written notice to the Secretary of State of his intention to receive a pension under this sub-paragraph, he shall be entitled on retiring at the end of the period from the Corps without a medical certificate to receive a pension, and the Act of 1921 shall have effect subject to the modifications hereafter in this sub-paragraph set out :—

Paragraph (*a*) of subsection (1) of section 2, paragraph 1 of the First Schedule, Scale No. 1 set out in the Table subjoined to Part I of the First Schedule and paragraphs 6, 8 and 11 of the said Schedule shall have effect as if there were added to the amount of approved service completed by the member at the end of his period of overseas service the time between the end of that period and the former date of termination, and proviso (i) to sub-paragraph (*a*) of paragraph 20 of the First Schedule shall have effect as if the average annual amount of pay received by the member during the three years therein referred to were the average of the amount that he would have received in the three years before the former date of termination if he had continued to serve until that date without alteration in the amount of his pay." [3138]

2. At the end of sub-paragraph (3) of paragraph 6 of the Second Schedule to the said Regulations there shall be added the following words :—

" and as if, where a reversionary member of a home police force retires under sub-paragraph (3) of paragraph 5 of this Schedule, without having completed twenty-five years' approved service, the Secretary of State were not entitled to call upon any other police authority to contribute any part of any grant in respect of the member which accrues due between the date of retirement and the date on which, if he had continued to serve, he would have completed twenty-five years' approved service." [3139]

3.—(1) These Regulations may be cited as the Police (Overseas Service) (Germany) (No. 2) Regulations, 1947.

(2) These Regulations shall come into force on the twentieth day of October, 1947. [3140]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Regulations, but is intended to indicate their general purport.*)

Regulation 1 *deals with the award of a pension on a basis of added years to a reversionary member of a home police force who, by reason of the shortening of the period of his engagement with the Corps, is not entitled to the pension he would have received if his engagement had not been shortened.*

Regulation 2 *relieves the home police authority of contributing towards the pension before the date on which the pensioner would ordinarily have been entitled to retire on pension.*

POLICE (OVERSEAS SERVICE) (AUSTRIA) (NO. 2) REGULATIONS, 1947

S. R. & O., 1947, *No.* 2198

October 11, 1947

General rule.—These regulations amend S. R. & O., 1947, No. 1188.

In pursuance of the powers conferred on me by section one of the Police (Overseas Service) Act, 1945, I, the Right Honourable Ernest Bevin, His Majesty's Principal Secretary of State for Foreign Affairs, hereby make the following Regulations :—

1. At the end of paragraph 5 of the Second Schedule to the Police (Overseas Service) (Austria) Regulations, 1947, there shall be added the following sub-paragraph :—

" (3) Where a reversionary member of a home police force has been notified that for the purpose of reducing the numbers of the Corps it is desired to vary the period of his overseas service by advancing the date of its termination and the period has been so raised by advancing the date of its termination from a date (hereafter in this sub-paragraph referred to as the " former date of termination ") at which the member would have been entitled without a medical certificate to retire and receive a pension and the member gives written notice to the Secretary of State of his intention to receive a pension under this sub-paragraph, he shall be entitled on retiring at the end of the period from the Corps without a medical certificate to receive a pension, and the Act of 1921 shall have effect subject to the modifications hereafter in this sub-paragraph set out :—

Paragraph (*a*) of subsection (1) of section 2, paragraph 1 of the First Schedule, Scale No. 1 set out in the Table subjoined to Part I of the First Schedule and paragraphs 6, 8 and 11 of the said Schedule shall have effect as if there were added to the amount of approved service completed by the member at the end of his period of overseas service the time between the end of that period and the former date of termination, and proviso (i) to sub-paragraph (*a*) of paragraph 20 of the First Schedule shall have effect as if the average annual amount of pay received by the member during the three years therein referred to were the average of the amount that he would have received in the three years before the former date of termination if he had continued to serve until that date without alteration in the amount of his pay." [3141]

2. At the end of sub-paragraph (3) of paragraph 6 of the Second Schedule to the said Regulations there shall be added the following words :—

" and as if, where a reversionary member of a home police force retires under sub-paragraph (3) of paragraph 5 of this Schedule, without having completed twenty-five years' approved service, the Secretary of State were not entitled to call upon any other police authority to contribute any part of any grant in respect of the member which accrues due between the date of retirement and the date on which, if he had continued to serve, he would have completed twenty-five years' approved service." [3142]

3.—(1) These Regulations may be cited as the Police (Overseas Service) (Austria) (No. 2) Regulations, 1947.

(2) These Regulations shall come into force on the twentieth day of October, 1947. [3143]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

Regulation 1 *deals with the award of a pension on a basis of added years to a reversionary member of a home police force who, by reason of the shortening of the period of his engagement with the Corps, is not entitled to the pension he would have received if his engagement had not been shortened.*

Regulation 2 *relieves the home police authority of contributing towards the pension before the date on which the pensioner would ordinarily have been entitled to retire on pension.*

POLICE (NO. 3) REGULATIONS, 1947

S. R. & O., 1947, *No.* 2844

December 31, 1947

General note.—These regulations amended S. R. & O., 1947, No. 1603, which were further amended by S.I. 1948 Nos. 229 and 855, *post*, but with those regulations they were revoked as from July 5, 1948 by S.I. 1948 No. 1216, *post*, with a saving for acts, etc. done thereunder.

I, the Right Honourable James Chuter Ede, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by section four of the Police Act, 1919, hereby make the following Regulations :—

1. In Regulation 67 of the Police Regulations 1947, for the figure " 2s." there shall be substituted the figure " 2s. 6d.". [3144]

2. In Regulation 68 of the said Regulations for the following rates :—

" Superintendent	£22 10s. per annum
Inspector	£20 per annum
Sergeant or constable	7s. 6d. a week : "

there shall be substituted the following rates :—

" Superintendent	£35 per annum
Inspector	£32 per annum
Sergeant	11s. 0d. a week
Constable	10s. 0d. a week : ".

[3145]

3.—(1) These Regulations may be cited as the Police (No. 3) Regulations, 1947.

(2) These Regulations shall come into force on the first day of January, 1948. [3146]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations provide for increases in the boot and plain clothes allowances.

POLICE (WOMEN) (NO. 3) REGULATIONS, 1947

S. R. & O., 1947, *No.* 2845

December 31, 1947

General note.—These regulations amended S. R. & O., 1947, No. 1604, which were further amended by S.I. 1948 Nos. 230 and 856, *post*, but with those regulations they were revoked as from July 5, 1948 by S.I. 1948 No. 1217, *post*, with a saving for acts, etc. done thereunder.

I, the Right Honourable James Chuter Ede, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by section four of the Police Act, 1919, hereby make the following Regulations :—

1. In Regulation 58 of the Police (Women) Regulations, 1947, for the figure " 2s." there shall be substituted the figure " 2s. 6d.". [3147]

2. In Regulation 59 of the said Regulations for the following rates :—

" Inspector	£20 per annum
Sergeant or constable	7s. 6d. a week : "

there shall be substituted the following rates :—

" Inspector	£32 per annum
Sergeant	11s. 0d. a week
Constable	10s. 0d. a week : ".

[3148]

3.—(1) These Regulations may be cited as the Police (Women) (No. 3) Regulations, 1947.

(2) These Regulations shall come into force on the first day of January, 1948. [3149]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations provide for increases in the boot and plain clothes allowances.

POLICE REGULATIONS, 1948

S.I. 1948 *No.* 229

February 11, 1948

General note.—These regulations amended S. R. & O., 1947, No. 1603, further amended by S.I. 1948 No. 855, *post*, but all three, with other regulations, were revoked as from July 5, 1948, by S.I. 1948 No. 1216, *post*, with a saving for acts, etc. done thereunder.

I, the Right Honourable James Chuter Ede, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by section four of the Police Act, 1919, hereby make the following Regulations :—

1.—(1) In paragraph (1) of Regulation 7 of the Police Regulations, 1947, the words " a person dismissed from any such service or force shall not be eligible for appointment " shall be omitted.

(2) At the end of Regulation 7 of the said Regulations there shall be added the following paragraph :—

" (7) shall be given a notice in terms approved by the Secretary of State after consultation with the Police Council drawing attention to the conditions of service contained therein." [3150]

2. After Regulation 39 of the said Regulations there shall be added the following Regulation :—

" **39A.**—(1) Every member of a police force shall so far as the exigencies of duty permit be granted a day's leave on each of the following days, namely, Christmas Day, Good Friday and the Bank Holidays as defined in the Bank Holidays Act, 1871, and if owing to the exigencies of duty a man is required to perform duty on any of the aforesaid days he shall be granted a day's leave in lieu of each such day if and as soon as the exigencies of duty permit.

(2) If in the opinion of the chief officer of police the exigencies of duty do not permit the grant of leave under the preceding paragraph within such reasonable time (not exceeding three months) as he may fix, the man, provided he is below the rank of superintendent, shall be granted a non-pensionable payment for each such day on which he was required to perform duty at the rate prescribed by paragraph (1) of Regulation 37 or, in any case to which that paragraph does not apply, at the rate of one-sixth of his pay in respect of the week in which such day fell." [3151]

3. In Regulation 40 of the said Regulations for the words " Regulations 36, 37, 38 and 39 " there shall be substituted the words " Regulations 36, 37, 38, 39 and 39A ". [3152]

4. In Regulation 41 of the said Regulations after the words " Police (Weekly Rest Day) Act, 1910 " there shall be added the words " or under paragraph (1) of Regulation 39A ". [3153]

5. In paragraph (4) of Regulation 65B of the said Regulations for the words " of an amount which bears the same proportion to the compensatory grant payable during that year as the period during which he has served during that year bears to the period during which he has served in the force during the preceding year " there shall be substituted the words " equal to the amount by which the income tax in fact deducted between the beginning of the year and the date on which he leaves the force or dies, according to the tax tables prepared or prescribed by the Commissioners of Inland Revenue, from the member's emoluments in respect of his service in the force during that period is increased by virtue of the inclusion in such emoluments of a rent allowance or any compensatory grant mentioned in this Regulation paid or made to him ". [3154]

6. In paragraph (3) of Regulation 73 of the said Regulations sub-paragraph (vi) shall be re-numbered as sub-paragraph (vii), and after sub-paragraph (v) there shall be inserted the following sub-paragraph :—

" (vi) the regular duty of cleaning or any part of the cleaning of a particular police station which the Secretary of State has directed is not a duty which the police may be required to perform ". [3155]

7. After Regulation 90 of the said Regulations there shall be added the following Regulation :—

" **90A.** The provisions of the Second Schedule to these Regulations shall apply to all members of a police force; and no restrictions other than those designed to secure the proper exercise of the functions of a constable shall be imposed by the police authority or the chief officer of police on the private life of members of a police force except such as may temporarily be necessary or such as may be approved by the Secretary of State after consultation with the Police Council, and any such restriction temporarily imposed shall be reported forthwith to the Secretary of State." [3156]

8.—(1) At the end of paragraph (3) of the Discipline Code contained in the First Schedule to the said Regulations there shall be added the words " or contravenes any requirement of the Second Schedule to these Regulations ".

(2) For paragraph (15) of the said Discipline Code there shall be substituted the following paragraph :—

" (15) *Entering licensed premises*, that is to say, if without permission he enters—

(*a*) while on duty any premises licensed under the liquor licensing laws or any other premises where liquors are stored or distributed when his presence there is not required in the execution of his duty, or

(*b*) any such premises in uniform while off duty." [3157]

9.—(1) After the First Schedule to the said Regulations there shall be added the following Schedule :—

" SECOND SCHEDULE

1. A constable shall at all times abstain from any activity which is likely to interfere with the impartial discharge of his duties or which is likely to give rise to the impression amongst members of the public that it may so interfere ; and in particular a constable shall not take any active part in politics.

2. The place at which a constable resides shall be subject to the approval of the chief officer of police.

3.—(1) A constable shall not, without the previous consent of the chief officer of police, receive a lodger in a house or quarters with which he is provided by the police authority or sub-let any part of the house or quarters.

(2) A constable shall not, unless he has previously given written notice to the chief officer of police, receive a lodger in a house in which he resides and in respect of which he receives a rent allowance or sub-let any part of such a house.

4. A constable shall not wilfully refuse or neglect to discharge any lawful debt."

(2) The Second Schedule to the said Regulations shall be re-numbered " Third Schedule ", and for the words " Second Schedule " in paragraph (1) of Regulation 95 of the said Regulations there shall be substituted the words " Third Schedule ". [3158]

10.—(1) These Regulations may be cited as the Police Regulations, 1948.

(2) These Regulations shall come into force on the sixteenth day of February, 1948. [3159]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Regulations, but is intended to indicate their general purport.*)

Regulation 1 (1) *removes dismissal from the armed forces, civil service or a police force as a disqualification for appointment to a police force.*

Regulation 1 (2) *provides for the informing of police recruits as to conditions of service.*

Regulation 2 deals with the grant of leave either on public holidays or substituted days and payments in lieu of such grants, and Regulations 3 and 4 are consequential.

Regulation 5 deals with a variation of the further compensatory grant in relation to rent allowances.

Regulations 7, 8 (1) and (9) impose certain conditions as to conduct and restrict the imposition of restrictions on private life.

Regulation 8 (2) amends the discipline code in relation to entering licensed premises.

POLICE (WOMEN) REGULATIONS, 1948

S.I. 1948 *No.* 230

February 11, 1948

General note.—These regulations amended S. R. & O., 1947, No. 1604, further amended by S.I. 1948 No. 856, *post*, but all three, with other regulations, were revoked as from July 5, 1948, by S.I. 1948 No. 1217, *post*, with a saving for acts, etc., done thereunder.

I, the Right Honourable James Chuter Ede, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by section four of the Police Act, 1919, hereby make the following Regulations :—

1.—(1) In paragraph (1) of Regulation 3 of the Police (Women) Regulations, 1947, the words " a person dismissed from such service or force shall not be eligible for appointment " shall be omitted.

(2) At the end of Regulation 3 of the said Regulations there shall be added the following paragraph :—

" (6) shall be given a notice in terms approved by the Secretary of State after consultation with the Police Council drawing attention to the conditions of service contained therein." [3160]

2. After Regulation 32 of the said Regulations there shall be added the following Regulation :—

" **32A.**—(1) Every woman member of a police force shall so far as the exigencies of duty permit be granted a day's leave on each of the following days, namely, Christmas Day, Good Friday and the Bank Holidays as defined in the Bank Holidays Act, 1871, and if owing to the exigencies of duty a woman is required to perform duty on any of the aforesaid days she shall be granted a day's leave in lieu of each such day if and as soon as the exigencies of duty permit.

(2) If in the opinion of the chief officer of police the exigencies of duty do not permit the grant of leave under the preceding paragraph within such reasonable time (not exceeding three months) as he may fix, the woman, provided she is of the rank of chief inspector or sub-divisional inspector (if such ranks are adopted under Regulation 1) or of the rank of inspector or any lower rank, shall be granted a non-pensionable payment for each such day on which she was required to perform duty at the rate prescribed by paragraph (1) of Regulation 30 or, in any case to which that paragraph does not apply, at the rate of one-sixth of her pay in respect of the week in which such day fell." [3161]

3.—(1) Regulation 32A of the said Regulations shall be re-numbered Regulation 32B.

(2) In Regulation 32B for the words " Regulations 29, 30, 31 and 32 " there shall be substituted the words " Regulations 29, 30, 31, 32 and 32A ". [3162]

4. In Regulation 33 of the said Regulations after the words " Police (Weekly Rest Day) Act, 1910 " there shall be added the words " or under paragraph (1) of Regulation 32A ". [3163]

5. In paragraph (4) of Regulation 56B of the said Regulations for the words " of an amount which bears the same proportion to the compensatory grant payable during that year as the period during which she has served during that year bears to the period during which she has served in the force during the preceding year " there shall be substituted the words " equal to the amount by which the income tax in fact deducted between the beginning of the year and the date on which she leaves the force or dies, according to the tax tables prepared or prescribed by the Commissioners of Inland Revenue, from the member's emoluments in respect of her service in the force during that period is increased by virtue of the inclusion in such emoluments of a rent allowance or any compensatory grant mentioned in this Regulation paid or made to her ". [3164]

6. After Regulation 82 of the said Regulations there shall be added the following Regulation :—

" **83.** The provisions of the Second Schedule to these Regulations shall apply to all women members of a police force ; and no restrictions other than those designed to secure the proper exercise of the functions of a constable shall be imposed by the police authority or the chief officer of police on the private life of women members of a police force except such as may temporarily be necessary or such as may be approved by the Secretary of State after consultation with the Police Council, and any such restriction temporarily imposed shall be reported forthwith to the Secretary of State." [3165]

7.—(1) After the First Schedule to the said Regulations there shall be added the following Schedule :—

" SECOND SCHEDULE

1. A constable shall at all times abstain from any activity which is likely to interfere with the impartial discharge of her duties or which is likely to give rise to the impression amongst members of the public that it may so interfere ; and in particular a constable shall not take any active part in politics.

2. The place at which a constable resides shall be subject to the approval of the chief officer of police.

3.—(1) A constable shall not, without the previous consent of the chief officer or police, receive a lodger in a house or quarters with which she is provided by the police authority or sub-let any part of the house or quarters.

(2) A constable shall not, unless she has previously given written notice to the chief officer of police, receive a lodger in a house in which she resides and in respect of which she receives a rent allowance or sub-let any part of such a house.

4. A constable shall not wilfully refuse or neglect to discharge any lawful debt."

(2) The Second Schedule to the said Regulations shall be re-numbered " Third Schedule ", and for the words " Second Schedule " in paragraph (1) of Regulation 87 of the said Regulations there shall be substituted the words " Third Schedule ". [3166]

8.—(1) These Regulations may be cited as the Police (Women) Regulations, 1948.

(2) These Regulations shall come into force on the sixteenth day of February, 1948. [3167]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

Regulation 1 (1) *removes dismissal from the armed forces, civil service or a police force as a disqualification for appointment to a police force.*

Regulation 1 (2) *provides for the informing of police recruits as to conditions of service.*

Regulation 2 *deals with the grant of leave either on public holidays or substituted days and payments in lieu of such grants, and Regulations* 3 *and* 4 *are consequential.*

Regulation 5 *deals with a variation of the further compensatory grant in relation to rent allowances.*

Regulations 6 *and* 7 *impose certain conditions as to conduct and restrict the imposition of restrictions on private life.*

POLICE WAR RESERVE RULES, 1948

S.I. 1948 *No.* 231

February 11, 1948

General note.—These rules amend S. R. & O., 1945, No. 361, further amended by S.I. 1948 Nos. 857 and 1476, *post.*

In pursuance of the power conferred on me by Regulation forty AC of the Defence (General) Regulations, 1939, as having effect by virtue of the Emergency Laws (Miscellaneous Provisions) Act, 1947, I [i.e. the Secretary of State] hereby make the following Rules amending the Police War Reserve Rules, 1945, as subsequently amended :—

1. In paragraph (1) of Rule 11 of the said Rules for the words " another serving member of the police force of which he is a member " there shall be substituted the words " a serving member of a police force ". [3168]

2. In Rule 13 of the said Rules for the words " conduct sheet " there shall be substituted the words " personal record ". [3169]

3. For Rule 19 of the said Rules there shall be substituted the following Rule :—

" 19. Subject to the provisions of Rule 18, the provisions of Regulations 34 to 40 of the Police Regulations, 1947, as amended by the Police Regulations, 1948, shall apply to a police war reservist as they apply to a member of a police force to whom the said Regulations apply." [3170]

4. In paragraph (1) of Rule 20 of the said Rules after the words " Police (Weekly Rest Day) Act, 1910 " there shall be added the words " or the provisions of Rule 19 ". [3171]

5. In paragraph (2) of Rule 22 of the said Rules the words " and the registration number of his certificate of registration (if any) issued under the National Service Acts, 1939 to 1942 " shall be omitted. [3172]

6. After Rule 33 of the said Rules there shall be added the following Rule :—

" 33A. The provisions of Part II of the First Schedule to these Rules shall apply to all police war reservists ; and no restrictions other than those designed to secure the proper exercise of the functions of a police war reservist shall be imposed by the police authority or the chief officer of police on the private life of police war reservists except such as may temporarily be necessary or such as may be approved by the Secretary of State after consultation with the Police Council, and any such restriction temporarily imposed shall be reported forthwith to the Secretary of State." [3173]

7.—(1) The words " Part I " shall be inserted at the head of the First Schedule to the said Rules immediately below the words " First Schedule ".

(2) At the end of paragraph (3) of the said Part I there shall be added the words " or contravenes any requirement of Part II of this Schedule ".

(3) For paragraph (15) of the said Part I there shall be substituted the following paragraph :—

" (15) *Entering licensed premises*, that is to say, if without permission he enters—

(*a*) while on duty any premises licensed under the liquor licensing laws or any other premises where liquors are stored or distributed when his presence there is not required in the execution of his duty, or

(*b*) any such premises in uniform while off duty." [3174]

8. After Part I of the First Schedule to the said Rules there shall be added the following Part II :—

" PART II

1. A police war reservist shall at all times abstain from any activity which is likely to interfere with the impartial discharge of his duties or which is likely to give rise to the impression amongst members of the public that it may so interfere ; and in particular a police war reservist shall not take any active part in politics.

2. The place at which a police war reservist resides shall be subject to the approval of the chief officer of police.

3.—(1) A police war reservist shall not, without the previous consent of the chief officer of police, receive a lodger in a house or quarters with which he is provided by the police authority or sub-let any part of the house or quarters.

(2) A police war reservist shall not, unless he has previously given written notice to the chief officer of police, receive a lodger in a house in which he resides and in respect of which he receives a rent allowance or sub-let any part of such a house.

4. A police war reservist shall not wilfully refuse or neglect to discharge any lawful debt." [3175]

9.—(1) These Rules may be cited as the Police War Reserve Rules, 1948.

(2) These Rules shall come into force on the sixteenth day of February, 1948. [3776]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Rules, but is intended to indicate their general purport.)

Rule 1 *permits a police war reservist accused of an offence against discipline to select a serving member of any police force to assist him in the disciplinary proceedings.*

Rules 2 *and* 5 *are drafting amendments.*

Rule 3 *applies to police war reservists the provisions of the Police Regulations,* 1947, *relating to the grant of leave either on public holidays or substituted days and payments in lieu of such grants, as well as the provisions relating to the weekly rest day and hours of duty which already apply; and Rule* 4 *is consequential.*

Rules 6, 7 (1), 7 (2) *and* 8 *impose certain conditions as to conduct and restrict the imposition of restrictions on private life.*

Rule 7 (3) *amends the discipline code in relation to entering licensed premises.*

WOMEN'S AUXILIARY POLICE CORPS RULES, 1948

S.I. 1948 *No.* 232

February 11, 1948

General note.—These rules amend S. R. & O., 1945, No. 362, further amended by S.I. 1948 Nos. 858 and 1477, *post.*

In pursuance of the power conferred on me by Regulation forty AC of the Defence (General) Regulations, 1939, as having effect by virtue of the Emergency Laws (Miscellaneous Provisions) Act, 1947, I [i.e., the Secretary of State] hereby make the following Rules amending the Women's Auxiliary Police Corps Rules, 1945 :—

1. In paragraph (1) of Rule 18 of the said Rules for the words " another serving member of the police force of which she is a member " there shall be substituted the words " a serving member of a police force ". [3177]

2. In Rule 20 of the said Rules for the words " conduct sheet " there shall be substituted the words " personal record ". [3178]

3. For Rule 32 of the said Rules there shall be substituted the following Rule :—

" 32. Subject to the provisions of Rule 2, the provisions of Regulations 27 to 32B of the Police (Women) Regulations, 1947, as amended by the Police (Women) Regulations, 1948, shall apply to a member of Class A as they apply to a woman member of a police force to whom the said Regulations apply." [3179]

4. In paragraph (2) of Rule 40 of the said Rules the words " and the registration number of her certificate of registration (if any) issued under the National Service Acts, 1939 to 1942 " shall be omitted. [3180]

5. After Rule 48 of the said Rules there shall be added the following Rule :—

" 48A. The provisions of Part II of the First Schedule to these Rules shall apply to all auxiliary policewomen; and no restrictions other than those designed to secure the proper exercise of the functions of an auxiliary policewoman shall be imposed by the police authority or the chief officer of police on the private life of auxiliary policewomen except such as may temporarily be necessary or such as may be approved by the Secretary of State after consultation with the Police Council, and any such restriction temporarily imposed shall be reported forthwith to the Secretary of State." [3181]

6.—(1) The words " Part I " shall be inserted at the head of the First Schedule to the said Rules immediately below the words " First Schedule ".

(2) At the end of paragraph (3) of the said Part I there shall be added the words " or contravenes any requirement of Part II of this Schedule ".

(3) For paragraph (15) of the said Part I there shall be substituted the following paragraph :—

" (15) *Entering licensed premises*, that is to say, if without permission she enters—

(*a*) while on duty any premises licensed under the liquor licensing laws or any other premises where liquors are stored or distributed when her presence there is not required in the execution of her duty, or

(*b*) any such premises in uniform while off duty." [3182]

7. After Part I of the First Schedule to the said Rules there shall be added the following Part II :—

" PART II

1. An auxiliary policewoman shall at all times abstain from any activity which is likely to interfere with the impartial discharge of her duties or which is likely to give rise to the impression amongst members of the public that it may so interfere ; and in particular an auxiliary policewoman shall not take any active part in politics.

2. The place at which an auxiliary policewoman resides shall be subject to the approval of the chief officer of police.

3.—(1) An auxiliary policewoman shall not, without the previous consent of the chief officer of police, receive a lodger in a house or quarters with which she is provided by the police authority or sub-let any part of the house or quarters.

(2) An auxiliary policewoman shall not, unless she has previously given written notice to the chief officer of police, receive a lodger in a house in which she resides and in respect of which she receives a rent allowance or sub-let any part of such a house.

4. An auxiliary policewoman shall not wilfully refuse or neglect to discharge any lawful debt." [3813]

8.—(1) These Rules may be cited as the Women's Auxiliary Police Corps Rules, 1948.

(2) These Rules shall come into force on the sixteenth day of February, 1948. [3184]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Rules, but is intended to indicate their general purport.*)

Rule 1 *permits an auxiliary policewoman accused of an offence against discipline to select a serving member of any police force to assist her in the disciplinary proceedings.*

Rules 2 *and* 4 *are drafting amendments.*

Rule 3 *applies to auxiliary policewomen the provisions of the Police* (*Women*) *Regulations*, 1947, *relating to the grant of leave either on public holidays or substituted days and payments in lieu of such grants.*

Rules 5, 6 (1), 6 (2) *and* 7 *impose certain conditions as to conduct and restrict the imposition of restrictions on private life.*

Rule 6 (3) *amends the discipline code in relation to entering licensed premises.*

POLICE (OVERSEAS SERVICE) (GREECE) REGULATIONS, 1948

S.I. 1948 *No.* 313

February 18, 1948

In pursuance of the powers conferred on me by section one of the Police (Overseas Service) Act, 1945, I, the Right Honourable Ernest Bevin, His Majesty's Principal Secretary of State for Foreign Affairs, hereby make the following Regulations :—

PART I

Government and Discipline

1. Function and composition of Police Mission.—(1) The function of the British Police Mission to Greece (hereafter in these Regulations referred to as " the Corps ") is, under the control of the Secretary of State, to advise the Greek Government on—

(*a*) the organisation and training of the civil police and gendarmerie and the management of all matters concerning the civil police and gendarmerie, including appointments, transfers and promotions ;

(*b*) the organisation and supervision of State prisons, the training of prison staff and the management of all matters concerning prisons, including appointment, transfer and promotion of prison staff.

(2) The Corps shall consist of those persons who are appointed to be members of it in accordance with the provisions of these Regulations or who are members of it when these Regulations come into force. [3185]

2. Appointment and period of service.—(1) The members of the Corps shall be appointed by the Secretary of State.

(2) A period of overseas service may, in the case of a reversionary member of a house police force, with his consent and that of the appropriate authority, be varied.

(3) In these Regulations " period of overseas service " means the period of overseas service for which a member of the Corps has engaged with the consent, in the case of a reversionary member of a home police force, of the appropriate authority and of the Secretary of State, and if such a period of overseas service has been varied under paragraph (2) above means the period as so varied. [3186]

PART II

Pensions, Allowances and Gratuities

3. Grants for long service or in case of death or incapacity.—(1) The Act of 1921 shall apply in relation to members of the Corps and persons who, after being such members, serve in a home police force or in any such capacity as is mentioned in section 10 of the Act of 1921, with the adaptations and modifications specified in the Schedule hereto, as if, while members of the Corps, they were members of a home police force and as if the Secretary of State were the police authority for that force.

(2) There shall be paid to or in respect of persons who are or have been members of the Corps—

(*a*) in the case of those who immediately before ceasing to be members of the Corps were reversionary members of a home police force,

such grants in respect of length of service, of death or of incapacity, and

(*b*) in all other cases, such grants in respect of death or incapacity by reason of infirmity of mind or body occasioned by an injury received in the execution of duty.

as are prescribed by the Act of 1921 as modified by the Schedule hereto. [3187]

4. Funds from which grants payable.—All payments which are payable under the provisions of the Schedule hereto or under the Act of 1921 as applied by that Schedule shall, unless under the provisions of that Schedule they fall to be paid out of the police fund of a home police force, be paid out of moneys provided by Parliament. [3188]

PART III

General

5. Delegation by Secretary of State.—Any function of the Secretary of State under these Regulations may be performed by any person acting under his authorisation in that behalf. [3189]

6. Interpretation.—(1) In these Regulations the following expressions have the meanings hereby respectively assigned to them, that is to say :—

" the Act " means the Police (Overseas Service) Act, 1945 ;

" the Act of 1921 " means the Police Pensions Act, 1921, as amended by the Police Pensions Act, 1926 ;

" appropriate authority " has the same meaning as in the Act ;

" grant " includes a pension, allowance or gratuity ;

" home police force " has the same meaning as in the Act ;

" overseas service " has the same meaning as in the Act ;

" period of overseas service " has the meaning assigned to it by paragraph (3) of Regulation 2 ;

" reversion " means reversion to a home police force in exercise of the right of reversion conferred by subsection (1) of section 2 of the Act or by that subsection as applied either by subsection (2) of section 14 of the Police Act, 1946, or by subsection (2) of section 9 of the Police (Scotland) Act, 1946 ;

" reversionary member of a home police force " means a member of the Corps who has been a member of a home police force and has not lost his right of reversion and includes—

(i) a person who has transferred to the Corps from being either a civil servant within the meaning of the Superannuation Act, 1887, or an officer of the staff of the metropolitan police within the meaning of the Metropolitan Police Staff (Superannuation) Act, 1875, and

(ii) in relation to grants under the Act of 1921, any person who, immediately before he ceased to be a member of the Corps, was a reversionary member.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [3190]

7. Citation and commencement.—(1) These Regulations may be cited as the Police (Overseas Service) (Greece) Regulations, 1948.

(2) These Regulations shall come into force on the 21st day of February, 1948. [3191]

* * * * *

SCHEDULE (See Regulation 3)

Pensions, Allowances and Gratuities

1. Excluded provisions of Act of 1921.—(1) The following provisions of the Act of 1921, namely, section 1, subsections (2), (3) and (4) of section 2, section 6, subsection (3) of section 8, paragraph (iii) of subsection (1) of section 10 and sections 22, 27, 30 and 32, shall not apply to the Corps or to service therein.

(2) The following provisions of the Act of 1921, namely, paragraphs (*a*), (*b*) and (*d*) of subsection (1) of section 2, paragraphs (*a*) and (*c*) of section 3, paragraphs (*a*) and (*c*) of section 4 (except the provisions of the last-mentioned paragraphs which deal with death from the effects of an injury received in the execution of duty), subsections (1) and (2) of section 8, section 9 and paragraphs (i), (ii) and (iv) of subsection (1) and subsection (2) of section 10, shall not apply to service in the Corps other than service as a reversionary member of a home police force.

2. Injury taking effect after discharge.—(1) Where a member of the Corps leaves the Corps without claiming to be entitled to a pension under paragraph (*c*) of subsection (1) of section 2 of the Act of 1921 and it is claimed afterwards that he is disabled by infirmity of mind or body occasioned by an injury received in the execution of his duty as a member of the Corps without his own default or has died from the effects of an injury so received without his own default and such claim is established, there shall be payable, subject to the succeeding provisions of this paragraph, the same pension to him as if, while still a member of the Corps, he had been incapacitated for the performance of his duty by infirmity of mind or body occasioned by such an injury and the same grants to his widow, children and dependants as if he had died from the effects of such an injury after being granted a pension in respect of it.

(2) A grant under sub-paragraph (1) shall be based on the approved service which the member was entitled to reckon when he left the Corps and his rank and annual pay at that date, but shall be payable, where the right is in respect of death, as from the time of death and, where the right is in respect of permanent disablement, as from the time of the disablement or, where that time cannot be ascertained, from the time when the claim is made to the Secretary of State.

(3) A claim under sub-paragraph (1) shall not affect the right to any other grant or any repayment of rateable deductions under the Act of 1921 unless and until the said claim is established, and thereupon the said right shall cease.

(4) Any payment of a grant or repayment of rateable deductions which has been made and the right to which has ceased under sub-paragraph (3) shall be irrecoverable.

(5) Any payment of a pension or allowance to a person whose right to it has ceased under sub-paragraph (3) which is made after the time from which a pension or allowance under sub-paragraph (1) becomes payable to that person shall be treated as a payment on account of the latter pension or allowance.

(6) Any payment of a gratuity or repayment of rateable deductions which, under sub-paragraph (4), has become irrecoverable, shall be treated as a payment on account of any grant payable under sub-paragraph (1) to the person to whom the irrecoverable payment or repayment was made except where an irrecoverable gratuity was paid under those provisions of the Act of 1921 which are mentioned below, in which case it shall be treated as such a payment on account only to the extent by which it exceeds the sum of the payments that would have been made if the person to whom it was paid had been in receipt—

(i) where the irrecoverable gratuity was paid under paragraph (*d*) of subsection (1) of section 2 of the Act of 1921, of a pension at a rate equal to a sixtieth of his annual pay for each year of approved service ;

(ii) where the irrecoverable gratuity was paid under paragraph (*c*) of section 3 of the Act of 1921, of a widow's ordinary pension on scale (i) in paragraph 6 of the First Schedule to the Act of 1921 ;

(iii) where the irrecoverable gratuity was paid under paragraph (*d*) of section 3 or paragraph (*b*) of section 4 of the Act of 1921, of the pension or allowance that would have been paid if the irrecoverable gratuity had not been granted.

(7) Where a member of the Corps serves in a home police force after leaving the Corps and a right to a grant under sub-paragraph (1) to or in respect of him is established, the police authority of that force shall pay to the Secretary of State any grant or any rateable deductions which they would have been liable to pay or repay after the date when the right is so established if the right to them had not ceased under sub-paragraph (3).

(8) In determining a claim under sub-paragraph (1) infirmity shall be deemed to be occasioned by, or death to be due to, the effects of an injury, notwithstanding that events after leaving the Corps have aggravated the effects of the injury.

3. References to Chief Officer of Police.—References in the Act of 1921 to a Chief Officer of Police shall have effect in relation to the Corps as references to the Chief of Mission.

4. Retirement after long service.—(1) A reversionary member of a home police force shall not be entitled to retire from the Corps under paragraph (*a*) of subsection (1) of section 2 of the Act of 1921 at a date earlier than the date of the conclusion of his period of overseas service.

(2) A reversionary member of a home police force who, on or before the date of the conclusion of his period of overseas service, attains the age of sixty, but on that date will not have or has not completed twenty-five years' approved service, shall be entitled, on giving to the Secretary of State notice of his intention so to do, to retire on the said date and receive such ordinary pension or gratuity as he would have been entitled to receive had he retired on that date on a medical certificate.

5. Application of section 8 (1) and (2) of Act of 1921.—(1) Subsection (1) of section 8 of the Act of 1921 shall have effect in relation to the engagement of a member of a home police force, with the consent of the appropriate authority and of the Secretary of State, as a member of the Corps, and to his reversion under either subsection (1) of section 2 of the Act or that subsection as applied either by subsection (2) of section 14 of the Police Act, 1946, or by subsection (2) of section 9 of the Police (Scotland) Act, 1946, as if such engagement and reversion were removals with the sanction described in the said subsection (1) of section 8.

(2) A reversionary member of a home police force shall not be deemed to have removed from the Corps within the meaning of subsection (1) of section 8 of the Act of 1921 to a police force other than the force to which he has a right of reversion unless he has obtained the written sanction of the appropriate authority to such removal.

(3) Subsection (2) of section 8 of the Act of 1921 shall have effect as if any payment by a police authority to the Secretary of State under sub-paragraph (7) of paragraph 2 of this Schedule were a grant referred to in the said subsection.

6. Certification and medical appeals.—(1) Section 12 of the Act of 1921 shall not apply to a member of the Corps.

(2) A member of the Corps or a person who has been such a member shall not be entitled to a pension or gratuity in respect of incapacity unless—

(i) either he obtains a certificate under sub-paragraph (5) (i) and (ii) of this paragraph or it is deemed under sub-paragraph (9) of this paragraph that he is disabled and that the disablement is likely to become permanent; and

(ii) where the claim is for a special pension he obtains a certificate under sub-paragraph (5) (iii), (iv) and (v) of this paragraph.

(3) If a member of the Corps claims to be entitled to receive a grant under paragraph (*b*), (*c*) or (*d*) of subsection (1) of section 2 of the Act of 1921 or under sub-paragraph (1) of paragraph 2 of this Schedule, the Secretary of State shall appoint a qualified medical practitioner to examine him.

(4) The Chief of Mission shall give the appointed medical practitioner all necessary information as to the claimant's history and, where the claimant is still a member of the Corps, as to what his future duties would be if he remains such a member.

(5) After examining the claimant and considering all relevant information the appointed medical practitioner—

(i) if he is satisfied that the claimant is incapacitated for the performance of his duty by infirmity of mind or body, shall so certify, and

(ii) if he is satisfied that the incapacity is likely to be permanent, shall so certify:

where the appointed medical practitioner certifies as in (ii) above or it is deemed under sub-paragraph (9) of this paragraph that the claimant is disabled and that his disablement is likely to be permanent, the appointed medical practitioner—

(iii) if he is satisfied that the infirmity producing the incapacity or disablement was occasioned by the causes alleged by the claimant, shall so certify,

(iv) if he is satisfied that the injury occasioning the infirmity was received without the claimant's own default, shall so certify, and

(v) shall certify the degree of incapacity or disablement.

(6) A copy of the certificate under sub-paragraph (5) shall be given to the claimant.

(7) If the claimant is dissatisfied with the certicate of the appointed medical practitioner and, within twenty-one days of the receipt by the claimant of the copy of the certificate, applies to the Secretary of State to appoint a medical referee, the Secretary of State shall appoint a medical referee.

(8) The medical referee after examining the claimant and considering all relevant information, whether or not it was information available to the appointed medical practitioner, shall issue whatever certificate under sub-paragraph (5) of this paragraph would be in his opinion proper.

(9) Where a person who after leaving the Corps and serving in a home police force and having been given by the police authority of that force a grant under paragraph (*b*), (*c*) or (*d*) of subsection (1) of section 2 of the Act of 1921 claims a pension under sub-paragraph (1) of paragraph 3 of this Schedule, it shall be deemed that he is disabled and that the disablement is likely to be permanent.

(10) The decision of an appointed medical practitioner to certify or to refuse to certify under sub-paragraph (5) of this paragraph shall, unless there is an appeal to a medical referee, be final on all questions within his consideration under the said sub-paragraph.

(11) The decision of the medical referee to certify or to refuse to certify under sub-paragraph (5) of this paragraph shall, unless a claim is referred to him by an appeal tribunal, be final on all questions within his consideration under the said sub-paragraph, and his decision on such a reference shall, subject to any further reference, be final.

(12) Where a person is in recept of a special pension granted to him by the Secretary of State, the Secretary of State may, as often as he thinks it desirable within five years of the date of the grant of the pension, require him to be examined by an appointed medical practitioner and, on such requirement, sub-paragraphs (5), (6), (7) and (8) of this paragraph shall apply.

(13) The Secretary of State on receipt of the certificate of the appointed medical practitioner or, as the case may be, of the medical referee under sub-paragraph (12) above may, if the pensioner's degree of disablement has altered, reassess the amount of the pension accordingly subject to the limits prescribed by paragraph 4 of the First Schedule to the Act of 1921 and, if the pensioner's incapacity has permanently ceased, reduce the pension of a reversionary member of a home police force to the pension that would have been payable to him on Scale No. 6 in the Table subjoined to Part I of the First Schedule to the Act of 1921 and may end the pension of any other person.

(14) If a claimant or, as the case may be, a pensioner refuses or wilfully or negligently fails to submit himself for examination by an appointed medical practitioner or a medical referee under this paragraph or refuses or wilfully or negligently fails in connection with such examination to supply the practitioner or referee with any information, the Secretary of State may deal with him in all respects as if certificates under sub-paragraphs (5) and (8) of this paragraph of such a nature as the Secretary of State may determine had been issued.

7. Appeals other than medical.—(1) Subsection (1) of section 17 of the Act of 1921 shall not apply to a grant payable or claimed to be payable by the Secretary of State under these Regulations.

(2) Where—

(*a*) a pension or allowance granted by the Secretary of State under these Regulations is subsequently, in pursuance of the Act of 1921 as applied by these Regulations, declared by him to have been forfeited.

(*b*) any person claims as of right from the Secretary of State a grant under these Regulations and the Secretary of State does not admit the claim, or

(*c*) any person claims as of right from the Secretary of State a grant under these Regulations larger than that granted to that person,

the person aggrieved may apply to the Secretary of State for a reconsideration of the case and, if aggrieved by his decision upon such reconsideration, may appeal to an appeal tribunal.

(3) An appeal tribunal shall be appointed by the Secretary of State if any person notifies him of his desire to appeal to such a tribunal under sub-paragraph (2) and may be appointed either to hear all appeals under the said sub-paragraph or to hear any particular appeal or class or description of appeal.

(4) An appeal tribunal shall consist of three members who are respectively a barrister, advocate or solicitor of not less than seven years' standing, a duly qualified medical practitioner of not less than seven years' standing and a retired member of the Corps, or a home police force who held a rank, if he is a retired member of the Corps, not lower than that of Assistant Chief of Mission, or if he is a retired member of a home police force, not lower than that of superintendent.

(5) If the appeal tribunal decide that the evidence before the appointed medical practitioner or, if there has been an appeal to a medical referee, before that referee was inaccurate or inadequate, they may refer the matter again to the practitioner or, as the case may be, the referee to consider the matter again and issue any amended certificate he thinks proper.

(6) Subject to any general or special directions of the Secretary of State an appeal tribunal shall determine its own procedure.

(7) The provisions of subsection (2) of section 17 of the Act of 1921 shall have effect in relation to any decision of an appeal tribunal with the substitution for references to quarter sessions of references to the appeal tribunal.

8. Termination of pension on subsequent police service.—(1) Section 18 of the Act of 1921 shall not apply to a person in receipt of a pension granted by the Secretary of State under these Regulations.

(2) Where a person in receipt of a pension granted by the Secretary of State under these Regulations takes service in any police force other than as a member of the first class of the police reserve or as an ex-member of a police force who joins a force for service in an emergency, the said pension shall cease forthwith and all rights in respect of that person to a grant shall cease.

(3) Where a person who was in receipt of a special pension which has ceased under the provisions of sub-paragraph (2) above subsequently becomes incapacitated for the performance of his duty or dies, his rights under the Act of 1921 and the rights of any other person in respect of him under that Act against the police authority of any force of which he was a member after ceasing to be a member of the Corps shall be determined as if the injury on account of which he received the special pension which has ceased had been received otherwise than in the execution of his duty.

9. Application of sections 29 (3) and 31 of Act of 1921.—The references in subsection (3) of section 29 and in section 31 of the Act of 1921 to the provisions of that Act shall have effect in relation to the Corps and service in the Corps as references to the provisions of that Act as applied by these Regulations.

10. Averaging of pay for pension in case of recent promotion.—(1) For the purposes of paragraphs 6 and 10 of the First Schedule to the Act of 1921 the ranks of Police Staff Officer Grade III and Police Staff Officer Grade IV shall be deemed to be the rank of inspector, and all higher ranks in the Corps shall be deemed to be ranks higher than that of inspector.

(2) For the purpose of proviso (i) to sub-paragraph (*a*) of paragraph 20 of the First Schedule to the Act of 1921 an appointment to the Corps shall, in the case of a reversionary member of a home police force, be deemed to be a promotion.

(3) Sub-paragraph (*b*) of the said paragraph 20 shall not apply to the Corps.

11. Interpretation.—In this Schedule the expression "disabled" means disabled by infirmity of mind or body to such an extent as would incapacitate a

member of the Corps for the performance of his duty, and " disablement " has a corresponding meaning. [3192]

General note.—As from July 17, 1948, this Schedule is deleted by S.I. 1948 No. 1642, *post.* As to repeals, see also the Police Pensions Act, 1948, s. 3 and Sched. I, Part II, and the notes thereto, *ante.*

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

The Police (Overseas Service) Act, 1945, empowers the Secretary of State to make regulations for the government, discipline, pensions, allowances and gratuities in respect of persons engaged under his control in the performance of police duties in any foreign country.

The British Police Mission to Greece has been established under the control of the Secretary of State to advise the Greek Government on the organisation and administration of the civil police and of State prisons.

The present Regulations provide for the appointment and period of service of members of the Police Mission and for their pensions, allowances and gratuities.

HAMPSHIRE POLICE (AMALGAMATION) (COUNTY BOROUGH OF BOURNEMOUTH) ORDERS, 1948

S.I. 1948 *No.* 565

March 19, 1948

Whereas the standing joint committee of the county of Southampton and the council of the county borough of Bournemouth have agreed to determine the Heads of Agreement for the consolidation of the police establishments of the said county and the said county borough dated the 29th April, 1901, and referred to in section seventy-three of the Bournemouth Corporation Act, 1930 :

And Whereas the combined police authority constituted by the Hampshire Police (Amalgamation) Order, 1947, have submitted to me under sections three and six of the Police Act, 1946, a Scheme amending the Scheme set out in the Schedule to the last-mentioned Order by providing for the constitution of the county borough of Bournemouth as a police area :

Now, therefore, in pursuance of the powers conferred upon me by subsection (1) of section three, subsection (1) of section six and subsection (4) of section twelve of the last mentioned Act, I [i.e., the Secretary of State], by this Order, approve—

(i) the agreement to determine the Heads of Agreement above-mentioned ; and

(ii) the Scheme so submitted to me as above-mentioned which is set out in the Schedule hereto.

This Order may be cited as the Hampshire Police (Amalgamation) (County Borough of Bournemouth) Order, 1948. [3193]

* * * * *

SCHEDULE

THE HAMPSHIRE POLICE (AMALGAMATION) (COUNTY BOROUGH OF BOURNEMOUTH) SCHEME, 1948

1. On the first day of April, 1948 (hereafter in this Scheme referred to as the " date of transfer "), the combined police area consisting of the administrative Counties of Southampton and the Isle of Wight and the County Borough of Bournemouth which was constituted by the Hampshire Police (Amalgamation) Scheme, 1947 (set out in the Schedule to the Hampshire Police (Amalgamation) Order, 1947, and hereafter in this Scheme referred to as " the principal Scheme "), shall be divided into two police areas of which the first shall be the said administrative Counties and the second the said County Borough.

2. For the purpose of carrying out the division above described (*a*) the provisions of the principal Scheme set out in the first column of the First Schedule hereto shall from and after the date of transfer have effect subject to the amendments specified in the second column of that Schedule but without prejudice to any act or thing done thereunder before that date and save as aforesaid the principal Scheme shall continue in full force and effect; and (*b*) the Heads of Agreement entered into between the Standing Joint Committee of the County of Southampton and the Council dated the 29th April, 1901, and referred to in section 73 of the Bournemouth Corporation Act, 1930, shall be determined on the date of transfer.

3. Notwithstanding anything in the principal Scheme those members of the Authority who have been appointed as such by the Council shall cease to hold office as members of the Authority on the date of transfer.

4.—(1) On the date of transfer there shall be transferred—

(*a*) to the Bournemouth police force all members of the Hampshire Constabulary including the First Police Reserve and the Police War Reserve who are immediately before the date of transfer stationed in the County Borough or who, being Special Constables, are then resident within the County Borough, except those members named in Part I of the Second Schedule hereto, and

(*b*) to the Council the officers or servants employed in a civilian capacity by the Authority who are named in Part II of the Second Schedule hereto and such persons shall hold office under the Council by the same tenure and on the same conditions as they held office under the Authority immediately before that date and while performing similar duties shall in respect thereof receive not less salary or remuneration than the salary or remuneration to which they would have been entitled if they had not been transferred.

(2) Sydney Bennett, Esquire, Chief Superintendent of the Hampshire Constabulary, is hereby appointed first Chief Constable of the Bournemouth Police Force.

(3) In relation to the persons described in Part III of the Second Schedule hereto the County Borough is hereby prescribed as the " new area " for the purposes of subsection (2) of section 14 and sub-paragraph (*b*) of paragraph 10 of the Third Schedule to the Act.

5.—(1) Subject as hereinafter contained, on the date of transfer there shall be transferred to the Council all property situate in the County Borough which immediately before the date of transfer was held solely or mainly for police purposes and all rights and liabilities whether vested or contingent to which the Authority were entitled or subject immediately before that date by reason of the exercise of any of their police functions within the County Borough.

For the more convenient registration of title to land hereby transferred to the Council the number of the title to such land as is registered and transferred by this clause is set out in Part I of the Third Schedule hereto.

(2) Any contract to which the Authority are a party for the construction improvement or repair of any building or other works on land transferred under clause (1) of this paragraph shall on and after the date of transfer be of full force and effect both as to liabilities and rights thereunder with the substitution of the Council for the Authority.

(3) The Compulsory Purchase Orders described in Part II of the Third Schedule hereto shall be of full force and effect in favour of and as against the Council in substitution for the Authority and all proceedings in respect of and under the said Orders may be carried on as if they had been made by the Council and as if the County Borough had been a separate police area.

(4) The vehicles belonging to the Authority described in Part III of the Third Schedule hereto are hereby transferred to the Council to be held for police purposes.

(5) The wireless equipment being in the County Borough immediately before the date of transfer together with equipment associated therewith and situated in the Borough of Poole is hereby transferred to the Council to be held for police purposes.

6.—(1) The accounts of the Hampshire Police Fund shall be made up to the date of transfer and any moneys due to or from the Council in connection therewith shall be paid forthwith after the amounts have been ascertained. In order to ascertain such amounts there shall be brought into account by the Authority and the Council income and expenditure after the date of transfer in respect of the period before that date.

(2) The Treasurer of the Hampshire Police Fund shall—

(*a*) within fourteen days of the date of transfer repay to the Council the sum of £4,500, being the amount paid by the Council to the Hampshire Police Fund under clause 3 (*b*) of the Second Schedule to the principal Scheme, and

(*b*) with all convenient speed after the date of transfer transfer to the Council £3,200 (nominal value) 3% Savings Bonds 1955–65 representing the share of the Council in the Police Pension Fund Capital Account at the date of transfer.

(3)—(*a*) The Authority shall continue to pay all pensions which are being paid at the date of transfer and shall pay any widows' or children's pensions or dependants' gratuities becoming payable after that date to the widows children or dependants of persons in receipt of a pension at the date of transfer.

(*b*) In respect of a pension payable under the preceding sub-clause not being a pension granted to or in respect of a constable stationed in the administrative County of the Isle of Wight or the City of Winchester at the date of his retirement or death, the Council shall pay to the Authority such proportion thereof as the average number of Constables stationed in the County Borough during the year ending the 31st March, 1948, bears to the average number of Constables serving in the Hampshire Constabulary during the same year.

(4)—(*a*) There shall be agreed a Schedule of Constables serving in the Hampshire Constabulary immediately before the date of transfer and there shall be assessed the pension which would be payable to each of them had he retired on that date owing to ill health. Such assessment shall be calculated on the length of service and pay at that date and for this purpose the pension scale shall be assumed to be extended to include the earlier years of service.

(*b*) Where the Authority become liable to pay a pension to such a constable as is mentioned in sub-clause (*a*) of this Clause, by reason of his service in the Hampshire Constabulary immediately before his retirement or become liable to make a contribution to any other Police Authority by reason of that constable's previous service in the Hampshire Constabulary in Council shall pay to the Authority such proportion of the pension assessed in accordance with sub-clause (*a*) of this clause as the average number of Constables stationed in the County Borough during the year ending the 31st March, 1948, bears to the average number of Constables serving in the Hampshire Constabulary during the same year.

(*c*) Where the Council become liable to pay a pension to such a constable as is mentioned in sub-clause (*a*) of this clause by reason of his service in the Bournemouth Police Force immediately before his retirement or become liable to make a contribution to any other Police Authority by reason of that constable's previous service in the Bournemouth Police Force the Authority shall pay to the Council such proportion of the pension assessed in accordance with sub-clause (*a*) of this clause as the average number of Constables serving in the Hampshire Constabulary excluding those stationed in the County Borough during the year ending the 31st March, 1948, bears to the average number of Constables serving in the Hampshire Constabulary during the same year.

(5) Where a contribution becomes payable by the Authority to any other Police Authority in respect of a Constable whose pension is not assessed under sub-clause (*a*) of clause (4) of this paragraph by reason of his having transferred to another Police Force before the date of transfer the Council shall pay to the Authority such proportion thereof as the average number of Constables stationed in the County Borough during the year ending the 31st March, 1948, bears to the average number of Constables serving in the Hampshire Constabulary during the same year.

(6) For the purposes of this paragraph the expression " The Hampshire Constabulary " shall be deemed to include headquarters staff and Constables stationed in the County Borough and in the administrative County of Hampshire excluding the City of Winchester and the administrative County of the Isle of Wight.

7.—(1) In this Order the following expressions have the meanings hereby respectively assigned to them, that is to say :—

" the Act " means the Police Act, 1946
" the Authority " means the Hampshire Police Authority
" the Council " means the Council of the County Borough of Bournemouth
" the County Borough " means the County Borough of Bournemouth
" pension " means any pension, allowance or gratuity.

(2) The Interpretation Act, 1889, applies to the interpretation of this Scheme as it applies to the interpretation of an Act of Parliament, and section 38 of the Interpretation Act, 1889, shall apply as if this Scheme were an Act of Parliament and as if any provisions of the principal Scheme omitted by virtue of the Scheme were enactments repealed by an Act of Parliament.

FIRST SCHEDULE

AMENDMENTS TO THE PRINCIPAL SCHEME

Paragraph 1	The words " (which includes the County Borough of Bournemouth) " shall be omitted.
Paragraph 3	In sub-paragraph (3) the word " joint " where it first occurs and the words " and the county borough of Bournemouth " shall be omitted.
Paragraph 5	The words " and of the Bournemouth county borough council ", " joint " where it first occurs and " and the county borough of Bournemouth " shall be omitted.
Paragraph 7	The words " or to the Bournemouth County Borough Council " and " or the county borough of Bournemouth " shall be omitted.
Paragraph 9	For the words " the county council of the Isle of Wight and the Bournemouth county borough council or any of them " there shall be substituted " and the county council of the Isle of Wight or either of them ".
First Schedule Hampshire Police Authority.	
Paragraph 1	For " thirty-one " there shall be substituted " twenty-five ".
Paragraph 2	The words " Bournemouth county borough council ..... 6 " shall be omitted, and for the figure " 31 " there shall be substituted " 25 ".

Second Schedule Hampshire Police Fund	
Paragraph 2	Sub-paragraph (1) shall be omitted. In sub-paragraph (2) the words "after deducting the appropriate contribution of the Bournemouth county borough council calculated in accordance with sub-paragraph (1) of this paragraph" shall be omitted.
Paragraph 3	In the table subjoined hereto the words "Bournemouth county borough council ... £4,500 0s. 0d." shall be omitted.
Paragraph 4	In subparagraph (1) the words "the Isle of Wight county council and the Bournemouth county borough council" shall be omitted and "and the Isle of Wight county council" shall be substituted.

SECOND SCHEDULE

PART I

Constable Douglas Benfield Hall

PART II

WHOLE TIME EMPLOYEES:

Clerks
- LAWLESS Nesia Maud
- EDWARDS Irene Florence
- HORN Eva Caroline
- ELLIS Pamela Jean
- CANDLETT Brenda
- AVERY Vera Olive

Telephonists
- TIPPER Norah
- CASE Vera Georgina Ellen
- WOOLLARD Winifred Phyllis Jane

Cleaners
- ROWE Alfred

Part Time Employees
- WILLIAMS George Alfred

Cadet Clerks
- PAGE Eric Richard
- THORNEYCROFT Sidney Roy

PART III

(*a*) Inspector Joshua Hopkins Owner, being a person who has engaged in accordance with section 2 of the Police (Overseas Service) Act, 1945, for a period of overseas service.

(*b*) Those members of the Hampshire Constabulary and the Special Constabulary transferred by this Scheme to the Bournemouth Police Force.

(*c*) Any former member of the Hampshire Constabulary who at the time of his dismissal or requirement to resign was stationed within the County Borough.

THIRD SCHEDULE

PART I

175 Capstone Road Bournemouth Title No. P.160187

PART II

The Hampshire Police Authority Compulsory Purchase Order No. 6, 1947
The Hampshire Police Authority Compulsory Purchase Order No. 7, 1947

PART III

Make	*Horse Power*	*Registration Number*
Wolseley	18·85	FOU 562
Wolseley	18·85	GCG 804
Lincoln Zephyr	33	EEL 858
Austin Motor Van	18	BRU 94
Ford Prefect	10	FOU 225
Ford Prefect	10	FOU 279
Ford Prefect	10	GAA 959

[3194]

DURHAM POLICE (AMALGAMATION) ORDER, 1948

S.I. 1948 *No.* 627

March 25, 1948

General note.—The scheme set out in the Schedule, *infra*, is amended as from May 19, 1948, by S.I. 1948 No. 1048, *post.*, and as from March 29, 1949 (as to para. 3 of the first Schedule, *post*,) by S. I. 1949 No. 635.

Whereas the police establishments of the county of Durham and the county borough of West Hartlepool have been consolidated under an agreement dated the 30th September, 1902, which was amended by agreements dated the 5th November, 1902, and the 16th December, 1937 :

And Whereas the police establishments of the county of Durham and the county borough of Darlington have been consolidated under an agreement dated the 1st July, 1926, which was amended by an agreement dated the 25th March, 1936 :

And Whereas under the powers conferred by subsection (1) of section three, and subsection (3) of section twelve of the Police Act, 1946, the police authorities for the police areas of the county of Durham and the county boroughs of West Hartlepool and Darlington have submitted to me a Scheme for the determination of the said agreements and the amalgamation of their police areas :

Now, therefore, in pursuance of the powers conferred upon me by subsection (1) of section three of the Police Act, 1946, I [i.e., the Secretary of State], by this Order, approve the said Scheme which is set out in the Schedule hereto.

This Order may be cited as the Durham Police (Amalgamation) Order, 1948. [3195]

* * * * *

SCHEDULE

THE DURHAM POLICE AMALGAMATION SCHEME, 1948

1. On the first day of April, 1948 (hereinafter in this Scheme referred to as the "date of transfer"), the police areas consisting of the administrative county of Durham and the county boroughs or Darlington and West Hartlepool shall be amalgamated for police purposes and become one combined police area which shall be called the Durham county police area.

2.—(1) On the date of transfer there shall be established for the Durham county police area a combined police force which shall be called the Durham county constabulary.

(2) All members of the present Durham county police force shall on the date of transfer be transferred to the Durham county constabulary.

(3) Thomas Eric St. Johnston, Esquire, O.B.E., who is Chief Constable of Durham, is hereby appointed the first Chief Constable of the Durham county constabulary.

3.—(1) The Durham county constabulary shall be maintained by a combined police authority which shall be called the Durham county police authority.

(2) The Durham county police authority shall be constituted in accordance with the provisions of the First Schedule hereto.

(3) On the date of transfer the police functions of the standing joint committee of Durham and the county borough council and the watch committee of Darlington and of West Hartlepool shall be transferred to the Durham county police authority.

4. The expenses of the Durham county constabulary and of the Durham county police authority shall be paid out of the combined police fund which shall be called the Durham county police fund, and shall be constituted and administered in accordance with the provisions of the Second Schedule hereto.

5.—(1) Subject to the provisions of sub-paragraph (2) of this paragraph, there shall be transferred on the date of transfer to the Durham county police authority all property, rights and liabilities of the county council and the standing joint committee of Durham and the county borough council and the watch committee of Darlington and of West Hartlepool held or incurred in connection with the present Durham county police force, including such part of the said force as is maintained to police the county boroughs of Darlington and West Hartlepool by virtue of the consolidation agreements mentioned in the Fourth Schedule hereto, which agreements shall be determined and shall cease to have effect on the date of transfer.

(2) The council of the county borough of Darlington shall at the time of transfer pay to the Durham county council a sum of £1,525 being the contribution of the said county borough council towards the cost of the buildings, the property of the Durham county council, situate in the said county borough and used for police purposes; the council of the county borough of West Hartlepool shall at the time of transfer pay to the Durham county council a sum of £16,000 being the contribution of the said county borough council towards the cost of the police station and other buildings, the property of the Durham county council, situate in the said county borough and used for police purposes.

6.—(1) The Durham county police authority shall appoint a clerk of the authority and a treasurer of the Durham county police fund and may appoint a deputy clerk of the authority and a deputy treasurer of the fund for the purpose of acting in the place of the officer of whom he is a deputy, whenever the office is vacant or the holder thereof for any reason is unable to act and any person so appointed deputy, when acting as such and subject to the terms of his appointment, shall have all the functions of the holder of the office.

(2) The Durham county police authority may appoint such other officers and servants as they think necessary for the efficient discharge of their functions.

(3) On the date of transfer there shall be transferred to the service of the Durham county police authority the civilian officers and servants who immediately before that time were employed by the county council or standing joint committee of Durham to perform duties in or with the police force, but the provisions of this paragraph shall not apply to professional, technical, administrative or clerical officers employed by the Durham county council mainly or partly for the purposes of the exercise by the council or the standing joint committee of the county of any functions connected with the police.

(4) The provisions of the Third Schedule hereto shall have effect in relation to officers and servants of the Durham county police authority.

7. The Durham county police authority may delegate to the standing joint committee of Durham or the watch committee of Darlington or of West Hartlepool in respect of matters relating to Durham or, as the case may be, Darlington or West Hartlepool, their functions under section five of the Police, Factories, etc. (Miscellaneous Provisions) Act, 1916, or under the House to House Collections Act, 1939.

8. The Durham county police authority may make arrangements with either the Durham county council, the Darlington county borough council or the West Hartlepool county borough council for the use by the Durham county police authority of the services of officers and servants of that council and the making of contracts and payments on behalf of the Durham county police authority by the said council.

9. In relation to contributory employees of the Durham county police authority under the Local Government Superannuation Act, 1937, the appropriate superannuation fund for the purposes of that Act shall be the superannuation fund maintained under Part I of that Act by the Durham county council.

10. The " appropriate authority " for the purpose of section ten of the Police Act, 1946, shall be the Durham county police authority.

FIRST SCHEDULE

DURHAM COUNTY POLICE AUTHORITY

1. The Durham county police authority shall consist of thirty members.

2. In accordance with the provisions of this Schedule, the Durham standing joint committee shall appoint twenty-four representatives being members of the committee, and the councils of Darlington and of West Hartlepool shall each appoint three representatives from among its members to be members of the Durham county police authority.

3.—(1) Each member of the Durham county police authority first appointed shall come into office on the first day of April, 1948, or so soon thereafter as he shall be appointed and, subject to the provisions of paragraphs 4 and 6 hereof, shall hold office until the first day of April, 1949.

(2) On or before the thirty-first day of March, 1949, and in every third year thereafter, being the year in which county councillors are elected, each appointing authority shall appoint its representatives on the Durham county police authority each of whom shall come into office on the first day of April in the year of his appointment and, subject to the provisions of paragraphs 4 and 6 hereof, shall hold office for three years.

4. If a member of the Durham county police authority dies, resigns, becomes disqualified or ceases under sub-paragraph (1) of paragraph 6 hereof to be a member of the Durham county police authority, the appointing authority shall appoint a successor who shall come into office on the date of his appointment and unless he dies, resigns, becomes disqualified or ceases under sub-paragraph (1) of paragraph 6 hereof to be a member of the Durham county police authority shall hold office for the remainder of the period for which his predecessor would have held office had he not died, resigned, become disqualified or ceased to be a member :

Provided that if, within six months before the end of the period for which he was appointed, a member dies, resigns, becomes disqualified or ceases under sub-paragraph (1) of paragraph 6 hereof to be a member of the Durham county police authority, it shall not be necessary for the appointing authority to appoint a successor to such member for the remainder of such period.

5. A member of the Durham county police authority may resign his membership by giving the clerk of that authority notice in writing to that effect.

6.—(1) A member of the Durham county police authority who ceases to be a member of the appointing authority shall cease to be a member of the Durham county police authority unless on or before the date on which he ceases to be a member of the appointing authority he has been reappointed a member of the appointing authority.

(2) A member of the Durham county police authority shall be disqualified from being a member of that authority if he holds any paid office or other place of profit in the gift or disposal of the authority.

7. The Durham county police authority from among its members shall elect annually a chairman and a vice-chairman.

8. The first meeting of the Durham county police authority shall be convened on the instructions of the chairman of the Durham standing joint committee within four weeks after this Scheme comes into operation, and subsequent meetings shall be convened in such manner as the Durham county police authority shall determine.

9. At a meeting of the Durham county police authority seven or such greater number as the authority may from time to time determine shall be a *quorum*.

10. The following provisions of the Local Government Act, 1933, namely, sections 58, 60, 76 and Part V of the Third Schedule, shall apply to the Durham county police authority and the members thereof as if references in the said provisions to a local authority, other than references to a parish council, were references to the Durham county police authority and references to that Act were references to this Scheme.

SECOND SCHEDULE

DURHAM COUNTY POLICE FUND

1.—(1) In respect of each financial year each contributing authority shall pay to the Durham county police fund in accordance with sub-paragraphs (2) and (3) of this paragraph a contribution equal to its appropriate proportion of the net expenses of the Durham county police authority in respect of that year.

(2) In the first week of each month in each financial year each contributing authority shall make a monthly interim payment into the Durham county police fund on account of its contribution payable under sub-paragraph (1) of this paragraph in respect of that year of an amount equal to one-twelfth of the amount of that contribution as estimated by the Durham county police authority :

Provided—

(*a*) that the Durham county police authority may, from time to time, revise the said estimate and the monthly interim payments payable during that year after the contributing authorities have been notified of the revision shall be so increased or reduced as to adjust the difference, and

(*b*) that, in the event of the Durham county police authority making arrangements with the Durham county council under paragraph 8 of this Scheme for the making of payments on behalf of the Durham county police authority by the said council, the interim payments to be made by the said council under sub-paragraph (2) of this paragraph shall be such as may be agreed between the Durham county police authority and the said council taking into account payments made by the said council on behalf of the Durham county police authority, so however that such interim payments shall be sufficient at all times to enable all financial obligations of the police authority to be met.

(3) Any difference between the total of the monthly interim payments made in respect of any financial year and the contribution payable in respect of that year shall be adjusted at the interim payment date next after the date on which the contribution payable in respect of that year has been ascertained, by a payment by, or a credit to, the contributing authority which has made the payments.

2. Each contributing authority shall, with all convenient speed, pay into the Durham county police fund any income which has not been brought into account before the time of transfer and but for the operation of this Scheme would have been credited to its police account, not being income received from the investment of financial adjustment funds.

3.—(1) In this Schedule the following expressions have the meanings hereafter respectively assigned to them, that is to say :—

" appropriate proportion " means, in the case of each contributing authority, the proportion which the actual strength of the Durham county constabulary in the area of each contributing authority bears to the actual strength of the Durham county constabulary in the Durham county police area as certified by the Chief Constable of the Durham county constabulary ; and in the event of any dispute arising as to the correctness of the Chief Constable's certificate the certificate shall be amended in such manner as may be agreed in writing by the clerks to each of the authorities ;

" actual strength of the Durham county constabulary " means the number of attested police officers male and female employed on the first day of April in each year. For the purposes of calculating the actual strength of the Durham county constabulary in the Durham county police area and the actual strength of the Durham county constabulary in the area of the Durham county council no account shall be taken of the number of attested police officers employed at the headquarters of the Durham county constabulary ;

" contributing authority " means each of the following, namely, the Durham county council, the Darlington county borough council and the West Hartlepool county borough council ;

" financial year " means the period of twelve months ending on the thirty-first day of March.

(2) For the purpose of this Schedule the net expenses of the Durham county police authority in respect of any financial year shall be the amount of its expenditure in respect of that year less all income (including Government grant) which is credited to the Durham county police fund in respect of that year other than contributions payable under paragraph 1 of this Schedule and the said net expenses may, if the Durham county police authority so resolve, include sums which the said authority think it desirable to raise for the purpose of providing a working balance.

THIRD SCHEDULE

OFFICERS AND SERVANTS OF THE DURHAM COUNTY POLICE AUTHORITY

1. The offices of clerk of the Durham county police authority and of treasurer of the Durham county police fund shall not be held by the same person or by persons who stand in relation to one another as partners or as employer and employee.

2. Every officer and servant of the Durham county police authority shall hold office during the pleasure of the authority.

3. The following provisions of the Local Government Act, 1933, namely, subsections (1), (2) and (4) of section 119, and sections 120, 121, 122 and 123, shall apply to the officers and servants of the Durham county police authority as if references in these provisions to a local authority, other than references to a parish council, were references to the Durham county police authority and references to that Act were references to this Scheme.

FOURTH SCHEDULE

AGREEMENTS FOR THE CONSOLIDATION OF POLICE FORCES

Date of Agreement	Names of police establishments
30th September, 1902	Durham county and West Hartlepool county borough
5th November, 1902	do.
16th December, 1937	do.
1st July, 1926	Durham county and Darlington county county borough
25th March, 1936	do.

[3196]

General note.—For amendments to the above scheme, see S.I. 1948 No. 1048, *post* and S.I. 1949 No. 635.

MID-WALES POLICE (AMALGAMATION) ORDER, 1948

S.I. 1948 *No.* 628

March 24, 1948

General note.—Para. 3 of Sched. I to the scheme set out in the Schedule to this Order is amended as from April 2, 1949, by S. I. 1949 No. 637.

In pursuance of the powers conferred upon my by subsection (1) of section four of the Police Act, 1946, I [i.e., the Secretary of State] by this Order, make the Scheme set out in the Schedule hereto.

This Order may be cited as the Mid-Wales Police (Amalgamation) Order, 1948, and shall come into operation on the twenty-ninth day of March, 1948. [3197]

* * * * *

SCHEDULE

THE MID-WALES POLICE AMALGAMATION SCHEME, 1948

1. On the first day of April, 1948 (hereafter in this Scheme referred to as the " date of transfer ") the police areas consisting of the counties of Brecknock, of Montgomery and of Radnor (hereafter in this Scheme referred to as the " constituent counties ") shall be amalgamated for police purposes and become one combined police area which shall be called the Mid-Wales police area.

2.—(1) On the date of transfer there shall be established for the Mid-Wales police area a combined police force which shall be called the Mid-Wales constabulary.

(2) With the exception of Major William Ronnie, who is chief constable of Brecknock, all members of the Brecknock county constabulary, the Montgomery county constabulary and the Radnor county constabulary shall on the date of transfer be transferred to the Mid-Wales constabulary.

(3) Captain Humphrey Clifford Lloyd, M.V.O., M.C., who is chief constable of Montgomery and of Radnor, is hereby appointed the first chief constable of the Mid-Wales constabulary.

3.—(1) The Mid-Wales constabulary shall be maintained by a combined police authority which shall be called the Mid-Wales police authority.

(2) The Mid-Wales police authority shall be constituted in accordance with the provisions of the First Schedule hereto.

(3) On the date of transfer the police functions of the standing joint committees of the constituent counties shall be transferred to the Mid-Wales police authority.

4. The expenses of the Mid-Wales constabulary and of the Mid-Wales police authority shall be paid out of a combined police fund which shall be called the Mid-Wales police fund and shall be constituted and administered in accordance with the provisions of the Second Schedule hereto.

5. There shall be transferred on the date of transfer to the Mid-Wales police authority all property, rights and liabilities of the county councils and the standing joint committees of the constituent counties held or incurred for police purposes.

6.—(1) The Mid-Wales police authority shall appoint a clerk of the authority and a treasurer of the Mid-Wales police fund and may appoint a deputy clerk of the authority and a deputy treasurer of the fund for the purpose of acting in the place of the officer of whom he is deputy whenever the office is vacant or the holder thereof for any reason is unable to act, and any person so appointed deputy, when acting as such and subject to the terms of his appointment, shall have all the functions of the holder of the office.

(2) The Mid-Wales police authority may appoint such other officers and servants as they think necessary for the efficient discharge of their functions.

(3) Any appointment under the preceding provisions of this paragraph may be made before the date of transfer.

(4) On the date of transfer any officer or servant employed immediately before the date of transfer by the county council or by the standing joint committee of any of the constituent counties solely or mainly for police purposes and who has not before the date of transfer notified the county council or the standing joint committee by whom he is employed in writing

of his refusal to be transferred shall be transferred to and become an officer or servant of the Mid-Wales police authority.

(5) The provisions of the Third Schedule hereto shall have effect in relation to officers and servants of the Mid-Wales police authority.

7. The Mid-Wales police authority may delegate to the Brecknock standing joint committee, or the Montgomery standing joint committee, or the Radnor standing joint committee in respect of matters relating to the county of Brecknock, or of Montgomery, or of Radnor, as the case may be, any of their functions under section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act, 1916, or under the House to House Collections Act, 1939.

8. The Mid-Wales police authority may make arrangements with the county council of any of the constituent counties for the use by the Mid-Wales police authority of the services of officers and servants of that authority and for the making of contracts and payments on behalf of the Mid-Wales police authority by that authority.

9. In relation to contributory employees of the Mid-Wales police authority under the Local Government Superannuation Act, 1937, the appropriate superannuation fund for the purposes of that Act shall be such fund as may be determined by the Mid-Wales police authority.

10. The " appropriate authority " for the purposes of section 10 of the Police Act, 1946, shall be the Mid-Wales police authority.

11. This Scheme shall come into operation on the twenty-ninth day of March, 1948.

FIRST SCHEDULE

MID-WALES POLICE AUTHORITY

1. The Mid-Wales police authority shall consist of twenty members.

2. In accordance with the provisions of this Schedule each of the undermentioned committees shall not later than the expiration of two weeks after the coming into operation of this Scheme appoint from among its members the number of justices and the number of members of the county council set opposite to its name in the second and third columns of the subjoined table to be members of the Mid-Wales police authority :—

TABLE

	Justices	*Members of County Council.*
County of Brecknock standing joint committee	4	4
County of Montgomery standing joint committee ..	3	3
County of Radnor standing joint committee	3	3
	20	

3.—(1) Each member of the Mid-Wales police authority first appointed shall come into office on the date when this Scheme comes into operation or so soon thereafter as he shall be appointed, and, subject to the provisions of paragraphs 4 and 6 hereof, shall hold office until the first day of April, 1949.

(2) On or before the thirty-first day of March, 1949, and in every third year thereafter, being the year in which county councillors are elected, each appointing authority shall appoint its representatives on the Mid-Wales police authority each of whom shall come into office on the first day of April in the year of his appointment and, subject to the provisions of paragraphs 4 and 6 hereof, shall hold office for three years.

4. If a member of the Mid-Wales police authority dies, resigns, becomes disqualified or ceases under sub-paragraph (1) of paragraph 6 hereof to be a member of the appointing authority, the appointing authority shall appoint a successor from among the justices or the members of the county council, as the case may be, who

shall come into office on the date of his appointment and unless he dies, resigns, becomes disqualified or ceases under sub-paragraph (1) of paragraph 6 hereof to be a member of the appointing authority shall hold office for the remainder of the period for which his predecessor would have held office had he not died, resigned, become disqualified or ceased under sub-paragraph (1) of paragraph 6 hereof to be a member of the appointing authority.

5. A member of the Mid-Wales police authority may resign his membership by giving notice in writing of his intention to do so to the clerk of the authority.

6.—(1) A member of the Mid-Wales police authority who ceases to be a member of the appointing authority shall cease to be a member of the Mid-Wales police authority unless on or before the date on which he ceases to be a member of the appointing authority he has been re-elected a member of the appointing authority.

(2) A member of the Mid-Wales police authority shall be disqualified from being a member of that authority if he holds any paid office or other place of profit in the gift or disposal of the authority.

7. The Mid-Wales police authority from among its members shall elect annually a chairman and may elect a vice-chairman.

8. The first meeting of the Mid-Wales police authority shall be convened by the chairman of the standing joint committee of the county of Radnor as soon as possible after all members of the Mid-Wales police authority have been appointed, and subsequent meetings shall be convened in such manner as the Mid-Wales police authority shall determine.

9. At a meeting of the Mid-Wales police authority seven or such greater number as the authority may determine shall be a quorum.

10. The following provisions of the Local Government Act, 1933, namely, sections 58, 60, 76 and Part V of the Third Schedule, shall apply to the Mid-Wales police authority and the members thereof as if references in the said provisions to a local authority, other than references to a parish council, were references to the Mid-Wales police authority and references to that Act were references to this Scheme.

SECOND SCHEDULE

MID-WALES POLICE FUND

1.—(1) In respect of each financial year each contributing authority shall pay to the Mid-Wales police fund in accordance with sub-paragraphs (2) and (3) of this paragraph a contribution equal to its appropriate proportion of the net expenses of the Mid-Wales police authority in respect of that year.

(2) On the first day of each month in each financial year each contributing authority shall make a monthly interim payment into the Mid-Wales police fund on account of its contribution payable under sub-paragraph (1) of this paragraph in respect of that year of an amount equal to one-twelfth of the amount of that contribution as estimated by the Mid-Wales police authority :

Provided that the Mid-Wales police authority may from time to time revise the said estimate, and the monthly interim payments payable during that year after all the contributing authorities have been notified of the revision shall be so increased or reduced as to adjust the difference.

(3) Any difference between the total of the monthly interim payments made in respect of any financial year and the contribution payable in respect of that year shall be adjusted at the interim payment date next after the date on which the contribution payable in respect of that year has been ascertained by a payment by, or a credit to, the contributing authority which has made the payments.

2. In addition to the contributions payable under paragraph 1 of this Schedule, each contributing authority shall—

(*a*) with all convenient speed pay to the Mid-Wales police fund any income which has not been brought into account before the date of transfer and but for the operation of this Scheme would have been credited to its police account, not being income received from the investment of financial adjustment funds, and

(*b*) on the date of transfer pay into the Mid-Wales police fund a contribution equal to its appropriate proportion of the sum of five thousand pounds.

3.—(1) In this Schedule the following expressions have the meanings hereafter respectively assigned to them, that is to say :—

"appropriate proportion" means, in the case of each contributing authority, the proportion which the aggregate rateable value of all the hereditaments in the area of the contributing authority bears to the aggregate rateable value of all the hereditaments in the Mid-Wales police area as shown in the valuation list in force on the first day of April in the preceding financial year :

"contributing authority" means each of the following, namely, the Brecknock county council, the Montgomery county council and the Radnor county council ;

"financial year" means the period of twelve months ending on the thirty-first day of March.

(2) For the purposes of this Schedule the net expenses of the Mid-Wales police authority in respect of any financial year shall be the amount of its expenditure in respect of that year less all income (including government grant) which is credited to the Mid-Wales police fund in respect of that year, other than contributions payable under paragraph 1 of this Schedule, and the said net expenses may, if the Mid-Wales police authority so resolve, include sums which the said authority think it desirable to raise, although the liability which those sums are intended to satisfy will not or may not fall due during the financial year.

THIRD SCHEDULE

OFFICERS AND SERVANTS OF THE MID-WALES POLICE AUTHORITY

1. The clerk of the Mid-Wales police authority and the treasurer of the Mid-Wales police fund shall hold office during the pleasure of the authority so however that neither of them shall be dismissed from his office without the consent of the Secretary of State.

2. The offices of clerk of the Mid-Wales police authority and of treasurer of the Mid-Wales police fund shall not be held by the same person or by persons who stand in relation to one another as partners or as employer and employee.

3. Subject to paragraph 1 above, every officer and servant of the Mid-Wales police authority shall hold office during the pleasure of the authority.

4. The following provisions of the Local Government Act, 1933, namely, subsections (1), (2) and (4) of section 119 and sections 120, 121, 122 and 123, shall apply to the officers and servants of the Mid-Wales police authority as if references in those provisions to a local authority, other than references to a parish council, were references to the Mid-Wales police authority and references to that Act were references to this Scheme. [3198]

POLICE (NO. 2) REGULATIONS, 1948

S.I. 1948 *No.* 855

April 26, 1948

General note.—These regulations further amended S. R. & O., 1947, No. 1003, but (*inter alia*) both the present regulations and those regulations were revoked as from July 5, 1948, by S.I. 1948 No. 1210, *post*, with a saving for acts, etc., done thereunder.

I, the Right Honourable James Chuter Ede, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by section four of the Police Act, 1919, hereby make the following Regulations :—

1. At the end of Regulation 22 of the Police Regulations, 1947, there shall be added the following paragraph :—

"(2) A reduction in pay, without reduction in rank, shall not reduce a man's pay below the minimum of the scale of pay for his rank in the force." [3199]

2. In Regulation 28 of the said Regulations for sub-paragraph (*b*) of paragraph (1) there shall be substituted the following sub-paragraph :—

" (*b*) he has passed the examination in educational subjects and, after having completed not less than four years' service, the examination in police duties for promotion to sergeant or inspector, as the case may be ". [3200]

3. In paragraph (4) of Regulation 29 of the said Regulations for the words " any sergeant or constable who has completed four years' service and has given due notice to the chief officer of police shall be entitled to sit for the respective examinations for these ranks " there shall be substituted the words " any member of a police force who has given due notice to the chief officer of police shall be entitled to sit—

(*a*) for either examination in educational subjects, and

(*b*) after he has completed four years' service within the meaning of Regulation 28 for the examination in police duties for promotion to sergeant or inspector, as the case may be." [3201]

4.—(1) In paragraph (1) of Regulation 52 of the said Regulations after the words " If a member of a police force " there shall be inserted the words " above the rank of constable ".

(2) For paragraph (2) of the said Regulation 52 there shall be substituted the following paragraph :—

" (2) A constable who transfers to another police force or who having resigned from a police force joins after the tenth day of May, 1948, the same or any other police force shall be entitled to reckon for the purposes of pay all service which he was entitled to reckon for that purpose in the force from which he transfers or resigned." [3202]

5. In sub-paragraph (*b*) of paragraph (1) of Regulation 56 and paragraph (*d*) of Regulation 94 of the said Regulations for the words " qualifying examination " there shall be substituted the words " qualifying examinations ". [3203]

6.—(1) In Regulation 63 of the said Regulations for the heading " *Auxiliary service* " there shall be substituted the heading " *Service for the purposes of pay* ".

(2) At the end of the said Regulation 63 there shall be inserted the words " or as a member of the Palestine police force ". [3204]

7. For Regulation 69 of the said Regulations there shall be substituted the following Regulation :—

" 69.—(1) A member of a police force shall be paid a detective allowance at the appropriate rate specified in paragraphs (2) and (3) of this Regulation, if the chief officer of police is satisfied that he is engaged in detective duties :

Provided that the allowance shall not be paid for a period of duty of less than one week.

(2) If the chief officer of police is satisfied that the member is normally engaged in outside duty, he shall be paid at the rate of—

Superintendents and inspectors ..	25s. 0d. weekly
Sergeants and constables	20s. 0d. weekly

(3) If the chief officer of police is satisfied that the member is normally engaged in duty other than outside duty, he shall be paid at the rate of—

Superintendents and inspectors ..	15s. 0d. weekly
Sergeants and constables	12s. 6d. weekly

(4) The payment of a detective allowance shall not preclude the payment also a plain clothes allowance." [3205]

8.—(1) These Regulations may be cited as the Police (No. 2) Regulations, 1948.

(2) These Regulations shall come into force on the tenth day of May, 1948. [3206]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

Regulations 2 and 3 enable a member of a police force to take the promotion examinations in educational subjects at any time after he has been appointed instead of having to wait for a period before doing so.

Regulation 4 provides that a constable who has resigned from a police force and subsequently joins up again shall, as is the case where a constable transfers, count his previous service for the purpose of reckoning his pay.

Regulation 5 is a drafting amendment consequential on Regulations 2 and 3.

Regulation 6 provides that a member of the Palestine police force who joins a police force shall count his service in the Palestine police force for the purpose of reckoning his pay.

Regulation 7 provides that a detective normally engaged in outside duties shall be paid a detective allowance at an increased rate and that a detective normally engaged in duties indoors shall be paid at the same rate as the existing detective allowance.

POLICE (WOMEN) (NO. 2) REGULATIONS, 1948

S.I. 1948 *No.* 856

April 26, 1948

General note.—These regulations further amended S. R. & O., 1947, No. 1604, but (*inter alia*) both the present regulations and those regulations were revoked as from July 5, 1948, by S.I. 1948 No. 1217, *post*, with a saving for acts, etc., done thereunder.

I, the Right Honourable James Chuter Ede, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by section four of the Police Act, 1919, hereby make the following Regulations :—

1. At the end of Regulation 16 of the Police (Women) Regulations, 1947, there shall be added the following paragraph :—

" (2) A reduction in pay, without reduction in rank, shall not reduce a woman's pay below the minimum of the scale of pay for her rank in the force." [3207]

2. In Regulation 21 of the said Regulations for sub-paragraph (*b*) of paragraph (1) there shall be substituted the following sub-paragraph :—

" (*b*) she has passed the examination in educational subjects and, after having completed not less than four years' service, the examination in police duties for promotion to sergeant or inspector, as the case may be ". [3208]

3. In paragraph (4) of Regulation 22 of the said Regulations for the words " any sergeant or constable who has completed four years' service and has given due notice to the chief officer of police shall be entitled to sit for the respective examinations for these ranks " there shall be substituted the words " any woman member of a police force who has given due notice to the chief officer of police shall be entitled to sit—

(*a*) for either examination in educational subjects, and

(*b*) after she has completed four years' service within the meaning of Regulation 21 for the examination in police duties for promotion to sergeant or inspector, as the case may be." [3209]

4.—(1) In paragraph (1) of Regulation 43 of the said Regulations after the words " If a woman member of a police force " there shall be inserted the words " above the rank of constable ".

(2) For paragraph (2) of the said Regulation 43 there shall be substituted the following paragraph :—

" (2) A constable who transfers to another police force or who having resigned from a police force joins after the tenth day of May, 1948, the same or any other police force shall be entitled to reckon for the purposes of pay all service which she was entitled to reckon for that purpose in the force from which she transfers or resigned." [3210]

5. In sub-paragraph (*b*) of paragraph (1) of Regulation 47 of the said Regulations for the words " qualifying examination " there shall be substituted the words " qualifying examinations ". [3211]

6. For Regulation 60 of the said Regulations there shall be substituted the following Regulation :—

" 60.—(1) A woman member of a police force shall be paid a detective allowance at the appropriate rate specified in paragraphs (2) and (3) of this Regulation, if the chief officer of police is satisfied that she is engaged in detective duties :

Provided that the allowance shall not be paid for a period of duty of less than one week.

(2) If the chief officer of police is satisfied that the woman member is normally engaged in outside duty, she shall be paid at the rate of—

Superintendents and inspectors ..	25s. 0d. weekly
Sergeants and constables	20s. 0d. weekly

(3) If the chief officer of police is satisfied that the woman member is normally engaged in duty other than outside duty, she shall be paid at the rate of—

Superintendents and inspectors ..	15s. 0d. weekly
Sergeants and constables	12s. 6d. weekly

(4) The payment of a detective allowance shall not preclude the payment also of a plain clothes allowance." [3212]

7. Twelve pairs of stockings shall be issued annually to each woman members of a police force, and accordingly the entries in the Schedule hereto shall be included in the table subjoined to Regulation 71 of the said Regulations as if the said Schedule formed part of that table. [3213]

8.—(1) These Regulations may be cited as the Police (Women) (No. 2) Regulations, 1948.

(2) The Regulations shall come into force on the tenth day of May, 1948. [3214]

* * * * *

SCHEDULE

Article	Issue	Period of Wear	Number in Possession
Stockings..	Twelve pairs annually	—	—

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

Regulations 2 and 3 enable a woman member of a police force to take the promotion examinations in educational subjects at any time after she has been appointed instead of having to wait for a period before doing so.

Regulation 4 provides that a constable who has resigned from a police force and subsequently joins up again shall, as is the case where a constable transfers, count her previous service for the purpose of reckoning her pay.

Regulation 5 is a drafting amendment consequential on Regulations 2 and 3.

Regulation 6 provides that a detective normally engaged in outside duties shall be paid a detective allowance at an increased rate and that a detective normally engaged in duties indoors shall be paid at the same rate as the existing detective allowance.

POLICE WAR RESERVE (NO. 2) RULES, 1948

S.I. 1948 *No.* 857

April 26, 1948

General note.—These rules further amended S. R. & O., 1945, No. 361, later amended by S.I. 1948 No. 1476, *post.*

In pursuance of the power conferred on me by Regulation forty AC of the Defence (General) Regulation, 1939, as having effect by virtue of the Emergency Laws (Miscellaneous Provisions) Act, 1947, I [i.e., the Secretary of State], hereby make the following Rules amending the Police War Reserve Rules, 1945 :—

1. At the end of Rule 14 of the said Rules (which provides for limiting the period during which a reduction in pay imposed as a punishment shall continue) there shall be added the following paragraph :—

" (2) A reduction in pay, without reduction in rank, shall not reduce a man's pay below the minimum of the scale of pay for his rank in the force." [3215]

2.—(1) These Rules may be cited as the Police War Reserve (No. 2) Rules, 1948.

(2) These Rules shall come into force on the tenth day of May, 1948. [3216]

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WOMEN'S AUXILIARY POLICE CORPS (NO. 2) RULES, 1948

S.I. 1948 *No.* 858

April 26, 1948

General note.—These rules further amend S. R. & O., 1945, No. 362, later amended by S.I. 1948 No. 1477, *post.*

In pursuance of the power conferred on me by Regulation forty AC of the Defence (General) Regulations, 1939, as having effect by virtue of the Emergency Laws (Miscellaneous Provisions) Act, 1947, I [i.e., the Secretary of State] hereby make the following Rules amending the Women's Auxiliary Police Corps Rules, 1945 :—

1. At the end of Rule 21 of the said Rules (which provides for limiting the period during which a reduction in pay imposed as a punishment shall continue) there shall be added the following paragraph :—

" (2) A reduction in pay, without reduction in rank, shall not reduce a woman's pay below the minimum of the scale of pay for her rank in the force." [3217]

2.—(1) These Rules may be cited as the Women's Auxiliary Police Corps (No. 2) Rules, 1948.

(2) These Rules shall come into force on the tenth day of May, 1948. [3218]

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SPECIAL CONSTABLES ORDER, 1948

S.I. 1948 *No.* 866

April 27, 1948

General note.—For the Special Constables Order, 1923, see S. R. & O., 1923, No. 905 (see also S. R. & O., 1942, No. 1904).

Whereas by the Special Constables Act, 1914, as amended by the Special Constables Act, 1923, power is conferred on His Majesty, by Order in Council, to make Regulations with respect to the appointment and position of special constables appointed under the Special Constables Act, 1831, or under section one hundred and ninety-six of the Municipal Corporations Act, 1882, and by these Regulations to make such provisions as are mentioned in the said Special Constables Act, 1914, as so amended :

Now, therefore, His Majesty is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. The Special Constables Order, 1940, the Special Constables Order, 1943, and the Special Constables Order, 1945 (which Orders relate to the pay, discipline and pensions of whole-time paid special constables) are hereby revoked. [3219]

2.—(1) In sub-paragraph (*a*) of paragraph 7 of the Special Constables Order, 1923, the words " or the Special Constables Order, 1940 " shall be omitted.

(2) Sub-paragraph (2) of paragraph 2 of the Special Constables Order, 1942, is hereby revoked.

(3) In paragraph 2 of the Special Constables Order (No. 2), 1945, the words " and in paragraph 3 of the Special Constables Order, 1945 " shall be omitted. [3220]

3. Section 38 of the Interpretation Act, 1889, shall apply as if this Order were an Act of Parliament and as if the Orders revoked by this Order were Acts of Parliament repealed by an Act of Parliament. [3221]

4. This Order may be cited as the Special Constables Order, 1948, and shall come into force on the tenth day of May, 1948. [3222]

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DURHAM POLICE (AMALGAMATION) (NO. 2) ORDER, 1948

S.I. 1948 *No.* 1048

May 19, 1948

General note.—This Order amends S.I. 1948 No. 627, *ante*.

Whereas the combined police authority constituted by the Durham Police (Amalgamation) Order, 1948, have submitted to me under sections three and six of the Police Act, 1946, a Scheme amending the Scheme set out in the Schedule to the said Order:

Now, therefore, in pursuance of the powers conferred upon me by the said sections, I [i.e., the Secretary of State], by this Order, approve the Scheme set out in the Schedule hereto.

This Order may be cited as the Durham Police (Amalgamation) (No. 2) Order, 1948. [3223]

* * * * *

SCHEDULE

THE DURHAM POLICE AMALGAMATION (NO. 2) SCHEME, 1948

1. The Durham Police Amalgamation Scheme, 1948 (set out in the Schedule to the Durham Police (Amalgamation) Order, 1948, and hereafter in this Scheme referred to as "the principal Scheme"), shall have effect subject to the following amendments.

2. In the first line of paragraph 7 of the principal Scheme for the word "may" there shall be substituted the word "shall".

3. After paragraph 2 of the Second Schedule to the principal Scheme there shall be inserted the following paragraph:—

"3. The appropriate proportion of the net expenses of the Durham county police authority (that is to say, the amount of its expenditure in respect of any financial year less all income (including Government grant) which is credited to the Durham county police fund in respect of that year other than contributions payable under paragraph 1 of this Schedule and including, if the Durham county police authority so resolve, sums which the said authority think it desirable to raise for the purpose of providing a working balance) payable by each contributing authority under sub-paragraph (1) of paragraph 1 of this Schedule shall be ascertained in respect of any financial year by dividing the said net expenses in the ratio which the number of attested police officers male and female employed on the first day of April in that year in the area of each contributing authority for the purpose of policing such area bears to the number of such attested police officers male and female of the Durham county constabulary in the Durham county police area as certified by the Chief Constable of the Durham county constabulary after excluding from any such ascertainments the number of such attested police officers male and female employed at the headquarters of the Durham county constabulary:

Provided that in the event of any dispute arising as to the correctness of the Chief Constable's certificate the certificate shall be amended in such manner as may be agreed in writing by the clerks to each of the authorities and if such clerks fail to agree the dispute shall be referred to a single arbitrator to be agreed by the said clerks or failing such agreement to be named by the Secretary of State and in any case under and according to the provisions of the Arbitration Acts, 1889 to 1934, or any statutory modification or re-enactment thereof for the time being in force and the decision of such single arbitrator shall be final and binding on the contributing authorities."

4. Paragraph 3 of the Second Schedule to the principal Scheme shall become paragraph 4, and in sub-paragraph (1) thereof there shall be deleted the definitions of the phrases "appropriate proportion" and "actual strength of the Durham county constabulary".

5. Sub-paragraph (2) of paragraph 3 of the Second Schedule to the principal Scheme shall be deleted. [3224]

POLICE (CONSOLIDATION) REGULATIONS, 1948

S.I. 1948 *No.* 1216

June 7, 1948

General note.—These regulations revoke and replace as from July 5, 1948 (*inter alia*) S. R. & O., 1947, No. 2844, *ante*, and S.I. 1948 Nos. 229 and 855, *ante*, with a saving for acts, etc., done thereunder. They are, however, themselves amended as from July 26, 1948, by S.I. 1948 No. 1679, *post*; and, as from December 30, 1948, by S.I. 1948 No. 2734, which further amended regs. 39, 39A, 65A, 91 and inserted reg. 32A.

I, the Right Honourable James Chuter Ede, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by section four of the Police Act, 1919, hereby make the following Regulations :—

RANKS AND DESIGNATIONS

1. The ranks of a police force shall be known by the following designations :—

Chief Constable (except when the title Head Constable is used)
Superintendent
Inspector
Sergeant
Constable. [3225]

2. In forces where varying degrees of responsibility render intermediate ranks necessary, one or more of the following ranks may be retained or adopted as the case may be, subject, in each case, to the approval of the Secretary of State :—

Assistant Chief Constable
Chief Superintendent
Chief Inspector
Sub-divisional Inspector
Sub-Inspector
Station Sergeant
Acting Sergeant. [3226]

3. An officer in a borough police force duly appointed by the watch committee to act as deputy chief constable shall, in the absence or incapacity of the chief constable or during any vacancy in that rank, have all the powers and duties of the chief constable not specifically excluded by resolution of the committee. [3227]

4. The area within the jurisdiction of each police force shall be known as a police district.

The area to which a constable is assigned for duty either generally (as in the case of a detached constable of a county force) or for a particular period of hours (as is normally the case in an urban area) shall be known as a beat, or may, in a county force, be called a sub-section.

A number of beats grouped for supervision by a sergeant or an inspector shall be known as a section.

If a number of sections is grouped for supervision by an inspector, the area shall be known as a sub-division.

A number of sections, or sub-divisions, grouped for control by a superintendent or, in a borough force, by an officer of other rank directly responsible to the chief officer of police, shall be known as a division.

The same terms "division", "sub-division" and "section" shall be applicable to the body of men acting under the direction of the superintendent, inspector or sergeant, as the case may be, as well as to the areas in which they respectively act. [3228]

STRENGTH

5. The authorised establishment of the several ranks and any changes thereof in every police force shall be subject to the approval of the Secretary of State. [3229]

6. The numbers shall be sufficient to provide men for the carrying out of patrol, station, reserve and any other appointed police duties under responsible supervision in each tour of duty. [3230]

APPOINTMENT

7. A candidate for appointment to a police force—

(1) must produce satisfactory references as to character, and, if he has served in any branch of His Majesty's naval, military or air forces, or in the Civil Service, or in any police force, produce satisfactory proof of his good conduct while in such service or force ;

(2) must be under thirty years of age, or in the case of an appointment as chief officer of police, forty years of age :

Provided that a candidate over the specified age limit may be appointed—

(*a*) if he has had previous service in a police force otherwise than as an auxiliary or is otherwise entitled to reckon previous service as pensionable service, or

(*b*) in other special circumstances approved by the Secretary of State upon the recommendation of the appointing authority, that is to say, the chief officer of police or the police authority, as the case may be ;

(3) must, save for special reasons approved by the Secretary of State, be not less in height than 5 feet 8 inches ;

(4) must be certified by a registered medical practitioner approved by the police authority to be in good health, of sound constitution and fitted both physically and mentally to perform the duties of his office ;

(5) must satisfy the chief officer of police that he is sufficiently educated by passing a written or oral examination in reading, writing and arithmetic (addition, subtraction, multiplication and division), or an examination of a higher standard, as may be prescribed by the chief officer of police, or by producing evidence that he has passed another examination which, in the opinion of the chief officer of police, is of an equivalent or higher standard ;

(6) must give such information as may be required as to his previous history or employment or any other matter relating to his appointment to the police force, and if any candidate makes in, or in connection with, his application for appointment any false statement and is subsequently appointed to a police force, the making of such false statement shall be an offence against discipline within the meaning of these Regulations and paragraph (5) of the Discipline Code contained in the First Schedule to these Regulations, and shall be punishable accordingly ;

(7) shall be given a notice in terms approved by the Secretary of State after consultation with the Police Council drawing attention to the conditions of service contained therein. [3231]

8. No person shall be eligible for appointment to, or shall be retained in, a police force to which these Regulations apply, if—

(*a*) he carries on any business or without the consent of the chief officer of police holds any other office or employment for hire or gain, or

(*b*) he resides, without the consent of the chief officer of police, at any premises where his wife or any member of his family keeps a shop or carries on any like business, or

(*c*) he holds, or his wife or any member of his family living with him holds, any licence granted in pursuance of the liquor licensing laws or the laws regulating places of public entertainment in the district of the police force in which he seeks appointment or to which he has been appointed, as the case may be, or has any pecuniary interest in any such licence, or

(*d*) his wife, without the consent of the chief officer of police, keeps a shop or carries on any like business in the district of the police force in which he seeks appointment or to which he has been appointed, as the case may be :

Provided that, in case of refusal of consent, there shall, in a borough police force, be an appeal to the watch committee, whose decision shall be final.

For the purpose of this Regulation, the expression " member of his family " shall include parent, son, daughter, brother and sister. [3232]

9. Every appointment to the post of chief officer of police of any county or borough police force shall be subject to the approval of the Secretary of State, and no person without previous police experience shall be appointed to any such post unless he possesses some exceptional qualification or experience which specially fits him for the post, or there is no candidate from the police service who is considered sufficiently well qualified. [3233]

10. A constable shall be on probation for the period of the first two years of his service in the force since his last appointment thereto :

Provided that the chief officer of police may at his discretion :—

(*a*) reduce the period of probation to a period of not less than one year, if the constable has served for a period of not less than one year either in the same force on a previous appointment thereto or in any other force to which the Police Act, 1919, applies or applied ;

(*b*) dispense with the period of probation if the constable has transferred with the written consent of the chief officer of police from another force to which the Police Act, 1919, applies or applied after having completed the required period of probation in that force ; or

(*c*) dispense with the period of probation if the constable has served as an auxiliary for a period of not less than two years. [3234]

11. During the period of probation the services of any constable may be dispensed with at any time if the chief officer of police considers that he is not fitted, physically or mentally, to perform the duties of his office, or that he is not likely to become an efficient and well conducted constable :

Provided that a constable whose services are dispensed with under this Regulation shall be entitled to receive one week's notice or one week's pay in lieu thereof. [3235]

DISCIPLINE

12. In every police force to which these Regulations apply there shall be published to the force a code of offences against discipline. The code for each force shall contain the provisions of the Discipline Code contained in the First Schedule to these Regulations, with any additions thereto made by the police authority and approved by the Secretary of State :

Provided that such approval shall be provisional until the addition has been laid before the Police Council. [3236]

13. Every member of the force against whom a report or complaint suggesting the commission of an offence against discipline is made shall, as

soon as possible, be informed in writing of the exact charge against him. [3237]

14. The written charge must disclose an offence against discipline as defined in the code of offences against discipline of the force, with such details of time and place as will leave the accused under no misapprehension as to the offence with which he is charged. [3238]

15. The written charge, which shall be entered on a form provided for the purpose (hereinafter referred to as the misconduct form), together with the report or complaint on which the charge is founded, and all reports thereon (whether confidential or otherwise) or copies thereof, shall be handed or sent as soon as practicable to the accused, who shall initial them to show that he has seen them. He shall either be allowed to retain for purposes of his defence the copies of the reports which are handed to him or shall be given a reasonable opportunity to make copies of the reports for that purpose. [3239]

16. The accused shall be directed to state in writing upon the misconduct form whether he admits or denies the charge and shall be allowed to give any explanation which he may wish to offer in writing. He shall also be allowed to state whether he desires to offer his explanation personally to the chief officer of police and shall, if he desires it, be given an opportunity of so doing. [3240]

17. The accused shall also be allowed to state the names of any witnesses to material facts whom he desires to be present when the charge is heard. Any such witnesses who are members of the police force shall be ordered to attend, and any witnesses who are not members of the force shall be given due notice that their attendance is desired and of the place and time of the hearing. [3241]

18. If the accused denies the charge, he shall, unless the chief officer of police is satisfied with the explanation he has offered, be ordered to appear before the chief officer of police and shall have an opportunity of hearing the evidence against him and of cross-examining the witnesses and of calling witnesses in his defence. [3242]

19. The decision of the chief officer of police shall be written upon the misconduct form and at once notified to the accused, who shall write on the misconduct form his acknowledgment of his having read the decision. [3243]

20.—(1) In the case of the metropolitan police the procedure in discipline cases shall be as specially approved by the Secretary of State and published in the General Orders of that force.

(2) In the case of a borough police force, the decision of the chief officer of police shall, subject to any general directions of the watch committee, be either—

(i) to dismiss the case, or
(ii) to remit the case to the watch committee for further hearing, or
(iii) to award a punishment as provided in Regulation 21 :

Provided that any punishment other than a caution shall be subject to confirmation by the watch committee, and any member of the force who feels aggrieved by a decision of the chief officer of police awarding a punishment shall be entitled to appear before the watch committee upon giving notice in writing to the chief officer of police forthwith or at any later date not less than three clear days before his case is to be laid before the committee. [3244]

20A. The following provisions shall have effect with respect to disciplinary proceedings before the chief officer of police and also to proceedings before the watch committee :—

(1) if the accused so desires, he shall be allowed to have a serving member of a police force, selected by himself, to assist him in presenting his case :

(2) if the accused absconds or refuses or neglects without good and sufficient cause to attend the proceedings at the time and place appointed, or is serving a sentence of imprisonment or penal servitude, the case may be decided in his absence. [3245]

20B.—(1) The chief officer of police may suspend from duty a member of the force against whom a report or complaint suggesting the commission of an offence against discipline is made. Such suspension from duty may continue until the disciplinary proceedings arising out of the said report or complaint have been concluded.

(2) Subject to the provisions of this Regulation, these Regulations shall continue to apply to a member of the force who is suspended from duty.

(3) A member of the force who is suspended from duty shall not be entitled in respect of the period of suspension to pay or to uniform allowance, plain clothes allowance, detective allowance, extra duty allowance or temporary duty allowance, but shall be paid a suspension allowance at such rate not less than one-half and not exceeding two-thirds of his pay as the chief officer of police may determine :

Provided that in the case of a member of the force who has been convicted of an offence summarily or on indictment no suspension allowance shall be payable in respect of any period of imprisonment or penal servitude.

(4) A member of the force who, having been suspended from duty, returns to duty without having been found guilty of any offence shall receive, as from the date of his suspension from duty, his pay and any of the said allowances of which he was in receipt immediately prior to his suspension from duty, less any amount paid to him by way of suspension allowance. [3246]

21. An offence against discipline may be punished by—

(1) dismissal ;
(2) being required to resign forthwith, or at such date as may be ordered (as an alternative to dismissal) ;
(3) reduction in rank ;
(4) reduction in rate of pay ;
(5) forfeiture of merit or good conduct badges (except such as have been granted for an act of courage or bravery) ;
(6) fine ;
(7) reprimand ;
(8) caution.

Every punishment, except a caution, shall be entered on the man's personal record. A caution shall not be so entered. [3247]

22.—(1) A reduction in pay, without reduction in rank, shall be limited to a definite period, which shall be stated in the order by which the punishment is inflicted and shall not exceed twelve months, and at the end of the stated period the man shall be advanced to the rate of pay to which he would have been entitled but for the punishment awarded him, unless the period of reduction has in the meantime been extended by way of punishment for a further offence against discipline.

(2) A reduction in pay, without reduction in rank, shall not reduce a man's pay below the minimum of the scale of pay for his rank in the force. [3248]

23. The infliction of a fine shall not cause any advance in pay (except any additional or any special increment which is subject to good conduct as provided in the Regulations relating to pay) to be retarded or withheld. [3249]

24. The amount of a fine imposed by way of punishment for any one offence shall not exceed one week's pay and shall be recovered by stoppage of pay in amounts not exceeding one day's pay in any week, except in the event of a man leaving the force, when the whole amount of any fine then unpaid may be deducted from any pay then due. [3250]

25. There shall be kept in the office of the chief officer of police a disciplinary report book in which he shall cause to be entered, directly it comes to his knowledge, every report or complaint alleging the commission of any offence against discipline by any member of his force (other than an anonymous allegation unsupported by evidence) together with the result of his inquiry and any disciplinary action taken in consequence. [3251]

26. There shall be kept in the headquarters office of each division a divisional disciplinary report book in which the superintendent or other officer in charge of the division shall enter, directly it comes to his knowledge, every report or complaint alleging the commission of any offence against discipline by any member of his division (other than an anonymous allegation unsupported by evidence) together with particulars of any action taken and, in particular, whether he has dealt with the matter by warning or has reported it to the chief officer of police. [3252]

PROMOTION

27. Promotion up to the rank of inspector shall, subject to qualifying examinations in police duties and educational subjects, be by selection, and every member of a police force who is promoted to the rank of sergeant or inspector shall be on probation in that rank for a period of one year. [3253]

27A.—(1) A member of a police force who is required to perform the duties of a higher rank may be promoted temporarily to that rank.

(2) A member of a police force who is promoted substantively or temporarily and has, less than two years before the date of promotion, held the same rank on a temporary promotion thereto shall, for the purpose of increments in the scale of pay for that rank, be entitled to aggregate all his former service in that rank on temporary promotion.

(3) This Regulation shall not apply to a case where a deputy chief constable performs the duties of chief constable. [3254]

28.—(1) No member of a police force shall be promoted to the rank of sergeant or inspector, unless—

(*a*) if a constable, he has completed five years' service, and has for the last two years been free from punishment other than reprimand or caution, and if a sergeant, he has completed two years in that rank free from punishment other than reprimand or caution;

(*b*) he has passed the examination in educational subjects and, after having completed not less than four years' service, the examination in police duties for promotion to sergeant or inspector, as the case may be;

(*c*) he has had not less than one year's service in the performance of ordinary outside police duty:

Provided that—

(i) a member of a police force may be promoted before he has completed five years' service, or may be permitted to take the

qualifying examinations before he has completed four years' service if the chief officer of police, or, in the case of a borough police force, the watch committee, is satisfied that he possesses special qualifications for the performance of the particular duties on which he is to be employed ;

(ii) the chief officer of police may dispense with the examination in educational subjects if he is satisfied that the sergeant or constable has passed an examination of an equivalent or higher standard ;

(iii) where members of a police force are engaged wholly or mainly on specialised duties of a technical character the examination in police duties may, subject to the approval of the Secretary of State, be replaced in their case by an alternative technical examination.

(2) In this Regulation " service " means pensionable service and service as an auxiliary, and the expression " ordinary outside police duty " includes detective duty. [3255]

29. The examinations shall be conducted by means of written papers or oral examinations, or both, upon the following subjects :—

(1) Examination in educational subjects, including—

(*a*) reading aloud ;

(*b*) writing, including handwriting, spelling, punctuation, and the writing and composition of reports ;

(*c*) arithmetic, for promotion to sergeant, first four rules, simple and compound, including imperial weights and measures, and simple fractions ; for promotion to inspector, first four rules, simple and compound, including imperial weights and measures, reduction, vulgar fractions and decimals (excluding recurring decimals), ratio and proportion, averages and percentages ;

(*d*) geography, especially the geography of the British Isles ;

(*e*) general knowledge and intelligence ; and

(*f*) any special subject or subjects which may be required in the circumstances of a particular force or forces.

(2) Examination in police duties, including—

(*a*) criminal law ;

(*b*) evidence and procedure ;

(*c*) general statutes, regulations and orders ;

(*d*) local regulations and byelaws ;

(*e*) extra duties performed by the particular force concerned ; and

(*f*) principles of local government.

(3) The papers on the educational subjects (*b*), (*c*), (*d*) and (*e*) shall be set and marked by a central examining authority approved by the Secretary of State, or such other competent examining body as the police authority of the force may select. The examinations in police duties and, where necessary, the educational subjects (*a*) and (*f*) shall be conducted by the chief officer of police or, where the size of the force permits, a board of officers acting under his directions.

(4) The examinations shall be held in large forces periodically, at least once in each year, and in smaller forces as often as may be required, and, subject to the provisions of Regulation 32, any member of a police force who has given due notice to the chief officer of police shall be entitled to sit—

(*a*) for either examination in educational subjects, and

(*b*) after he has completed four years' service within the meaning of Regulation 28 for the examination in police duties for promotion to sergeant or inspector, as the case may be. [3256]

30. The object of the required examinations is to test the educational and theoretical knowledge of the candidate, and the fact that he has passed them shall not entitle him to promotion or to promotion before another member of the force who has passed the examination at a later date. [3257]

31. After each examination a list giving the names of the candidates who have passed shall be published to the force or forces concerned. The result of each examination shall be marked on the record of each candidate so as to show that, on the date in question, he passed or failed to pass, and a list shall be kept of all members of the force who have passed the respective examinations. [3258]

32. A candidate who fails to pass the examination in educational subjects or police duties shall be informed of the subject or subjects in which he has failed to pass, and failure to pass shall not disqualify a candidate from presenting himself at a future examination after an interval of not less than one year. [3259]

HOURS OF DUTY

33. Every member of a police force shall carry out all lawful orders and shall at all times punctually and promptly perform all appointed duties and attend to all matters within the scope of his office as a constable. [3260]

34. The normal daily period for which constables, sergeants and inspectors (other than inspectors in sole charge of a sub-division, or members of the force normally employed in duties specially excepted by the Secretary of State) shall be required to perform their appointed police duties shall be eight hours, exclusive of time occupied in parading for relief, waiting for relief and returning to station after relief. Where the duties are performed in one tour of eight hours an interval of thirty minutes for refreshment shall be allowed. [3261]

35. The normal period of duty may be extended by or under the directions of the chief officer of police on any particular day or for a specified period as respects any member or members of the force; and nothing in these Regulations shall affect the obligation of any constable to carry out any lawful orders or to attend at any time to any matter to which it is his duty as a constable to attend. [3262]

36. When the normal period of duty of any member of a police force is so extended, or he is recalled to do duty after his normal hours, so that in any week the aggregate of any periods of duty in excess of the normal period of duty amounts to half an hour or more, he shall be granted, if and as soon as the exigencies of duty will permit, time off from duty equal to the said aggregate:

Provided that when a man after returning home is recalled for any specific duty (including attendance at court) the period allowed as "time-off" shall cover, in addition to the actual period of duty, the time occupied in going from and returning to his home, not exceeding such reasonable limit as may be fixed by the chief officer of police; and in the case of a man who has worked a full tour of night duty and is summoned from his home to do duty before 3.30 p.m., the period allowed as "time-off" under this Regulation shall be not less than four hours.

In this Regulation "week" means that period of seven days beginning and ending at the same times as those on which the pay of constables in the force in question is normally calculated. [3263]

37.—(1) Where, in the opinion of the chief officer of police, the exigencies of duty do not permit of any sergeant or constable being granted the whole

period of " time-off " from duty under the preceding Regulation within such reasonable period (not exceeding three months) as the chief officer of police may fix, the man shall be granted in lieu of so much of the period of " time-off " as has not been granted to him, being not less than one hour, a non-pensionable payment at the rate of 4s. 3d. an hour for a sergeant and 3s. 6d. an hour for a constable.

(2) Where a sergeant or constable is engaged on duty involving his employment for irregular periods beyond the normal duty period so that the extension thereof cannot be definitely assessed and " time-off " cannot be granted, he may be granted, in lieu of all payments under paragraph (1) of this Regulation, a non-pensionable commuted payment at the rate provided in Regulation 72. [3264]

38. The provisions of Regulations 36 and 37 shall not apply—

(*a*) if a man is warned to be in readiness for duty if required, but is not actually recalled to duty ;

(*b*) if he is paid in respect of the same incident of duty a detective allowance, a detachment duty allowance, an extra duty allowance, or any other allowance granted in respect of his being engaged beyond the ordinary duty period :

Provided that the hours of duty of a detective shall be subject to such adjustments as may be approved by the chief officer of police to meet occasions when exceptionally long hours of duty have been worked ;

(*c*) if he is engaged on casual escort duty. [3265]

39. Where a member of a police force to whom the Police (Weekly Rest Day) Act, 1910, applies is required to perform duty on a day which would otherwise have been a rest day, he shall be granted another rest day in lieu if and as soon as the exigencies of duty will permit ; and if, in the opinion of the chief officer of police, the exigencies of duty do not permit of the grant of another rest day within such reasonable period (not exceeding three months) as he may fix, the man shall be granted a non-pensionable payment at the rate prescribed by paragraph (1) of Regulation 37, or, in any case to which that paragraph does not apply, either at the rate of one-sixth of his pay in respect of the week in which the rest day on which he was required to do duty fell, or the sum of £2, whichever amount is the greater. [3266]

39A.—(1) Every member of a police force shall so far as the exigencies of duty permit be granted a day's leave on each of the following days, namely, Christmas Day, Good Friday and the Bank Holidays as defined in the Bank Holidays Act, 1871, and if owing to the exigencies of duty a man is required to perform duty on any of the aforesaid days he shall be granted a day's leave in lieu of each such day if and as soon as the exigencies of duty permit.

(2) If in the opinion of the chief officer of police the exigencies of duty do not permit the grant of leave under the preceding paragraph within such reasonable time (not exceeding three months) as he may fix, the man, provided he is below the rank of superintendent, shall be granted a non-pensionable payment for each such day on which he was required to perform duty at the rate prescribed by paragraph (1) of Regulation 37 or, in any case to which that paragraph does not apply, either at the rate of one-sixth of his pay in respect of the week in which such day fell or the sum of £2, whichever amount is the greater. [3267]

40. On any occasion or occasions of emergency within the meaning of the Police (Weekly Rest Day) Act, 1910, the Secretary of State may direct that the provisions of Regulations 36, 37, 38, 39 and 39A shall apply only to such extent and under such conditions as he may prescribe. [3268]

LEAVE OF ABSENCE

41. Every member of a police force of the rank of chief inspector or any lower rank shall, so far as the exigencies of duty permit, be granted leave of absence (hereinafter referred to as annual leave) in addition to the days upon which he is not required to perform police duties in compliance with the Police (Weekly Rest Day) Act, 1910, or under paragraph (1) of Regulation 39A so that the members of the several ranks shall be granted annual leave in each complete calendar year as follows :—

	Days
Chief Inspectors	27
Sub-divisional Inspectors and Station Inspectors in the Metropolitan Police	25
Inspectors	24
Sub-Inspectors	22
Metropolitan Police Station Sergeants and Metropolitan Police First Class Sergeants (Criminal Investigation Department)	22
Sergeants	20
Constables	18

Provided that a member of a police force, in the calendar year in which he is appointed and in that in which he retires in pursuance of a notice of intention to retire, shall, so far as the exigencies of duty permit, be granted annual leave at the rate of one-twelfth of the period hereinbefore specified for his rank for each complete month of service in that year, a fraction of a day being reckoned as one day. [3269]

42. Chief officers of police, superintendents and any other officers not entitled to a weekly rest day shall, so far as the exigencies of duty permit, be granted in each complete calendar year leave of absence of not less than forty-two days, with an additional six days in each year after completing ten years' service in the rank, and shall also be allowed leave for one day and a half in each calendar month. [3270]

43. Inspectors, sergeants and constables shall, if the exigencies of duty permit, be allowed to take their annual leave in one period continuous with the weekly rest days of the weeks in which the leave is taken. [3271]

PERSONAL RECORDS

44.—(1) The chief officer of police shall cause a personal record of each member of the police force to be kept and, if that member becomes a member of another police force, shall, on demand by the chief officer of police of that other force, transmit to him a copy thereof.

(2) The personal record shall contain entries of the man's description, particulars of his birth place and date of birth, his family, any service in the Royal Navy, the Army, the Royal Air Force, the Civil Service or in any other police force or as an auxiliary, the date of his appointment, all postings, transfers and removals, all changes in pay, all promotions, all injuries received, all periods of sickness and of leave, all absence (if records of sickness and leave are not kept separately), all commendations, rewards and punishments and the date of his ceasing to be a member of the force, with the reason, cause or manner thereof. [3272]

45.—(1) On leaving the force (except in case of transfer, with the written consent of the chief officer of police, to another force) every man shall be given a certificate showing his rank and setting out the period of his service and the reason, cause or manner of his leaving the force, together with particulars of his personal description :

Provided that, where the man was required to resign or was dismissed, the certificate shall not contain any description of the circumstances in which he was required to resign or was dismissed.

(2) The chief officer of police may append to the certificate any recommendation which he feels justified in giving, such as—

His conduct was exemplary
His conduct was very good
His conduct was good. [3273]

* * * * *

PAY

47.—(1) The pay of members of a police force holding the rank of sergeant or constable shall be in accordance with the provisions of these Regulations.

(2) Subject to Regulation 27A, the pay of all other ranks shall be in accordance with the scale of pay of the force, which shall be subject to the approval of the Secretary of State.

(3) No pensionable payment other than those above referred to shall be made. [3274]

Scales of pay

48. Subject to the provisions of Regulations 27A and 63, the scales of pay for sergeants and constables shall be as follows :—

Scale of pay for sergeants

	s.	d.	
On promotion	150	0	weekly
After one year from promotion	153	0	,,
,, two years ,, ,,	156	0	,,
,, three ,, ,, ,,	159	0	,,
,, four ,, ,, ,,	162	0	,,
,, five ,, ,, ,,	165	0	,,

Scale of pay for constables

	s.	d.	
On appointment	105	0	weekly
After two years from appointment	108	0	,,
,, three ,, ,, ,,	111	0	,,
,, four ,, ,, ,,	114	0	,,
,, five ,, ,, ,,	117	0	,,
,, six ,, ,, ,,	120	0	,,
,, seven ,, ,, ,,	123	0	,,
,, eight ,, ,, ,,	126	0	,,
,, nine ,, ,, ,,	129	0	,,
,, ten ,, ,, ,,	132	0	,,

[3275]

49. One day's pay shall be calculated for all purposes at the rate of one-seventh of the weekly rate. [3276]

* * * * *

51.—(1) All increments in the scale of pay for constables (except any increments granted under special conditions as provided in Regulations 53 to 61) and all increments in the scales of pay for the higher ranks shall be granted automatically upon completion of the stated periods of service, reckoned from the constable's appointment to the force or his promotion to the higher rank, as the case may be, and the grant of any increment shall not be retarded or withheld on account of any offence or other cause except

on a specific order of reduction in rank or pay by way of punishment of an offence as provided in the Regulations relating to discipline.

(2) Where a member of a police force is promoted, having served for three years or more in the same force with pay not less than the minimum pay appropriate to the rank to which he is promoted, he may be granted on promotion one increment in the scale of pay appropriate to that rank. [3277]

52.—(1) If a member of a police force above the rank of constable transfers with the written consent of the chief officer of police (or, in the case of transfer of a chief officer of police, with the sanction of the police authority) to the same rank in another force, previous service which he is entitled to reckon for purposes of pay in the force from which he transfers shall (unless otherwise agreed upon) count for purposes of reckoning his pay in the force which he joins as follows :—

(*a*) if he transfers to a force with the same or a lower scale of pay for his rank, the whole of his previous service in that rank shall count ;

(*b*) if he transfers to a force with a higher scale of pay for his rank, such portion of his previous service in that rank shall count as will bring his pay in the force which he joins up to the amount he was receiving in the force from which he transfers.

(2) A constable who transfers to another police force or who having resigned from a police force joins after the tenth day of May, 1948, the same or any other police force shall be entitled to reckon for the purposes of pay all service which he was entitled to reckon for that purpose in the force from which he transfers or resigned. [3278]

Grant of special increments of pay for constables

53. Subject to Regulations 60 and 63, a constable who has passed the qualifying examinations for promotion in police duties and educational subjects, may, at any time after he has served for five years, be granted a special increment in his scale of pay if the chief officer of police is satisfied that he shows special zeal, intelligence and proficiency in the performance of his duties and that he is well conducted. [3279]

54. A constable who is in receipt of a special increment under Regulation 53 may, at any time after he has served for one year from the date of the grant of the special increment, be granted a second special increment in his scale of pay if the chief officer of police is satisfied that he shows special zeal, intelligence and proficiency in the performance of his duties and is well conducted :

Provided that a second special increment may be granted under this Regulation immediately on the grant of a special increment under Regulation 53 if the chief officer of police is satisfied that the constable would by then have qualified for a second special increment if he had not ceased to serve as a constable in such circumstances that section one of the Police and Firemen (War Service) Act, 1939, applied to him. [3280]

55. A constable who has been granted a special increment or increments shall be paid at the rate at which he would be paid on the scale in Regulation 48, if he had been appointed, in the case of a grant of one special increment, one year and, in the case of a grant of two special increments, two years before he was appointed. [3281]

Grant of additional increments of pay for constables

56.—(1) Subject to Regulations 60 and 63, a constable who either has served for seventeen years or, having been granted a special increment which has not been withdrawn, has served for sixteen years or, having been granted

two special increments which have not been withdrawn, has served for fifteen years may at any time after he has completed the appropriate qualifying period be granted an additional increment of 4s. a week in his pay if the chief officer of police is satisfied that he shows zeal and proficiency in the performance of his duties and that he is well conducted :

Provided that a constable may be granted an additional increment at any time after he has served for fifteen years, notwithstanding that he is not in receipt of the requisite number of special increments if—

(*a*) the chief officer of police is satisfied that he would be in receipt of the requisite number of special increments if he had not ceased to serve as a constable in such circumstances that section one of the Police and Firemen (War Service) Act, 1939, applied to him, and

(*b*) he has passed the qualifying examinations for promotion not later than two years after resuming service as a constable.

(2) For the purposes of this Regulation a constable shall be deemed to have served during any period which, by virtue of subsection (1) of section two of the Police and Firemen (War Service) Act, 1939, is to be treated as a period of approved service or would be so treated if the proviso to the said subsection did not apply or which he is entitled to reckon as pensionable service. [3282]

57. A constable who is in receipt of an additional increment may, at any time after he has served for five years from the date when an additional increment was first granted to him exclusive of any period during which the additional increment was withdrawn from him, be granted a second additional increment of 4s. a week in his pay if the chief officer of police is satisfied that he shows zeal and proficiency in the performance of his duties and is well conducted :

Provided that—

(*a*) a constable who has previously held a higher rank and has served for twenty-two years (including service as an auxiliary) may be granted a second additional increment after he has served for one year, instead of five years, from the date of the grant of the additional increment ;

(*b*) a second additional increment shall not be granted to a constable from whom an additional increment has been withdrawn until a period of one year has elapsed from the date when an additional increment has last been granted to him.

58.—(1) As soon as a constable has served for the appropriate qualifying period under Regulation 56 or Regulation 57, the chief officer of police shall consider whether an additional increment or, as the case may be, a second additional increment should be granted to him.

(2) A constable who has acquired a right under paragraph (1) of this Regulation to have the question considered whether a grant should be made to him may apply to the chief officer of police, as soon as may be after the end of each period of one or more complete years from the date when he acquired the right, again to consider the question, and it shall accordingly again be considered.

(3) A constable from whom an additional increment or increments has or have been withdrawn under Regulation 59 may apply to the chief officer of police at the end of each period of one or more complete years from the date of the withdrawal to consider whether an additional increment should be granted to him, and it shall accordingly be considered.

(4) If on consideration under paragraph (1) or (2) of this Regulation no grant is made, the constable shall, if he applies for the information, be informed in writing why no grant was made. [3284]

General provisions as to grant and withdrawal of special and additional increments of pay for constables

59. If the chief officer of police is of opinion—

(*a*) that a constable in receipt of a special increment or increments is not showing special zeal, intelligence or proficiency in the performance of his duties or that he is not well conducted, or

(*b*) that a constable in receipt of an additional increment or increments is not showing zeal or proficiency in the performance of his duties or that he is not well conducted,

the constable shall be given a written warning of the opinion of the chief officer of police and if, at the end of a period of two months from the date of the warning or of such longer period as may be specified in the warning, the chief officer of police is still of the same opinion, the increment or increments shall be withdrawn :

Provided that if after the latest grant to the constable under Regulation 53, 54, 56 or 57—

(*a*) the constable is guilty of any default for which he is punished by a fine of 20s. or any greater punishment, or

(*b*) the constable is guilty, during any period of twelve months, of two defaults for which he is punished by punishments other than cautions, or

(*c*) the constable is guilty of more than three defaults for which he is punished by punishments other than cautions,

the increment or increments may be withdrawn without warning. [3285]

60. No special or additional increment shall be granted to a constable from whom an increment or increments has or have been withdrawn under Regulation 59 until a period of one year has elapsed from the date of the withdrawal. [3286]

61. The grant or withdrawal of any increment under Regulations 53 to 60 inclusive to or from a constable in a borough police force shall be subject to confirmation by the watch committee. [3287]

* * * * *

Service for the purposes of pay

63. For the purpose of applying the scale of pay for constables and of reckoning the qualifying period for the grant of a special or an additional increment there shall be added to the constable's service any period of service as an auxiliary or as a member of the Palestine police force. [3288]

ALLOWANCES

64. All allowances shall be non-pensionable and the amounts and conditions of payment shall be subject to the approval of the Secretary of State, and no allowances shall be paid except such as are prescribed in these Regulations or approved by the Secretary of State. [3289]

Rent allowance and supplementary allowance

65.—(1) A police authority shall provide each member of a police force with a house or quarters free of rent and rates or shall pay him a rent allowance :

Provided that a man to whom Regulation 65A applies who is provided with quarters shall be paid a rent allowance in addition.

(2) Subject to the provisions of Regulation 65A, a rent allowance shall be either—

(*a*) a " flat-rate allowance " for married and single men of each rank respectively, the amount to be fixed so as to cover a reasonable average rent (with rates) for members of the rank in question to pay, or

(*b*) a " maximum limit allowance " equal to the actual amount paid in rent and rates by the individual members of the force, subject to a maximum limit to be fixed for married and single men of each rank respectively.

(3) A rent allowance at the married men's rate—

(*a*) shall be paid to a married member of the force not separated from his wife ;

(*b*) if the police authority think fit, may be paid to a married member of the police force separated from his wife, to a single member of the police force who has a dependent relative living with him and, whether or not he has a dependent relative living with him, to a member of the police force who has divorced, or been divorced by, his wife or is a widower ;

and in all other cases a rent allowance at the single men's rate shall be paid :

Provided that a married member of the police force separated from his wife or a member of the police force who has divorced, or been divorced by, his wife and who regularly makes periodic payments to her or for her benefit may be granted an addition to his rent allowance equal to whichever is the lesser of the two following amounts, namely, the amount by which his former allowance exceeds his present allowance or the amount paid by him to or for the benefit of his wife or former wife.

(4) In this Regulation—

(*a*) the expression " his former allowance " means—

(i) in relation to a man who, immediately before his wife commenced to live apart from him, was being provided with a house or quarters free of rent and rates, a sum fixed as the value for the time being of that house or those quarters ; and

(ii) in relation to any other man, the rent allowance which would for the time being be payable to him if his wife or former wife were living with him and he were paying the rent and rates which he was paying immediately before his wife commenced to live apart from him ;

(*b*) the expression " his present allowance " means the rent allowance which is being paid to the member of the police force, or as the case may be, a sum fixed as the value for the time being of the house or quarters with which under this Regulation he is provided ;

(*c*) the expression " rates " means—

(i) any rate as defined by section 68 of the Rating and Valuation Act, 1925 ; and

(ii) any rate for a supply of water for domestic purposes determined by reference to net annual value independently of the quantity of water consumed. [3290]

65A.—(1) This Regulation shall apply to a member of a police force who—

(*a*) is a married man or a widower with a child or children to whom the police authority have decided to grant a rent allowance at the married men's rate,

(*b*) is not living with his family, and

(*c*) satisfies the chief officer of police that the only reason why he is not so living is that he is unable to find suitable accommodation for his family at a reasonable cost within a reasonable distance of his place of duty.

(2) Notwithstanding the provisions of Regulation 65, the rent allowance to be paid to a member of a police force to whom this Regulation applies shall be that which would be payable to him under Regulation 65 if he were a member of the force of the police area in which his family are for the time being living and he were living with his family.

(3) A member of a police force to whom this Regulation applies shall be paid a supplementary allowance at the following rate :—

(*a*) if he is provided by the police authority with quarters free of rent and rates, 17s. 6d. a week ;

(*b*) if he is not so provided, 25s. 0d. a week.

(4) The supplementary allowance payable under paragraph (3) of this Regulation may be reduced or withdrawn by the police authority in respect of any period consisting of one or more complete weeks throughout which the member in question is absent from his usual place of duty and is either—

(*a*) on leave of absence, or

(*b*) provided with board and lodging free of charge or an allowance in lieu.

(5) This Regulation shall cease to have effect on the thirty-first day of December, 1948. [3291]

Compensatory grant

65B.—(1) In the year commencing on the sixth day of April, 1947, and in each subsequent year, a member of a police force who has during the preceding year paid income tax in respect of a rent allowance or any compensatory grant mentioned in this paragraph paid or made to him in respect of his service in the force shall be paid a compensatory grant.

(2) The amount of the compensatory grant shall be equal to the amount by which the income tax in fact deducted during the preceding year according to the tax tables prepared or prescribed by the Commissioners of Inland Revenue from the member's emoluments in respect of his service in the force is increased by virtue of the inclusion in such emoluments of a rent allowance or any compensatory grant mentioned in this Regulation paid or made to him.

(3) The compensatory grant may, except in the circumstances described in paragraph (4) of this Regulation, be paid by such instalments throughout the year in which it is payable as the police authority may determine.

(4) Where a member of a police force leaves the force or dies whilst serving in the force he or his personal representatives, as the case may be, shall be paid the whole of the compensatory grant due to the member during that year and, in addition, shall be paid a further compensatory grant equal to the amount by which the income tax in fact deducted between the beginning of the year and the date on which he leaves the force or dies, according to the tax tables prepared or prescribed by the Commissioners of Inland Revenue, from the member's emoluments in respect of his service in the force during that period is increased by virtue of the inclusion in such emoluments of a rent allowance or any compensatory grant mentioned in this Regulation paid or made to him.

(5) For the purposes of this Regulation—

(*a*) the word " year " means the year commencing on the sixth day of April and ending on the following fifth day of April ; and

(*b*) where a member of a police force has served more than once in the same force, references in this Regulation to service in the force shall be construed as references to his service therein since his last appointment thereto. [3292]

Uniform allowance

66. A member of a police force of or above the rank of inspector who does duty in uniform but is not supplied with uniform by the police authority shall be paid in lieu a uniform allowance at a rate calculated to cover the cost of supplying and maintaining the required uniform. [3293]

Boot allowance

67. A member of a police force who is not supplied with boots by the police authority shall be paid in lieu a boot allowance at the rate of 2s. 6d. weekly. [3294]

Plain clothes allowance

68. A member of a police force who is required to do duty in plain clothes for a period of not less than one week shall be paid a plain clothes allowance at that one of the following rates which is appropriate to his rank, namely—

Superintendent	£35 per annum
Inspector	£32 per annum
Sergeant	11s. 0d. a week
Constable	10s. 0d. a week :

Provided that a sergeant or constable—

(*a*) who is required to do duty in plain clothes for not less than six days in any period of three months shall be paid a plain clothes allowance in respect of each day at a rate equal to one-sixth of the weekly rate ;

(*b*) who is provided with overalls when doing duty in plain clothes or for any other reason is, in the opinion of the Secretary of State, put to substantially less or substantially more than the normal expense caused by wearing his own clothes on duty may be paid a plain clothes allowance at a rate approved by the Secretary of State. [3295]

Detective allowance

69.—(1) A member of a police force shall be paid a detective allowance at the appropriate rate specified in paragraphs (2) and (3) of this Regulation, if the chief officer of police is satisfied that he is engaged in detective duties :

Provided that the allowance shall not be paid for a period of duty of less than one week.

(2) If the chief officer of police is satisfied that the member is normally engaged in outside duty, he shall be paid at the rate of—

Superintendents and inspectors	25s. 0d. weekly
Sergeants and constables	20s. 0d. weekly

(3) If the chief officer of police is satisfied that the member is normally engaged in duty other than outside duty, he shall be paid at the rate of—

Superintendents and inspectors	15s. 0d. weekly
Sergeants and constables	12s. 6d. weekly

(4) The payment of a detective allowance shall not preclude the payment also of a plain clothes allowance. [3296]

Subsistence and lodging allowance

70.—(1) A member of a police force of or below the rank of superintendent who, being retained on duty beyond his normal period of duty or being engaged on duty away from his usual place of duty, necessarily incurs additional expense to obtain food or lodging, shall—

(*a*) if the period for which he is so retained or engaged exceeds one hour but does not exceed five hours, be paid a refreshment allowance ;

(*b*) if the period for which he is so retained or engaged exceeds five hours, be paid a subsistence allowance ;

(*c*) if the said expense includes expense of obtaining lodging, be paid a lodging allowance.

(2) Notwithstanding anything in the preceding paragraph a member of a police force of or below the rank of superintendent who satisfies the chief officer of police that during his normal period of duty he was, although not away from his usual place of duty, unable by reason of the exigencies of duty to obtain his meals in his usual way and that he necessarily incurred additional expense for the purpose may be paid a refreshment allowance.

(3) The amount of the said allowances shall be according to the following scale :—

Description of Allowance	Superintendents	Inspectors	Sergeants and Constables
Refreshment Allowance—			
(i) for one meal	3s. 6d.	3s. 0d.	2s. 6d.
(ii) for two meals	5s. 0d.	4s. 6d.	4s. 0d.
Subsistence Allowance : Period of retention or engagement—			
(i) over 5 hours and not exceeding 8 hours ..	5s. 0d.	4s. 6d.	4s. 0d.
(ii) over 8 hours and not exceeding 12 hours ..	7s. 6d.	6s. 6d.	5s. 6d.
(iii) over 12 hours and not exceeding 24 hours ..	10s. 6d.	9s. 0d.	8s. 0d.
(iv) over 24 hours—at the rate under (iii) above for each complete period of 24 hours retention or engagement, together with whichever is the appropriate amount under the preceding provisions of this scale for any excess over the aggregate of such complete periods.			
Lodging Allowance—			
For each night	10s. 6d.	9s. 6d.	8s. 6d.

Provided that—

(*a*) if a lodging allowance is payable as well as a subsistence allowance in respect of a total period of retention or engagement of sixteen hours or less, the subsistence allowance shall be of the amount appropriate to a retention or engagement for a period exceeding eight hours and not exceeding twelve hours ;

(*b*) if the chief officer of police is satisfied in any particular case that the amount of the allowances specified above is not sufficient to cover the actual expenses necessarily incurred, he may authorise payment of the difference ;

(*c*) if the chief officer of police is satisfied in any particular case that the amount of the allowances specified above would be excessive

having regard to the additional expenses necessarily incurred, he may direct that the amount of the allowances shall be reduced to such an amount as he determines, not being less than the amount of such expenses ;

(*d*) if a member of a police force is so retained or engaged for a period exceeding one week, he may, if the chief officer of police is satisfied that the allowances specified above would be excessive, be granted in lieu thereof a weekly allowance at such lower rate as may be necessary to cover his reasonable expenses.

(4) Where the place of duty of a member of a police force has been temporarily changed the expression in this Regulation " usual place of duty " shall, after such period from the date of change as the chief officer of police may determine, mean the temporary place of duty. [3297]

71. Where a member of a police force of or below the rank of inspector is required to do duty away from his usual place of duty he shall be given an advance to cover, as far as practicable, any expenses which he will probably incur. [3298]

Detachment duty allowance

72.—(1) Where a member of a police force is employed as part of a detachment lent in aid of another police force in circumstances that involve his sleeping away from home, a detachment duty allowance shall be payable in consideration of such duty at the rate of—

8s. 0d.	daily	for	a superintendent
6s. 6d.	,,	,,	an inspector
5s. 6d.	,,	,,	a sergeant
4s. 6d.	,,	,,	a constable

during the period of absence. When lodging and meals are not provided by the aided police authority, this allowance shall be payable in addition to any subsistence or lodging allowance to which the man may be entitled.

(2) A detachment duty allowance at the foregoing rates may be paid where members of the metropolitan police or any county police force are employed for a period of three or more complete days on detachment duty within the police district of the force to which they belong, *i.e.*, as part of a detachment reinforcing another division, sub-division or section, in circumstances that involve their sleeping away from home. [3299]

Extra duty allowance

73.—(1) Where the police are required to undertake any of the following duties, a member of the force so engaged may receive an extra duty allowance, to be payable by the authority for which the duties are undertaken, if the police authority are satisfied that the performance of such extra duties causes, either regularly or on recurring occasions, a material addition to his normal hours of duty as a constable :—

(i) duties of inspector under the Diseases of Animals Acts, 1894 to 1937, and making of returns in relation thereto ;

(ii) inspection of weights and measures ;

(iii) inspection and procuring samples under the Food and Drugs Act, 1938, and the Fertilizers and Feeding Stuffs Act, 1926 ;

(iv) inspection of premises for the purposes of the Explosives Acts, 1875 and 1923, and the Petroleum (Consolidation) Act, 1928 ;

(v) duties of inspector under the Shops Acts, 1912 to 1938 ;
(vi) duties on behalf of the local authority in respect of local taxation licences.

(2) In respect of the following duties no allowance shall be payable other than the allowance or payment (if any) to which the constable would normally be entitled in respect of extended hours of police duty as provided in these Regulations :—

(i) enforcement of the Cinematograph Act, 1909, and the Celluloid and Cinematograph Film Act, 1922 ;
(ii) enforcement of borough bye-laws ;
(iii) billeting ;
(iv) issue of pedlars' certificates ;

nor in respect of any of the following duties where undertaken by the police :—

(i) inspection of domestic servants' registries ;
(ii) ,, ,, common lodging houses ;
(iii) ,, ,, hackney carriages ;
(iv) ,, ,, licensed boats ;
(v) ,, ,, beach trading ;
(vi) ,, ,, markets ;
(vii) ,, ,, fire appliances ;
(viii) ,, ,, street lamps ;
(ix) duties as assistant relieving officer :

Provided that nothing in this Regulation shall be deemed to prevent a member of a police force who acts as assistant relieving officer from receiving an annual allowance in lieu of any other payments in respect of extended hours of duty, if the chief officer of police, or, in the case of a chief constable, the police authority, is satisfied that the performance of the duty causes a material addition to his normal work.

(3) The following are duties which the police shall not be required to perform :—

(i) collection and recovery of monies due under affiliation orders ;
(ii) collection and recovery of monies due under maintenance orders under the Summary Jurisdiction (Separation and Maintenance) Acts, 1895 to 1925 ;
(iii) collection of market tolls ;
(iv) Mayor's attendant ;
(v) town crier ;
(vi) the regular duty of cleaning or any part of the cleaning of a particular police station which the Secretary of State has directed is not a duty which the police may be required to perform ;
(vii) any other work not connected with police duty which, in the opinion of the Secretary of State, the police may not properly be required to perform :

Provided that nothing in this Regulation shall preclude the collection of monies by a member of a police force appointed, with the consent of the police authority, collecting officer under the Affiliation Orders Act, 1914, or under the Criminal Justice Administration Act, 1914, or the receipt of monies tendered at a police station, or shall affect the duties of the police in the execution of any warrant. [3300]

Temporary duty allowance

74. Where a member of a police force of a rank below that of superintendent is required to perform the duties of a member of a force holding a higher rank than his own, either to fill a temporary vacancy or for some other special purpose and for a continuous period exceeding two weeks, he shall be granted in respect of such service, after the first two weeks, an allowance in addition to his pay, at a rate equal to the difference between his ordinary rate of pay and the lowest rate of pay of the rank in which he is temporarily acting. [3301]

Miscellaneous provisions as to allowances

75. An allowance may be paid, of such amount and under such conditions as may be approved by the Secretary of State on the recommendation of the police authority, in respect of recurring escort duty or other specific duties involving recurring detention on duty beyond the normal period and not covered by any other payment. [3302]

76. A member of a police force employed at the expense of a private person or persons shall be entitled to such payments as are provided in these Regulations by way of subsistence or lodging allowance or refreshment allowance or as payment in respect of extended hours of duty, but shall not receive any special allowance in consideration of the purpose for which he is employed. All payments so due shall be made by the police authority and recovered from the person or persons for whose benefit the constable is employed. [3303]

77. If a man who is regularly in receipt of a plain clothes allowance or detective allowance or any other allowance to meet an expense which ceases during his absence from duty is placed upon the sick list, the allowance shall be payable during his absence from duty up to a period of one month, but thereafter, during the remainder of his absence from duty, payment may be suspended at the discretion of the chief officer of police, subject, in a borough police force, to the approval of the watch committee :

Provided that the boot allowance shall not cease to be payable during a period of sickness. [3304]

CLOTHING, EQUIPMENT AND NECESSARIES

78. Every member of a police force shall provide himself with clothing which is sufficient for his health and suitable to a person employed in the police service, and shall be in possession of two pairs of boots suitable for duty. [3305]

79. All articles of uniform, clothing and equipment necessary for the performance of police duty shall be provided by the police authority for all ranks free of cost to the individual member of the force, provided that officers of and above the rank of inspector may be paid a money allowance in lieu. [3306]

80. Issues of uniform shall, so far as circumstances permit, be made at stated periods, but where particular duties, or the duties of a particular man, entail greater or less wear of all articles or of any particular article of uniform, the issue to a particular man, or the issue of any particular garment, may be made on requisition approved by the chief officer of police. Clothing for particular duties such as mounted duty, cycling, driving of horsed or motor vehicles, stable duty or station cleaning, may be issued on requisition. [3307]

81. Subject to any modifications approved by the Secretary of State, the issues of articles of uniform and equipment for sergeants and constables shall be as follows :—

Article	Issue	Period of Wear	Number in Possession
Body Coat (*i.e.*, tunic, frock coat, patrol jacket, winter jacket, summer jacket, summer serge, as the case may be)	Annual	Two years or four years (according to whether one, two or more patterns of coat are supplied)	Two of each
(If tunics or other full dress coats are reserved for ceremonial duty only, their issue shall be on requisition over and above the periodical issue.)			
Trousers	Two pairs annually	Two years	Four pairs
Where more than one material is provided, the issue shall be alternated to meet the demands of use.)			
Greatcoat	Every two years	Four years	Two
Cape	Every four or five years	Eight or ten years	Two
Headdress	Issue to be as required		Two
(Where a second pattern of headdress is supplied, the issue shall be alternated to meet the demands of use.)			

Where boots are provided by the police authority for the purposes of duty, the issue shall be at the rate of two pairs annually, or as may be approved by the Secretary of State. [3308]

General note.—As from July 26, 1948, a new regulation is substituted for reg. 81, *supra*, by S.I. 1948 No. 1679, *post*.

82. The following articles of equipment shall be supplied as circumstances require :—

Armlet and buckle
Button brushes and button stick
Cape strap and sling
Gloves
Handcuffs
Haversack or kit bag
Lamp
Leggings
Overalls
Pocket note-book
Truncheon
Waist-belt
Warrant card
Waterproof *coat or* cape
Whistle and chain. [3309]

General note.—As from July 26, 1948, there are substituted for the words " waterproof coat or cape ", *supra*, the words " Waterproof cape " (see S.I. 1948 No. 1679, *post*).

83. All clothing and articles of equipment issued are for use in the performance of duty ; they shall not become the property of the individual member of the force and must be delivered up by him on his leaving the force. [3310]

84. All garments supplied by the police authority (but not boots) shall be returned to store on being replaced at the expiry of the prescribed period of wear, and the amounts realised by their sale shall be paid to the police fund ;

Provided that, if the police authority so directs, cast garments may be retained upon a payment to be fixed by the police authority, the amount of which, except in the case of trousers, shall be assessed according to the amount likely to be realised by the sale of the garments. [3311]

85. Replacement of lost, damaged, faulty or ill-fitting garments, and repairs (other than minor repairs which the man can satisfactorily do himself) shall be made or done at the expense of the police authority, except in the case of loss or damage caused by the man's default. [3312]

86. Part-worn clothing returned to store shall not be issued to another man until it has been properly cleaned and is in serviceable condition. [3313]

MEDICAL ATTENDANCE AND STOPPAGES FROM PAY

87. A member of a police force shall not be entitled to be absent from duty on account of injury or illness unless a registered medical practitioner has certified him to be unfit for duty :

Provided that if, notwithstanding such certificate, a registered medical practitioner appointed or approved by the police authority has examined him and certified him to be fit for duty he shall no longer be entitled to be absent from duty. [3314]

87A. Where a member of a police force, who is not incapacitated for duty by illness, is relieved of duty on account of his having been in contact with infectious disease, without his own default, he shall not be liable to any deduction from pay or from annual or other leave in respect of such absence from duty. [3315]

88. There shall be deducted from the pay of a member of a police force the amount of any sickness benefit under the National Insurance Act, 1946, to which he may be entitled after the fifth day of January, 1949, or injury benefit under the National Insurance (Industrial Injuries) Act, 1946, to which he may be entitled. [3316]

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MISCELLANEOUS PROVISIONS

89B.—(1) Subject to the provisions of paragraph (3) hereof, a member of a county police force or a combined police force who, having been a member of the police force of a borough comprised in the county or the combined area, has been transferred to the county police force or the combined police force by or under the provisions of the Police Act, 1946, shall not be assigned to duties which in the opinion of the Secretary of State make it necessary for him to establish his home outside the borough.

(2) This Regulation shall apply in relation to a member of a county police force or a combined police force who has been a member of the police force of a borough comprised in the county or the combined area and either reverts to the county police force of the combined police force under subsection (1) of section two of the Police (Overseas Service) Act, 1945, as applied by subsection (2) of section fourteen of the Police Act, 1946, or having been a person to whom section one of the Police and Firemen (War Service) Act, 1939, applied, became a member of the county police force or the combined police force without having been deemed under subsection (2) of section two of the last-named Act or under any regulations made under the

Police Pensions Act, 1948, to have retired, in the same manner as it applies to a member of a county police force or a combined police force who has been transferred thereto by or under the provisions of the Police Act, 1946.

(3) This Regulation shall not apply to such a member of a county police force or combined police force as is described above if, since he became a member of the police force of the borough—

(*a*) he has been a chief officer of police ;

(*b*) he has retired, resigned or been dismissed from a police force, has been deemed to have retired from a police force under any regulations made under the Police Pensions Act, 1948, or under subsection (2) of section two of the Police and Firemen (War Service) Act, 1939, or has engaged for a period of overseas service in such a manner that he has not acquired, under subsection (1) of section two of the Police (Overseas Service) Act, 1945, a right of reverter or, having acquired the said right of reverter, has lost or not availed himself of the said right or has removed, within the meaning of subsection (1) of section eight of the Police Pensions Act, 1921, or under any regulations made under the Police Pensions Act, 1948, from one police force to another ;

(*c*) the police force of the borough has become subject to a consolidation agreement under section fourteen of the County Police Act, 1840 ; or

(*d*) he has given written notice to the chief officer of police of any county police force or combined police force of which he was at the time a member of his desire that this Regulation should cease to apply to him.

(4) Where a member of a county police force or combined police force has been a member of the police force of more than one borough comprised in the county or combined area references in this Regulation to the police force of such a borough shall, in relation to him, be construed as references to the police force of such a borough of which he was last a member. [3317]

89C. For the purposes of these Regulations service in a police force from which a constable is transferred by or under the Police Act, 1946, and service in the force to which he is so transferred shall be treated as if it were service in the same force. [3318]

90.—(1) In these Regulations a reference to service as an auxiliary is to be taken as a reference to all whole-time paid service after the third day of September, 1939, as a police war reservist, as a special constable whose pay was granted under the Special Constables Order, 1940, or, while the constable in question was not in receipt of a pension under the Police Pensions Acts, 1921 and 1926, as a member of the first class of the police reserve, including all leave with full pay and any period of leave without full pay not exceeding seven days in duration, but excluding any period of leave without full pay exceeding seven days in duration and any period of absence or suspension without full pay or the equivalent of full pay ; and for the purpose of this paragraph leave shall not be taken to be leave without full pay by reason only that there was deducted from the man's pay the amount of benefits under the National Health Insurance Acts, 1936 to 1941, or the National Insurance Acts, 1946, of payments made under any scheme made by the Minister of Pensions under the Personal Injuries (Emergency Provisions) Act, 1939, or of any weekly payments under the Workmen's Compensation Acts, 1925 to 1945, and in connection with any reference to service as an auxiliary a reference to service as an auxiliary in a force shall be taken to include a reference to service as an auxiliary with that force.

(2) Any reference in these Regulations to a county police force, a borough police force or a watch committee shall, except in Regulation 89B, include a reference respectively to a combined force constituted by a county scheme,

a combined force constituted by a borough scheme or a police authority constituted by a borough scheme.

(3) In these Regulations the expression " pensionable service " means pensionable service for the purposes of any regulations made under the Police Pensions Act, 1948, and for the time being in force. [3319]

90A. The provisions of the Second Schedule to these Regulations shall apply to all members of a police force ; and no restrictions other than those designed to secure the proper exercise of the functions of a constable shall be imposed by the police authority or the chief officer of police on the private life of members of a police force except such as may temporarily be necessary or such as may be approved by the Secretary of State after consultation with the Police Council, and any such restriction temporarily imposed shall be reported forthwith to the Secretary of State. [3320]

91.—(1) In these Regulations a reference to a Regulation shall, unless the contrary intention appears, be construed as a reference to a Regulation contained in these Regulations.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [3321]

* * * * *

94. These Regulations shall apply to all police forces in England and Wales to which the Police Act, 1919, applies, and in their application to the metropolitan police force they shall apply subject to the following modifications :—

(*a*) ranks other than those specified in Regulation 2 may be adopted with the approval of the Secretary of State ;

(*b*) Regulations 34 to 40 (which relate to hours of duty) shall not apply except to members of the force in the ranks of inspector, sergeant (including station sergeant and first class sergeant, Criminal Investigation Department) and constable ;

(*c*) Regulations 68 to 72 and Regulation 74 (which relate to allowances) shall not apply except to members of the force in the ranks of inspector, sergeant (including station sergeant and first class sergeant, Criminal Investigation Department) and constable ;

(*d*) notwithstanding Regulation 27, paragraph (4) of Regulation 29, Regulations 30 and 32, promotion from constable to sergeant and from sergeant to station sergeant in the metropolitan police may be by competitive examination in accordance with provisions approved by the Secretary of State and published in the General Orders of the force, and those provisions may also lay down the number of times and frequency with which a candidate may sit for the competitive examination and the qualifying examinations set out in Regulation 29. [3322]

95.—(1) The Regulations set out in the Third Schedule to these Regulations are hereby revoked.

(2) Section 38 of the Interpretation Act, 1889, shall apply as if these Regulations were an Act of Parliament and as if any Regulations revoked by these Regulations were Acts of Parliament repealed by an Act of Parliament.

(3) Any appointment, grant, withdrawal of a grant or publication made or approval, certificate, consent or notice given or any record kept or other thing done under any Regulation revoked by these Regulations shall not be invalidated by the revocation effected by paragraph (1) of this Regulation, but shall, in so far as it could have been made, given, kept or done under

a provision of these Regulations, have effect as if it had been made, given, kept or done under that provision.

(4) Any proceedings initiated, suspension from duty ordered or punishment imposed in respect of an offence or alleged offence against a code of offences against discipline for any police force shall be deemed to have been initiated, ordered or imposed under these Regulations.

(5) Any reference in any document to any regulations made under section four of the Police Act, 1919, or any provision thereof shall, unless the contrary intention appears, be construed as a reference to these Regulations or the corresponding provisions of these Regulations. [3323]

96.—(1) These Regulations may be cited as the Police (Consolidation) Regulations, 1948.

(2) These Regulations shall come into force on the fifth day of July, 1948. [3324]

* * * * *

SCHEDULES

FIRST SCHEDULE

DISCIPLINE CODE

Any member of a police force commits an offence against discipline if he is guilty of:—

(1) *Discreditable conduct*, that is to say, if he acts in a disorderly manner or any manner prejudicial to discipline or likely to bring discredit on the reputation of the force or of the police service.

(2) *Insubordinate or oppressive conduct*, that is to say, if he—
- (*a*) is insubordinate by word, act or demeanour, or
- (*b*) is guilty of oppressive or tyrannical conduct towards an inferior in rank, or
- (*c*) uses obscene, abusive or insulting language to any other member of the force, or
- (*d*) wilfully or negligently makes any false complaint or statement against any member of the force, or
- (*e*) assaults any other member of the force, or
- (*f*) overholds any complaint or report against any member of the force.

(3) *Disobedience to orders*, that is to say, if he disobeys or without good and sufficient cause omits or neglects to carry out any lawful order, written or otherwise, or contravenes any requirement of the Second Schedule to these Regulations.

(4) *Neglect of duty*, that is to say, if he—
- (*a*) neglects, or without good and sufficient cause omits, promptly and diligently to attend to or carry out anything which is his duty as a constable, or
- (*b*) idles or gossips while on duty, or
- (*c*) fails to work his beat in accordance with orders, or leaves his beat, point, or other place of duty to which he has been ordered, without due permission or sufficient cause, or
- (*d*) by carelessness or neglect permits a prisoner to escape, or
- (*e*) fails, when knowing where any offender is to be found, to report the same, or to make due exertions for making him amenable to justice, or
- (*f*) fails to report any matter which it is his duty to report, or
- (*g*) fails to report anything which he knows concerning a criminal charge, or fails to disclose any evidence which he, or any person within his knowledge, can give for or against any prisoner or defendant to a criminal charge, or
- (*h*) omits to make any necessary entry in any official document or book, or

(*i*) neglects, or without good and sufficient cause omits, to carry out any instructions of a medical officer of the force, or, while absent from duty on account of sickness, is guilty of any act or conduct calculated to retard his return to duty.

(5) *Falsehood or prevarication*, that is to say, if he—

(*a*) knowingly makes or signs any false statement in any official document or book, or

(*b*) wilfully or negligently makes any false, misleading or inaccurate statement, or

(*c*) without good and sufficient cause destroys or mutilates any official document or record, or alters or erases any entry therein.

(6) *Breach of confidence*, that is to say, if he—

(*a*) divulges any matter which it is his duty to keep secret, or

(*b*) gives notice, directly or indirectly, to any person against whom any warrant or summons has been or is about to be issued, except in the lawful execution of such warrant or service of such summons, or

(*c*) without proper authority communicates to the public press, or to any unauthorised person, any matter connected with the force, or

(*d*) without proper authority shows to any person outside the force any book or written or printed document the property of the police authority, or

(*e*) makes any anonymous communication to the police authority or the chief officer of police or any superior officer, or

(*f*) canvasses any member of the police authority or of any county, city or borough council with regard to any matter concerning the force, or

(*g*) signs or circulates any petition or statement with regard to any matter concerning the force, except through the proper channel of correspondence to the chief officer of police or the police authority, or in accordance with the constitution of the Police Federation, or

(*h*) calls or attends any unauthorised meeting to discuss any matter concerning the force.

(7) *Corrupt practice*, that is to say, if he—

(*a*) receives any bribe, or

(*b*) fails to account for or to make a prompt and true return of any money or property received by him in his official capacity, or

(*c*) directly or indirectly solicits or receives any gratuity, present, subscription or testimonial, without the consent of the chief officer of police or the police authority, or

(*d*) places himself under pecuniary obligation to any publican, beer-retailer, spirit-grocer, or any person who holds a licence concerning the granting or renewal of which the police may have to report or give evidence, or

(*e*) improperly uses his character and position as a member of the force for his private advantage, or

(*f*) in his capacity as a member of the force, writes, signs or gives, without the sanction of the chief officer of police, any testimonial of character or other recommendation with the object of obtaining employment for any person or of supporting an application for the grant of a licence of any kind, or

(*g*) without the sanction of the chief officer of police, supports an application for the grant of a licence of any kind.

(8) *Unlawful or unnecessary exercise of authority*, that is to say, if he—

(*a*) without good and sufficient cause makes any unlawful or unnecessary arrest, or

(*b*) uses any unnecessary violence to any prisoner or other person with whom he may be brought into contact in the execution of his duty, or

(*c*) is uncivil to any member of the public.

(9) *Malingering*, that is to say, if he feigns or exaggerates any sickness or injury with a view to evading duty.

(10) *Absence without leave or being late for duty*, that is to say, if he without reasonable excuse is absent without leave from, or is late for, parade, court, or any other duty.

(11) *Uncleanliness*, that is to say, if he while on duty or while off duty in uniform in a public place is improperly dressed or is dirty or untidy in his person, clothing, or accoutrements.

(12) *Damage to clothing or other articles supplied*, that is to say, if he—

(*a*) wilfully or by carelessness causes any waste, loss or damage to any article of clothing or accoutrement, or to any book, document or other property of the police authority, served out to him or used by him or entrusted to his care, or

(*b*) fails to report any loss or damage as above however caused.

(13) *Drunkenness*, that is to say, if he, while on or off duty, is unfit for duty through drink.

(14) *Drinking on duty or soliciting drink*, that is to say, if he—

(*a*) without the consent of his superior officer, drinks, or receives from any other person, any intoxicating liquor while he is on duty, or

(*b*) demands, or endeavours to persuade any other person to give him, or to purchase or obtain for him, any intoxicating liquor while he is on duty.

(15) *Entering licensed premises*, that is to say, if without permission he enters—

(*a*) while on duty any premises licensed under the liquor licensing laws or any other premises where liquors are stored or distributed when his presence there is not required in the execution of his duty, or

(*b*) any such premises in uniform while off duty.

(16) If he lends money to any superior or borrows from or accepts any present from any inferior in rank.

(17) Any member of a police force also commits an offence against discipline, and shall be liable to punishment as provided in these Regulations, if he is guilty of an offence which is punishable on conviction, whether summarily or on indictment, or if he connives at or is knowingly an accessory to any offence against discipline under this code. [3325]

SECOND SCHEDULE

1. A constable shall at all times abstain from any activity which is likely to interfere with the impartial discharge of his duties or which is likely to give rise to the impression amongst members of the public that it may so interfere ; and in particular a constable shall not take any active part in politics.

2. The place at which a constable resides shall be subject to the approval of the chief officer of police.

3.—(1) A constable shall not, without the previous consent of the chief officer of police, receive a lodger in a house or quarters with which he is provided by the police authority or sub-let any part of the house or quarters.

(2) A constable shall not, unless he has previously given written notice to the chief officer of police, receive a lodger in a house in which he resides and in respect of which he receives a rent allowance or sub-let any part of such a house.

4. A constable shall not wilfully refuse or neglect to discharge any lawful debt. [3326]

THIRD SCHEDULE

REGULATIONS REVOKED

The Police Regulations, 1947.
The Police (No. 2) Regulations, 1947.
The Police (No. 3) Regulations, 1947.
The Police Regulations, 1948.
The Police (No. 2) Regulations, 1948. [3327]

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations consolidate, with amendments, the Regulations set out in the Third Schedule. Amendments are made in Regulations 39 *and* 39A *(which relate to a day's leave or payment in lieu of the weekly rest day or a public holiday), Regulation* 65A *(which relates to supplementary allowance), Regulation* 87 *(which relates to sick leave) and Regulation* 88 *(which relates to deductions from pay of insurance benefits, together with minor amendments in Regulations* 7 (2) (*a*), 7 (4), 28 (2), 56 (2), 73 (1) (vi), 89B (2) and (3) (*b*), 90 (1) *and* (3) *and* 95 (5), *Regulation* 89A *of the existing Regulations being omitted.*

POLICE (WOMEN) (CONSOLIDATION) REGULATIONS, 1948

S.I. 1948 *No.* 1217

June 7, 1948

General note.—These regulations revoke and replace as from July 5, 1948 (*inter alia*) S. R. & O., 1947, No. 2845, *ante*, and S.I. 1948 Nos. 230 and 856, *ante*, subject to the validation of acts, etc., done thereunder. They are, however, themselves amended as from July 26, 1948, by S.I. 1948 No. 1080, *post*, and further amended in regs. 32, 32A, 84 as from December 30, 1948, by S.I. 1948 No. 2735.

I, the Right Honourable James Chuter Ede, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by section four of the Police Act, 1919, hereby make the following Regulations :—

RANKS AND DESIGNATIONS

1. The ranks of women members of a police force shall be known by such of the following designations as the police authority may adopt :—

Inspector
Sergeant
Constable

Provided that intermediate or other ranks may be adopted by the police authority, subject to the approval of the Secretary of State. [3328]

STRENGTH

2.—(1) The authorised strength of women employed in the several ranks in any police force and any changes thereof shall be subject to the approval of the Secretary of State.

(2) The numbers shall be sufficient to provide women for the carrying out of such of the duties mentioned in the First Schedule to these Regulations as may be assigned to women members of the force by the chief officer of police with the approval of the police authority.

(3) Nothing in these Regulations shall be deemed to prevent women members of a police force being required by proper authority to perform extra duties connected with the police. [3329]

APPOINTMENT

3. A candidate for appointment as a woman member of a police force—

(1) must produce satisfactory references as to character, and, if she has served in any branch of His Majesty's naval, military or air forces, or in the Civil Service, or in any police force, produce satisfactory proof of her good conduct while in such service or force ;

(2) must not be under twenty-two or over thirty-five years of age or less than 5 feet 4 inches in height :

Provided that a candidate who does not comply with the requirements of this paragraph may be appointed—

(*a*) if she has had previous service in a police force otherwise than in a relevant auxiliary capacity, or

(*b*) in other special circumstances approved by the Secretary of State ;

(3) must be certified by a registered medical practitioner approved by the police authority to be in good health, of sound constitution and fitted both physically and mentally to perform the duties of her office ;

(4) must satisfy the chief officer of police that she is sufficiently educated by passing a written or oral examination in reading, writing and arithmetic (addition, subtraction, multiplication and division) or an examination of a higher standard, as may be prescribed by the chief officer of police, or by producing evidence that she has passed another examination which, in the opinion of the chief officer of police, is of an equivalent or higher standard ;

(5) must give such information as may be required as to her previous history or employment or any other matter relating to her appointment to the police force, and if any candidate makes in, or in connection with, her application for appointment any false statement and is subsequently appointed to a police force, the making of such false statement shall be an offence against discipline within the meaning of these Regulations and shall be punishable accordingly ;

(6) shall be given a notice in terms approved by the Secretary of State after consultation with the Police Council drawing attention to the conditions of service contained therein. [3330]

4. No person shall be eligible for appointment to, or shall be retained in, a police force to which these Regulations apply, if—

(*a*) she carries on any business or without the consent of the chief officer of police holds any other office for hire or gain, or

(*b*) she resides, without the consent of the chief officer of police, at any premises where her husband or any member of her family keeps a shop or carries on any like business, or

(*c*) she holds, or her husband or any member of her family living with her holds, any licence granted in pursuance of the liquor licensing laws or the laws regulating places of public entertainment in the district of the police force in which she seeks appointment or to which she has been appointed, as the case may be, or has any pecuniary interest in any such licence, or

(*d*) her husband, without the consent of the chief officer of police, keeps a shop or carries on any like business in the district of the police force in which she seeks appointment or to which she has been appointed, as the case may be :

Provided that, in case of refusal of consent, there shall, in a borough police force, be an appeal to the watch committee, whose decision shall be final.

For the purpose of this Regulation, the expression " member of her family " shall include parent, son, daughter, brother and sister. [3331]

5. A constable shall be on probation for the period of the first two years of her service in the force since her last appointment thereto :

Provided that the chief officer of police may at his discretion—

(*a*) reduce the period of probation to a period of not less than one year, if the constable has served for a period of not less than one year

either in the same force on a previous appointment thereto or in any other force to which the Police Act, 1919, applies or applied ;

(*b*) dispense with the period of probation if the constable has transferred with the written consent of the chief officer of police from another force to which the Police Act, 1919, applies or applied after having completed the required period of probation in that force, or

(*c*) dispense with the period of probation if the constable has served in a relevant auxiliary capacity for a period of not less than two years. [3332]

6. During the period of probation the services of any constable may be dispensed with at any time if the chief officer of police considers that she is not fitted, physically or mentally, to perform the duties of her office, or that she is not likely to become an efficient and well conducted constable :

Provided that a constable whose services are dispensed with under this Regulation shall be entitled to receive one week's notice or one week's pay in lieu thereof. [3333]

DISCIPLINE

7. Every woman member of the force against whom a report or complaint suggesting the commission of an offence against discipline is made shall, as soon as possible, be informed in writing of the exact charge against her. [3334]

8. The written charge must disclose an offence against discipline as defined in the code of offences against discipline of the force, with such details of time and place as will leave the accused under no misapprehension as to the offence with which she is charged. [3335]

9. The written charge, which shall be entered on a form provided for the purpose (hereinafter referred to as the misconduct form), together with the report or complaint on which the charge is founded, and all reports thereon (whether confidential or otherwise) or copies thereof, shall be handed or sent as soon as practicable to the accused, who shall initial them to show that she has seen them. She shall either be allowed to retain for purposes of her defence the copies of the reports which are handed to her or shall be given a reasonable opportunity to make copies of the reports for that purpose. [3336]

10. The accused shall be directed to state in writing upon the misconduct form whether she admits or denies the charge and shall be allowed to give any explanation which she may wish to offer in writing. She shall also be allowed to state whether she desires to offer her explanation personally to the chief officer of police and shall, if she desires it, be given an opportunity of so doing. [3337]

11. The accused shall also be allowed to state the names of any witnesses to material facts whom she desires to be present when the charge is heard. Any such witnesses who are members of the police force shall be ordered to attend, and any witnesses who are not members of the force shall be given due notice that their attendance is desired and of the place and time of the hearing. [3338]

12. If the accused denies the charge, she shall, unless the chief officer of police is satisfied with the explanation she has offered, be ordered to appear before the chief officer of police and shall have an opportunity of hearing the evidence against her and of cross-examining the witnesses and of calling witnesses in her defence. [3339]

13. The decision of the chief officer of police shall be written upon the misconduct form and at once notified to the accused, who shall write on the misconduct form her acknowledgment of her having read the decision. [3340]

14.—(1) In the case of the metropolitan police the procedure in discipline cases shall be as specially approved by the Secretary of State and published in the General Orders of that force.

(2) In the case of a borough police force, the decision of the chief officer of police shall, subject to any general directions of the watch committee, be either—

(i) to dismiss the case, or

(ii) to remit the case to the watch committee for further hearing, or

(iii) to award a punishment as provided in Regulation 15 :

Provided that any punishment other than a caution shall be subject to confirmation by the watch committee, and any woman member of the force who feels aggrieved by a decision of the chief officer of police awarding a punishment shall be entitled to appear before the watch committee upon giving notice in writing to the chief officer of police forthwith or at any later date not less than three clear days before her case is to be laid before the committee. [3341]

14A. The following provisions shall have effect with respect to disciplinary proceedings before the chief officer of police and also to proceedings before the watch committee :—

(1) if the accused so desires, she shall be allowed to have a serving member of a police force, selected by herself, to assist her in presenting her case :

(2) if the accused absconds or refuses or neglects without good and sufficient cause to attend the proceedings at the time and place appointed, or is serving a sentence of imprisonment or penal servitude, the case may be decided in her absence. [3342]

14B.—(1) The chief officer of police may suspend from duty a woman member of the force against whom a report or complaint suggesting the commission of an offence against discipline is made. Such suspension from duty may continue until the disciplinary proceedings arising out of the said report or complaint have been concluded.

(2) Subject to the provisions of this Regulation, these Regulations shall continue to apply to a woman member of the force who is suspended from duty.

(3) A woman member of the force who has been suspended from duty shall not be entitled in respect of the period of suspension to pay or to uniform allowance, plain-clothes allowance, detective allowance, extra duty allowance or temporary duty allowance, but shall be paid a suspension allowance at such rate not less than one-half and not exceeding two-thirds of her pay as the chief officer of police may determine :

Provided that in the case of a member of the force who has been convicted of an offence summarily or on indictment no suspension allowance shall be payable in respect of any period of imprisonment or penal servitude.

(4) A member of the force who, having been suspended from duty, returns to duty without having been found guilty of any offence shall receive, as from the date of her suspension from duty, her pay and any of the said allowances of which she was in receipt immediately prior to her suspension from duty, less any amount paid to her by way of suspension allowance. [3343]

15. An offence against discipline may be punished by—

(1) dismissal;
(2) being required to resign forthwith, or at such date as may be ordered (as an alternative to dismissal);
(3) reduction in rank;
(4) reduction in rate of pay;
(5) forfeiture of merit or good conduct badges (except such as have been granted for an act of courage or bravery);
(6) fine;
(7) reprimand;
(8) caution.

Every punishment, except a caution, shall be entered on the woman's personal record. A caution shall not be so entered. [3344]

16.—(1) A reduction in pay, without reduction in rank, shall be limited to a definite period, which shall be stated in the order by which the punishment is inflicted and shall not exceed twelve months, and at the end of the stated period the woman shall be advanced to the rate of pay to which she would have been entitled but for the punishment awarded her, unless the period of reduction has in the meantime been extended by way of punishment for a further offence against discipline.

(2) A reduction in pay, without reduction in rank, shall not reduce a woman's pay below the minimum of the scale of pay for her rank in the force. [3345]

17. The infliction of a fine shall not cause any advance in pay (except any additional or any special increment which is subject to good conduct as provided in the Regulations relating to pay) to be retarded or withheld. [3346]

18. The amount of a fine imposed by way of punishment for any one offence shall not exceed one week's pay and shall be recovered by stoppage of pay in amounts not exceeding one day's pay in any week, except in the event of a woman leaving the force when the whole amount of any fine then unpaid may be deducted from any pay then due. [3347]

19. Every report or complaint alleging the commission of any offence against discipline by a woman member of the force (other than an anonymous allegation unsupported by evidence) shall be duly entered, together with particulars of the action taken thereon, in the disciplinary report book of the force or the divisional disciplinary report book, as the case may be. [3348]

PROMOTION

20. Promotion up to the rank of inspector shall, subject to qualifying examinations in police duties and educational subjects, be by selection, and every woman member of a police force who is promoted to the rank of sergeant or inspector shall be on probation in that rank for a period of one year. [3349]

20A.—(1) A woman member of a police force who is required to perform the duties of a higher rank may be promoted temporarily to that rank.

(2) A woman member of a police force who is promoted substantively or temporarily and has, less than two years before the date of promotion, held the same rank on a temporary promotion thereto shall, for the purpose of increments in the scale of pay for that rank, be entitled to aggregate all her former service in that rank on temporary promotion. [3350]

21.—(1) No woman member of a police force shall be promoted to the rank of sergeant or inspector, unless—

(*a*) if a constable, she has completed five years' service and has for the last two years been free from punishment other than reprimand or caution, and if a sergeant, she has completed two years in that rank free from punishment other than reprimand or caution;

(*b*) she has passed the examination in educational subjects and, after having completed not less than four years' service, the examination in police duties for promotion to sergeant or inspector, as the case may be:

Provided that—

(i) a woman member of a police force may be promoted before she has completed five years' service, or may be permitted to take the qualifying examinations before she has completed four years' service, if the chief officer of police, or in the case of a borough police force the watch committee, is satisfied that she possesses special qualifications for the performance of the particular duties on which she is to be employed;

(ii) the chief officer of police may dispense with the examination in educational subjects if he is satisfied that the sergeant or constable has passed an examination of an equivalent or higher standard.

(2) For the purposes of this Regulation, the expression "years' service" means, subject to the provisions of paragraph (4) of Regulation 80A, years of pensionable service and service in a relevant auxiliary capacity. [3351]

22. The examinations shall be conducted by means of written papers or oral examinations, or both, upon the following subjects:—

(1) Examination in educational subjects, including—

(*a*) reading aloud;

(*b*) writing, including handwriting, spelling, punctuation, and the writing and composition of reports;

(*c*) arithmetic, for promotion to sergeant, first four rules, simple and compound, including imperial weights and measures, and simple fractions; for promotion to inspector, first four rules, simple and compound, including imperial weights and measures, reduction, vulgar fractions and decimals (excluding recurring decimals), ratio and proportion, averages and percentages;

(*d*) geography, especially the geography of the British Isles;

(*e*) general knowledge and intelligence; and

(*f*) any special subject or subjects which may be required in the circumstances of a particular force or forces.

(2) Examination in police duties, including—

(*a*) criminal law;

(*b*) evidence and procedure;

(*c*) general statutes, regulations and orders;

(*d*) local regulations and byelaws;

(*e*) extra duties performed by the particular force concerned; and

(*f*) principles of local government.

(3) The papers on the educational subjects (*b*), (*c*), (*d*) and (*e*) shall be set and marked by a central examining authority approved by the Secretary of State, or such other competent examining body as the police authority of the force may select. The examinations in police duties and, where necessary, the educational subjects (*a*) and

(*f*) shall be conducted by the chief officer of police or, where the size of the force permits, a board of officers acting under his directions.

(4) The examinations shall be held as often as may be required, and, subject to the provisions of Regulation 25, any woman member of a police force who has given due notice to the chief officer of police shall be entitled to sit—

(*a*) for either examination in educational subjects, and

(*b*) after she has completed four years' service within the meaning of Regulation 21 for the examination in police duties for promotion to sergeant or inspector, as the case may be. [3352]

23. The object of the required examinations is to test the educational and theoretical knowledge of the candidate, and the fact that she has passed them shall not entitle her to promotion or to promotion before another member of the force who has passed the examination at a later date. [3353]

24. After each examination a list giving the names of the candidates who have passed shall be published to the force or forces concerned. The result of each examination shall be marked on the record of each candidate so as to show that, on the date in question, she passed or failed to pass, and a list shall be kept of all members of the force who have passed the respective examinations. [3354]

25. A candidate who fails to pass the examination in educational subjects or police duties shall be informed of the subject or subjects in which she has failed to pass, and failure to pass shall not disqualify a candidate from presenting herself at a future examination after an interval of not less than one year. [3355]

HOURS OF DUTY

26. Every woman member of a police force shall carry out all lawful orders and shall at all times punctually and promptly perform all appointed duties and attend to all matters within the scope of her office as a constable. [3356]

27.—(1) The normal daily period for which constables, sergeants and inspectors shall be required to perform their appointed police duties, shall be eight hours, exclusive of time occupied in parading for relief, waiting for relief and returning to station after relief:

Provided that where the duties performed are wholly or mainly patrol duty, the police authority may prescribe a period of seven hours or seven and a half hours as the normal daily duty period.

(2) Where the duties are performed in one tour an interval for refreshment shall be allowed which shall be one hour if the duties are wholly or mainly patrol duty and the duty period is seven and a half hours or more and otherwise shall be thirty minutes. [3357]

28. The normal period of duty may be extended by or under the directions of the chief officer of police on any particular day or for a specified period, as respects any woman member or members of the force; and nothing in these Regulations shall affect the obligation of any constable to carry out any lawful orders or to attend at any time to any matter to which it is her duty as a constable to attend. [3358]

29. When the normal period of duty of any woman member of a police force is so extended, or she is recalled to do duty after her normal hours, so that in any week the aggregate of any periods of duty in excess of the normal period of duty amounts to half an hour or more, she shall be granted, if and as soon as the exigencies of duty will permit, time off from duty equal to the said aggregate:

Provided that when a woman after returning home is recalled for any

specific duty (including attendance at court) the period allowed as " time-off " shall cover, in addition to the actual period of duty, the time occupied in going from and returning to her home, not exceeding such reasonable limit as may be fixed by the chief officer of police; and in the case of a woman who has worked a full tour of night duty and is summoned from her home to do duty before 3.30 p.m., the period allowed as " time-off " under this Regulation shall be not less than four hours.

In this Regulation " week " means that period of seven days beginning and ending at the same times as those on which the pay of constables in the force in question is normally calculated. [3359]

30.—(1) Where, in the opinion of the chief officer of police, the exigencies of duty do not permit of any sergeant or constable being granted the whole period of " time-off " from duty under the preceding Regulation within such reasonable period (not exceeding three months) as the chief officer of police may fix, the woman shall be granted in lieu of so much of the period of " time-off " as has not been granted to her, being not less than one hour, a non-pensionable payment at the rate of 3s. 9d. an hour for a sergeant and 3s. 3d. an hour for a constable.

(2) Where a sergeant or constable is engaged on duty involving her employment for irregular periods beyond the normal duty period so that the extension thereof cannot be definitely assessed and " time-off " cannot be granted, she may be granted, in lieu of all payments under paragraph (1) of this Regulation, a non-pensionable commuted payment at the rate provided in Regulation 63. [3360]

31. The provisions of Regulations 29 and 30 shall not apply—

(*a*) if a woman is warned to be in readiness for duty if required, but is not actually recalled to duty;

(*b*) if she is paid in respect of the same incident of duty a detective allowance, a detachment duty allowance, an extra duty allowance, or any other allowance granted in respect of her being engaged beyond the normal duty period:

Provided that the hours of duty of a detective shall be subject to such adjustments as may be approved by the chief officer of police to meet occasions when exceptionally long hours of duty have been worked;

(*c*) if she is engaged on casual escort duty. [3361]

32. Where a woman member of a police force to whom the Police (Weekly Rest Day) Act, 1910, applies is required to perform duty on a day which would otherwise have been a rest day, she shall be granted another rest day in lieu if and as soon as the exigencies of duty will permit; and if, in the opinion of the chief officer of police, the exigencies of duty do not permit of the grant of another rest day within such reasonable period (not exceeding three months) as he may fix, the woman shall be granted a non-pensionable payment at the rate prescribed by paragraph (1) of Regulation 30 or, in any case to which that paragraph does not apply, either at the rate of one-sixth of her pay in respect of the week in which the rest day on which she was required to do duty fell, or the sum of 35s., whichever amount is the greater. [3362]

32A.—(1) Every woman member of a police force shall so far as the exigencies of duty permit be granted a day's leave on each of the following days, namely, Christmas Day, Good Friday and the Bank Holidays as defined in the Bank Holidays Act, 1871, and if owing to the exigencies of duty a woman is required to perform duty on any of the aforesaid days she shall be granted a day's leave in lieu of each such day if and as soon as the exigencies of duty permit.

(2) If in the opinion of the chief officer of police the exigencies of duty do not permit the grant of leave under the preceding paragraph within such reasonable time (not exceeding three months) as he may fix, the woman, provided she is of the rank of chief inspector or sub-divisional inspector (if such ranks are adopted under Regulation 1) or of the rank of inspector or any lower rank, shall be granted a non-pensionable payment for each such day on which she was required to perform duty at the rate prescribed by paragraph (1) of Regulation 30 or, in any case to which that paragraph does not apply, either at the rate of one-sixth of her pay in respect of the week in which such day fell, or the sum of 35s., whichever amount is the greater. [3363]

32B. On any occasion or occasions of emergency within the meaning of the Police (Weekly Rest Day) Act, 1910, the Secretary of State may direct that the provisions of Regulations 29, 30, 31, 32 and 32A shall apply only to such extent and under such conditions as he may prescribe. [3364]

LEAVE OF ABSENCE

33. Every woman member of a police force of the rank of chief inspector or sub-divisional inspector (if such ranks are adopted under Regulation 1) or of the rank of inspector or any lower rank shall, so far as the exigencies of duty permit, be granted leave of absence (hereinafter referred to as annual leave) in addition to the days upon which she is not required to perform police duties in compliance with the Police (Weekly Rest Day) Act, 1910, or under paragraph (1) of Regulation 32A, so that the members of the several ranks shall be granted annual leave in each complete calendar year as follows :—

	Days
Chief Inspectors in the Metropolitan Police	27
Sub-divisional Inspectors in the Metropolitan Police ..	25
Inspectors	24
Sergeants	20
Constables	18

Provided that a woman member of a police force, in the calendar year in which she is appointed and in that in which she retires in pursuance of a notice of intention to retire, shall, so far as the exigencies of duty permit, be granted an annual leave at the rate of one-twelfth of the period hereinbefore specified for her rank for each complete month of service in that year, a fraction of a day being reckoned as one day. [3365]

34. Any officers not entitled to a weekly rest day shall, so far as the exigencies of duty permit, be granted in each complete calendar year leave of absence of not less than forty-two days, with an additional six days in each year after completing ten years' service in the rank, and shall also be allowed leave for one day and a half in each calendar month. [3366]

35. Inspectors, sergeants and constables shall, if the exigencies of duty permit, be allowed to take their annual leave in one period continuous with the weekly rest days of the weeks in which the leave is taken. [3367]

PERSONAL RECORDS

36.—(1) The chief officer of police shall cause a personal record of each woman member of the police force to be kept and, if that member becomes a member of another police force, shall, on demand by the chief officer of police of that other force, transmit to him a copy thereof.

(2) The personal record shall contain entries of the woman's description, particulars of her birth place and date of birth, her family, any service in the Women's Royal Naval Service, the Auxiliary Territorial Service, the Women's Auxiliary Air Force, the Civil Service, and any other police force, or the

Women's Auxiliary Police Corps, the date of her appointment, all postings, transfers and removals, all changes in pay, all promotions, all injuries received, all periods of sickness and of leave, all absence (if records of sickness and leave are not kept separately), all commendations, rewards and punishments, and the date of her ceasing to be a member of the force with the reason, cause or manner thereof. [3368]

37.—(1) On leaving the force (except in case of transfer with the written consent of the chief officer of police to another force) every woman shall be given a certificate showing her rank and stating the period of her service and the reason, cause or manner of her leaving the force, together with particulars of her personal description :

Provided that where the woman was required to resign or was dismissed the certificate shall not contain any description of the circumstances in which she was required to resign or was dismissed.

(2) The chief officer of police may append to the certificate any recommendation which he feels justified in giving, such as—

Her conduct was exemplary
Her conduct was very good
Her conduct was good. [3369]

* * * * *

PAY

39.—(1) The pay of women members of a police force holding the rank or sergeant or constable shall be in accordance with the provisions of these Regulations.

(2) Subject to Regulation 20A, the pay of all other ranks shall be in accordance with the scale of pay of the force, which shall be subject to the approval of the Secretary of State.

(3) No pensionable payment other than those above referred to shall be made. [3370]

Scales of pay

40. Subject to the provisions of Regulation 20A and 54, the scales of pay for sergeants and constables shall be as follows :—

Scale of pay for sergeants

	s.	d.	
On promotion	135	0	weekly
After one year from promotion	137	6	,,
,, two years ,, ,,	140	0	,,
,, three ,, ,, ,,	142	6	,,
,, four ,, ,, ,,	145	0	,,
,, five ,, ,, ,,	148	0	,,

Scale of pay for constables

	s.	d.	
On appointment	94	0	weekly
After two years from appointment	96	6	,,
,, three ,, ,, ,,	99	0	,,
,, four ,, ,, ,,	101	6	,,
,, five ,, ,, ,,	104	0	,,
,, six ,, ,, ,,	106	6	,,
,, seven ,, ,, ,,	109	0	,,
,, eight ,, ,, ,,	111	6	,,
,, nine ,, ,, ,,	114	0	,,
,, ten ,, ,, ,,	117	0	,,

[3371]

41. One day's pay shall be calculated for all purposes at the rate of one-seventh of the weekly rate. [3372]

42.—(1) All increments in the scale of pay for constables (except any increments granted under special conditions as provided in Regulations 44 to 52) and all increments in the scales of pay for the higher ranks shall be granted automatically upon completion of the stated periods of service, reckoned from the constable's appointment to the force or her promotion to higher rank, as the case may be, and the grant of any increment shall not be retarded or withheld on account of any offence or other cause except on a specific order of reduction in rank or pay by way of punishment for an offence as provided in the Regulations relating to discipline.

(2) Where a woman member of a police force is promoted, having served for three years or more in the same force with pay not less than the minimum pay appropriate to the rank to which she is promoted, she may be granted on promotion one increment in the scale of pay appropriate to that rank. [3373]

43.—(1) If a woman member of a police force above the rank of constable transfers with the written consent of the chief officer of police to the same rank in another force, previous service which she is entitled to reckon for purposes of pay in the force from which she transfers shall (unless otherwise agreed upon) count, for purposes of reckoning her pay in the force which she joins, as follows :—

(*a*) if she transfers to a force with the same or a lower scale of pay for her rank, the whole of her previous service in that rank shall count ;

(*b*) if she transfers to a force with a higher scale of pay for her rank, such portion of her previous service in that rank shall count as will bring her pay in the force which she joins up to the amount she was receiving in the force from which she transfers.

(2) A constable who transfers to another police force or who having resigned from a police force joins after the tenth day of May, 1948, the same or any other police force shall be entitled to reckon for the purposes of pay all service which she was entitled to reckon for the purpose in the force from which she transfers or resigned. [3374]

Grant of special increments of pay for constables

44. Subject to Regulations 51 and 54, a constable who is in receipt of pay according to the scale prescribed by these Regulations and who has passed the qualifying examinations for promotion in police duties and educational subjects, may, at any time after she has served for five years, be granted a special increment in her scale of pay if the chief officer of police is satisfied that she shows special zeal, intelligence and proficiency in the performance of her duties and that she is well conducted. [3375]

45. A constable who is in receipt of a special increment under Regulation 44 may at any time after she has served for one year from the date of the grant of the special increment, be granted a second special increment in her scale of pay if the chief officer of police is satisfied that she shows special zeal, intelligence and proficiency in the performance of her duties and is well conducted :

Provided that a second special increment may be granted under this Regulation immediately on the grant of a special increment under Regulation 44 if the chief officer of police is satisfied that the constable would by then have qualified for a second special increment if she had not ceased to serve as a constable in such circumstances that section one of the Police and Firemen (War Service) Act, 1939, applied to her. [3376]

46. A constable who has been granted a special increment or increments shall be paid at the rate at which she would be paid on the scale in Regulation 40, if she had been appointed, in the case of a grant of one special increment, one year and, in the case of a grant of two special increments, two years before she was appointed. [3377]

Grant of additional increments of pay for constables

47.—(1) Subject to Regulations 51 and 54, a constable who has served for seventeen years, or having been granted a special increment which has not been withdrawn, has served for sixteen years or, having been granted two special increments which have not been withdrawn, has served for fifteen years, may at any time after she has completed the appropriate qualifying period be granted an additional increment of 4s. a week in her pay if the chief officer of police is satisfied that she shows zeal and proficiency in the performance of her duties and that she is well conducted :

Provided that a constable may be granted an additional increment at any time after she has served for fifteen years, notwithstanding that she is not in receipt of the requisite number of special increments, if—

(*a*) the chief of police is satisfied that she would be in receipt of the requisite number of special increments if she had not ceased to serve as a constable in such circumstances that section one of the Police and Firemen (War Service) Act, 1939, applied to her, and

(*b*) she has passed the qualifying examinations for promotion not later than two years after resuming service as a constable.

(2) For the purposes of this Regulation a constable shall be deemed to have served during any period which, by virtue of subsection (1) of section two of the Police and Firemen (War Service) Act, 1939, is to be treated as a period of approved service or would be so treated if the proviso to the said subsection did not apply or which she is entitled to reckon as pensionable service. [3378]

48. A constable who is in receipt of an additional increment may, at any time after she has served for five years from the date when an additional increment was first granted to her exclusive of any period during which the additional increment was withdrawn from her, be granted a second additional increment of 4s. a week in her pay if the chief officer of police is satisfied that she shows zeal and proficiency in the performance of her duties and is well conducted :

Provided that—

(*a*) a constable who has previously held a higher rank and has served for twenty-two years (including service in a relevant auxiliary capacity) may be granted a second additional increment after she has served for one year, instead of five years, from the date of the grant of the additional increment ;

(*b*) a second additional increment shall not be granted to a constable from whom an additional increment has been withdrawn until a period of one year has elapsed from the date when an additional increment has last been granted to her. [3379]

49.—(1) As soon as a constable has served for the appropriate qualifying period under Regulation 47 or Regulation 48, the chief officer of police shall consider whether an additional increment or, as the case may be, a second additional increment should be granted to her.

(2) A constable who has acquired a right under paragraph (1) of this Regulation to have the question considered whether a grant should be made to her may apply to the chief officer of police, as soon as may be after the end of each period of one or more complete years from the date when she

acquired the right, again to consider the question, and it shall accordingly again be considered.

(3) A constable from whom an additional increment or increments has or have been withdrawn under Regulation 50 may apply to the chief officer of police at the end of each period of one or more complete years from the date of the withdrawal to consider whether an additional increment should be granted to her, and it shall accordingly be considered.

(4) If on consideration under paragraph (1) or (2) of this Regulation no grant is made, the constable shall, if she applies for the information, be informed in writing why no grant was made. [3380]

General provisions as to grant and withdrawal of special and additional increments of pay for constables

50. If the chief officer of police is of opinion—

(*a*) that a constable in receipt of a special increment or increments is not showing special zeal, intelligence or proficiency in the performance of her duties or that she is not well conducted, or

(*b*) that a constable in receipt of an additional increment or increments is not showing zeal or proficiency in the performance of her duties or that she is not well conducted,

the constable shall be given a written warning of the opinion of the chief officer of police, and if, at the end of a period of two months from the date of the warning or of such longer period as may be specified in the warning, the chief officer of police is still of the same opinion, the increment or increments shall be withdrawn :

Provided that if after the latest grant to the constable under Regulation 44, 45, 47 or 48—

(*a*) the constable is guilty of any default for which she is punished by a fine of 20s. or any greater punishment, or

(*b*) the constable is guilty, during any period of twelve months, of two defaults for which she is punished by punishments other than cautions, or

(*c*) the constable is guilty of more than three defaults for which she is punished by punishments other than cautions,

the increment or increments may be withdrawn without warning. [3381]

51. No special or additional increment shall be granted to a constable from whom an increment or increments has or have been withdrawn under Regulation 50 until a period of one year has elapsed from the date of the withdrawal. [3382]

52. The grant or withdrawal of any increment under Regulations 44 to 51 inclusive to or from a constable in a borough police force shall be subject to confirmation by the watch committee. [3383]

* * * * *

Service in a relevant auxiliary capacity

54. For the purpose of applying the scale of pay for constables and of reckoning the qualifying period for the grant of a special or an additional increment there shall be added to the constable's service any period of service in a relevant auxiliary capacity. [3384]

* * * * *

ALLOWANCES

56. All allowances shall be non-pensionable and the amounts and conditions of payment shall be subject to the approval of the Secretary of State,

and no allowances shall be paid except such as are prescribed in these Regulations or approved by the Secretary of State. [3385]

Rent allowance

56A.—(1) A police authority shall provide each woman member of a police force with a house or quarters free of rent and rates or shall pay her a rent allowance :

Provided that this paragraph shall not apply to a woman member of a police force who—

(*a*) is married to a member of a police force and is living with him ; or

(*b*) is on unpaid maternity leave.

(2) The rent allowance shall be paid at the same rate as that provided under Regulation 65 of the Police (Consolidation) Regulations, 1948, for single men who are members of the same police force and of the same rank :

Provided that a police authority may, in special circumstances, authorise payment to an individual woman member of the police force of a rent allowance at the rate provided by the said Regulation 65 for married men of the same rank. [3386]

Compensatory grant

56B.—(1) In the year commencing on the sixth day of April, 1947, and in each subsequent year, a woman member of a police force who has during the preceding year paid income tax in respect of a rent allowance or any compensatory grant mentioned in this paragraph paid or made to her in respect of her service in the force shall be paid a compensatory grant.

(2) The amount of the compensatory grant shall be equal to the amount by which the income tax in fact deducted during the preceding year according to the tax tables prepared or prescribed by the Commissioners of Inland Revenue from the member's emoluments in respect of her service in the force is increased by virtue of the inclusion in such emoluments of a rent allowance or any compensatory grant mentioned in this Regulation paid or made to her.

(3) The compensatory grant may, except in the circumstances described in paragraph (4) of this Regulation, be paid by such instalments throughout the year in which it is payable as the police authority may determine.

(4) Where a woman member of a police force leaves the force or dies whilst serving in the force she or, as the case may be, her personal representatives shall be paid the whole of the compensatory grant due to the member during that year and, in addition, shall be paid a further compensatory grant equal to the amount by which the income tax in fact deducted between the beginning of the year and the date on which she leaves the force or dies, according to the tax tables prepared or prescribed by the Commissioners of Inland Revenue, from the member's emoluments in respect of her service in the force during that period is increased by virtue of the inclusion in such emoluments of a rent allowance or any compensatory grant mentioned in this Regulation paid or made to her.

(5) For the purposes of this Regulation—

(*a*) the word " year " means the year commencing on the sixth day of April and ending on the following fifth day of April ; and

(*b*) where a woman member of a police force has served more than once in the same force, references in this Regulation to service in the force shall be construed as references to her service therein since her last appointment thereto. [3387]

Uniform allowance

57. A woman member of a police force of or above the rank of inspector who does duty in uniform but is not supplied with uniform by the police authority shall be paid in lieu a uniform allowance at a rate calculated to cover the cost of supplying and maintaining the required uniform. [3388]

Boot allowance

58. A woman member of a police force who is not supplied with boots by the police authority shall be paid in lieu a boot allowance at the rate of 2s. 6d. weekly. [3389]

Plain clothes allowance

59. A woman member of a police force who is required to do duty in plain clothes for a period of not less than one week shall be paid a plain clothes allowance at that one of the following rates which is appropriate to her rank namely—

Inspector	£32 per annum
Sergeant	11s. 0d. a week
Constable	10s. 0d. a week :

Provided that a sergeant or constable—

(*a*) who is required to do duty in plain clothes for not less than six days in any period of three months shall be paid a plain clothes allowance in respect of each day at a rate equal to one-sixth of the weekly rate ;

(*b*) who is provided with overalls when doing duty in plain clothes or for any other reason is, in the opinion of the Secretary of State, put to substantially less or substantially more than the normal expense caused by wearing her own clothes on duty may be paid a plain clothes allowance at a rate approved by the Secretary of State. [3390]

Detective allowance

60.—(1) A woman member of a police force shall be paid a detective allowance at the appropriate rate specified in paragraphs (2) and (3) of this Regulation, if the chief officer of police is satisfied that she is engaged in detective duties :

Provided that the allowance shall not be paid for a period of duty of less than one week.

(2) If the chief officer of police is satisfied that the woman member is normally engaged in outside duty, she shall be paid at the rate of—

Superintendents and inspectors	25s. 0d. weekly
Sergeants and constables	20s. 0d. weekly

(3) If the chief officer of police is satisfied that the woman member is normally engaged in duty other than outside duty, she shall be paid at the rate of—

Superintendents and inspectors	15s. 0d. weekly
Sergeants and constables	12s. 6d. weekly

(4) The payment of a detective allowance shall not preclude the payment also of a plain clothes allowance. [3391]

Subsistence and lodging allowance

61.—(1) A woman member of a police force of or below the rank of superintendent who, being retained on duty beyond her normal period of

duty or being engaged on duty away from her usual place of duty, necessarily incurs additional expense to obtain food or lodging, shall—

(*a*) if the period for which she is so retained or engaged exceeds one hour but does not exceed five hours, be paid a refreshment allowance ;

(*b*) if the period for which she is so retained or engaged exceeds five hours, be paid a subsistence allowance ;

(*c*) if the said expense includes expense of obtaining lodging, be paid a lodging allowance.

(2) Notwithstanding anything in the preceding paragraph a woman member of a police force of or below the rank of superintendent who satisfies the chief officer of police that during her normal period of duty she was, although not away from her usual place of duty, unable by reason of the exigencies of duty to obtain her meals in her usual way and that she necessarily incurred additional expense for the purpose, may be paid a refreshment allowance.

(3) The amount of the said allowances shall be according to the following scale :—

Description of Allowance	Superintendents	Inspectors	Sergeants and Constables
Refreshment Allowance—			
(i) for one meal	3s. 6d.	3s. 0d.	2s. 6d.
(ii) for two meals	5s. 0d.	4s. 6d.	4s. 0d.
Subsistence Allowance : Period of retention or engagement—			
(i) over 5 hours and not exceeding 8 hours ..	5s. 0d.	4s. 6d.	4s. 0d.
(ii) over 8 hours and not exceeding 12 hours ..	7s. 6d.	6s. 6d.	5s. 6d.
(iii) over 12 hours and not exceeding 24 hours ..	10s. 6d.	9s. 0d.	8s. 0d.
(iv) over 24 hours—at the rate under (iii) above for each complete period of 24 hours retention or engagement, together with whichever is the appropriate amount under the preceding provisions of this scale for any excess over the aggregate of such complete periods.			
Lodging Allowance— For each night	10s. 6d.	9s. 6d.	8s. 6d.

Provided that—

(*a*) if a lodging allowance is payable as well as a subsistence allowance in respect of a total period of retention or engagement of sixteen hours or less, the subsistence allowance shall be of the amount appropriate to a retention or engagement for a period exceeding eight hours and not exceeding twelve hours ;

(*b*) if the chief officer of police is satisfied in any particular case that the amount of the allowances specified above is not sufficient to cover the actual expenses necessarily incurred, he may authorise payment of the difference ;

(*c*) if the chief officer of police is satisfied in any particular case that the amount of the allowances specified above would be excessive having regard to the additional expenses necessarily incurred, he may direct that the amount of the allowances shall be reduced to such an amount as he determines, not being less than the amount of such expenses ;

(*d*) if a woman member of a police force is so retained or engaged for a period exceeding one week, she may, if the chief officer of police is satisfied that the allowances specified above would be excessive, be granted in lieu thereof a weekly allowance at such lower rate as may be necessary to cover her reasonable expenses.

(4) Where the place of duty of a woman member of a police force has been temporarily changed, the expression in this Regulation " usual place of duty " shall, after such period from the date of change as the chief officer of police may determine, mean the temporary place of duty. [3392]

62. Where a woman member of a police force of or below the rank of inspector is required to do duty away from her usual place of duty she shall be given an advance to cover, as far as practicable, any expenses which she will probably incur. [3393]

Detachment duty allowance

63.—(1) Where a woman member of a police force is employed as part of a detachment lent in aid of another police force in circumstances that involve her sleeping away from home, a detachment duty allowance shall be payable in consideration of such duty at the rate of—

8s. 0d. daily for a superintendent
6s. 6d. ,, ,, an inspector
5s. 6d. ,, ,, a sergeant
4s. 6d. ,, ,, a constable

during the period of absence. When lodging and meals are not provided by the aided police authority, this allowance shall be payable in addition to any subsistence or lodging allowance to which the woman may be entitled.

(2) A detachment duty allowance at the foregoing rates may be paid where women members of the metropolitan police or any county police force are employed for a period of three or more complete days on detachment duty within the police district of the force to which they belong, *i.e.*, as part of a detachment reinforcing another division, sub-division or section, in circumstances that involve their sleeping away from home. [3394]

Temporary duty allowance

64. Where a constable is required to perform the duties of a sergeant, or a sergeant is required to perform the duties of an inspector, either to fill a temporary vacancy or for some other special purpose and for a continuous period exceeding two weeks, she shall be granted in respect of such service, after the first two weeks, an allowance in addition to her pay at a rate equal to the difference between her ordinary rate of pay and the lowest rate of pay of the rank in which she is temporarily acting. [3395]

Miscellaneous provisions as to allowances

65. An allowance may be paid, of such amount and under such conditions as may be approved by the Secretary of State on the recommendation of the police authority, in respect of recurring escort duty or other specific duties involving recurring detention on duty beyond the normal period and not covered by any other payment. [3396]

66. A woman member of a police force employed at the expense of a private person or persons shall be entitled to such payments as are provided in these Regulations by way of subsistence or lodging allowance or refreshment allowance or as payment in respect of extended hours of duty, but shall not receive any special allowance in consideration of the purpose for which she is employed. All payments so due shall be made by the police authority and recovered from the person or persons for whose benefit the woman is employed. [3397]

67. If a woman who is regularly in receipt of a plain clothes allowance or detective allowance or any other allowance to meet an expense which ceases during her absence from duty is placed upon the sick list or is on maternity leave, the allowance shall be payable during her absence from duty up to a period of one month, but thereafter, during the remainder of her absence from duty, payment may be suspended at the discretion of the chief officer of police, subject, in a borough police force, to the approval of the watch committee :

Provided that the boot allowance shall not cease to be payable during a period of sick leave. [3398]

CLOTHING, EQUIPMENT AND NECESSARIES

68. Every woman member of a police force shall provide herself with clothing which is sufficient for her health and suitable to a person employed in the police service, and shall be in possession of two pairs of boots suitable for duty. [3399]

69. All articles of uniform, clothing and equipment necessary for the performance of police duty shall be provided by the police authority for all ranks free of cost to the individual member of the force, provided that officers of and above the rank of inspector may be paid a money allowance in lieu. [3400]

70. Issues of uniform shall, so far as circumstances permit, be made at stated periods, but where particular duties, or the duties of a particular woman, entail greater or less wear of all articles or of any particular article of uniform, the issue to a particular woman, or the issue of any particular garment, may be made on requisition approved by the chief officer of police. Clothing for particular duties may be issued on requisition. [3401]

71. Subject to any modifications approved by the Secretary of State, the issues of articles of uniform and equipment for sergeants and constables shall be as follows :—

Article	Issue	Period of Wear	Number in Possession
Body Coat (*i.e.*, tunic, frock coat, patrol jacket, winter jacket, summer jacket, summer serge, as the case may be)	Annual	Two years or four years (according to whether one, two or more patterns of coat are supplied)	Two of each
(If tunics or other full dress coats are reserved for ceremonial duty only, their issue shall be on requisition over and above the periodical issue.)			
Skirt	Annual	Four years	Four
(Where more than one material is provided, the issue shall be alternated to meet the demands of use.)			
Greatcoat	Every two years	Four years	Two
Headdress	Issue to be as required		Two
(Where a second pattern of headdress is supplied, the issue shall be alternated to meet the demands of use.)			
Stockings	Twelve pairs annually	—	—

Where boots are provided by the police authority for the purposes of duty, the issue shall be at the rate of two pairs annually, or as may be approved by the Secretary of State. [3402]

General note.—As from July 26, 1948, a new regulation is substituted for reg. 71, *supra*, by S.I. 1948 No. 1680, *post*.

72. The following articles of equipment shall be supplied as circumstances require :—

Armlet and buckle
Button brushes and button stick
Cap strap and sling
Gloves
Handcuffs
Haversack or kit bag
Lamp
Leggings
Overalls
Pocket notebook
Shirts, collars and ties
Truncheon
Waist-belt
Waterproof coat or cape
Warrant card
Whistle and chain. [3403]

General note.—As from July 26, 1948, the words " Shirts, collars and ties " are deleted from reg. 72, *supra* (see S.I. 1948 No. 1680, *post*).

73. All clothing and articles of equipment issued are for use in the performance of duty ; they shall not become the property of the individual member of the force and must be delivered up by her on her leaving the force. [3404]

74. All garments supplied by the police authority (but not boots) shall be returned to store on being replaced at the expiry of the prescribed period of wear, and the amounts realised by their sale shall be paid to the police fund :

Provided that, if the police authority so direct, cast garments may be retained upon a payment to be fixed by the police authority, the amount of which shall be assessed according to the amount likely to be realised by the sale of the garments. [3405]

75. Replacement of lost, damaged, faulty or ill-fitting garments, and repairs (other than minor repairs which the woman can satisfactorily do herself) shall be made or done at the expense of the police authority, except in the case of loss or damage caused by the woman's default. [3406]

76. Part-worn clothing returned to store shall not be issued to another woman until it has been properly cleaned and is in serviceable condition. [3407]

MEDICAL ATTENDANCE AND STOPPAGES FROM PAY

77. A woman member of a police force shall not be entitled to be absent from duty on account of injury or illness unless a registered medical practitioner has certified her to be unfit for duty :

Provided that if, notwithstanding such certificate, a registered medical practitioner appointed or approved by the police authority has examined her and certified her to be fit for duty she shall no longer be entitled to be absent from duty. [3408]

78. Where a woman member of a police force who is not incapacitated for duty by illness is relieved of duty on account of her having been in contact with infectious disease, without her own default, she shall not be liable to any deduction from pay or from annual or other leave in respect of such absence from duty. [3409]

79. There shall be deducted from the pay of a woman member of a police force the amount of any sickness benefit under the National Insurance Act, 1946, to which she may be entitled after the fifth day of January, 1949, or injury benefit under the National Insurance (Industrial Injuries) Act, 1946, to which she may be entitled. [3410]

* * * * *

80A.—(1) During the maternity period a married woman member of a police force shall not be entitled to any sick leave in respect of any injury, illness or incapacity for duty which is solely or mainly due to pregnancy or childbirth or their after effects but shall be entitled to take maternity leave for the whole or any part or parts of the period of which, subject to paragraph (2) of this Regulation, three months shall be paid maternity leave and the remainder unpaid maternity leave.

(2) A married woman member of a police force shall not be entitled to more than three months' paid maternity leave during any period of twelve months or to any paid maternity leave before the end of her period of probation.

(4) In calculating the service of a married woman member of a police force for the purposes of probation, promotion or increments in pay any period or periods of unpaid maternity leave shall be disregarded.

(5) In this Regulation the maternity period means, in relation to a married woman member of a police force who is certified by a registered medical practitioner approved by the police authority to be pregnant, the period beginning six months before the date which is estimated by the said medical practitioner as being the probable date of birth and ending nine months after the birth of the child. [3411]

* * * * *

MISCELLANEOUS PROVISIONS

81A.—(1) Subject to the provisions of paragraph (3) hereof, a woman member of a county police force or a combined police force who, having been a member of the police force of a borough comprised in the county of the combined area, has been transferred to the county police force or the combined police force by or under the provisions of the Police Act, 1946, shall not be assigned to duties which in the opinion of the Secretary of State make it necessary for her to establish her home outside the borough.

(2) This Regulation shall apply in relation to a woman member of a county police force or a combined police force who has been a member of the police force of a borough comprised in the county or the combined area and either reverts to the county police force or the combined police force under subsection (1) of section two of the Police (Overseas Service) Act, 1945, as applied by subsection (2) of section fourteen of the Police Act, 1946, or, having been a person to whom section one of the Police and Firemen (War Service) Act, 1939, applied, became a member of the county police force or, as the case may be, the combined police force without having been deemed under subsection (2) of section two of the last-named Act or under any regulations made under the Police Pensions Act, 1948, to have retired, in the same manner as it applies to a member of a county police force or a combined police force who has been transferred thereto by or under the provisions of the Police Act, 1946.

(3) This Regulation shall not apply to such a woman member of a county police force or combined police force as described above if, since she became a member of the police force of the borough—

(*a*) she has retired, resigned or been dismissed from a police force, has been deemed to have retired from a police force under any regulations made under the Police Pensions Act, 1948, or under subsection (2) of section two of the Police and Firemen (War Service) Act, 1939, or has engaged for a period of overseas service in such a manner that she has not acquired, under subsection (1) of section two of the Police (Overseas Service) Act, 1945, a right of reverter or, having acquired the said right of reverter, has lost or not availed herself of the said right or has removed, within the meaning of subsection (1) of section eight of the Police Pensions Act, 1921, or under any regulations made under the Police Pensions Act, 1948, from one police force to another;

(*b*) the police force of the borough has become subject to a consolidation agreement under section fourteen of the County Police Act, 1840; or

(*c*) she has given written notice to the chief officer of police of any county police force or combined police force of which she was at the time a member of her desire that this Regulation should cease to apply to her.

(4) Where a woman member of a county police force or combined police force has been a member of the police force of more than one borough comprised in the county or combined area references in this Regulation to the police force of such a borough shall, in relation to her, be construed as references to the police force of such borough of which she was last a member. [3412]

81B. For the purposes of these Regulations service in a police force from which a constable is transferred by or under the Police Act, 1946, and service in the force to which she is so transferred shall be treated as if it were service in the same force. [3413]

82.—(1) (*a*) In these Regulations a reference to service in a relevant auxiliary capacity is to be taken as a reference to all service as a member of Class A of the Women's Auxiliary Police Corps and, while the constable in question was not in receipt of a pension under the Police Pensions Acts, 1921 and 1926, to all whole-time paid service after the third day of September, 1939, as a member of the first class of the Police Reserve and while the constable in question was assigned to duties which were wholly or mainly street patrol duties, motor patrol duties or outside detective duties, to whole-time paid service as a member of the Women's Auxiliary Police Corps, after the third day of September, 1939, and before the first day of April, 1945:

Provided that for the purpose of reckoning the length of such whole-time paid service account shall only be taken of each complete calendar month during the whole of which the constable in question was assigned to such duties.

(*b*) In connection with any reference to service in a relevant auxiliary capacity a reference to service in a force shall be taken to include a reference to service as a member of the Women's Auxiliary Police Corps under the directions of the chief officer of police of that force.

(*c*) In this paragraph whole-time paid service includes all leave with pay, any period of leave without full pay not exceeding seven days in duration and any period of absence or suspension with full pay or the equivalent of full pay and for this purpose leave shall not be taken to be leave without full pay by reason only that there is deducted from the constable's pay the

amount of benefits under the National Health Insurance Acts, 1936 to 1941, or the National Insurance Acts, 1946, of payments made under any scheme made by the Minister of Pensions under the Personal Injuries (Emergency Provisions) Act, 1939, or for any weekly payments under the Workmen's Compensation Acts, 1925 to 1945.

(2) Any reference in these Regulations to a county police force, a borough police force or a watch committee shall, except in Regulation 81A, include a reference respectively to a combined force constituted by a county scheme, a combined force constituted by a borough scheme or a police authority constituted by a borough scheme.

(3) In these Regulations the expression " pensionable service " means pensionable service for the purposes of any regulations made under the Police Pensions Act, 1948, and for the time being in force. [3414]

83. The provisions of the Second Schedule to these Regulations shall apply to all women members of a police force; and no restrictions other than those designed to secure the proper exercise of the functions of a constable shall be imposed by the police authority or the chief officer of police on the private life of women members of a police force except such as may temporarily be necessary or such as may be approved by the Secretary of State after consultation with the Police Council, and any such restriction temporarily imposed shall be reported forthwith to the Secretary of State. [3415]

84.—(1) In these Regulations a reference to a Regulation shall, unless the contrary intention appears, be construed as a reference to a Regulation contained in these Regulations.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [3416]

* * * * *

86. These Regulations shall apply to all police forces in England and Wales to which the Police Act, 1919, applies, and in which women are employed as members of the force. [3417]

87.—(1) The Regulations set out in the Third Schedule to these Regulations are hereby revoked.

(2) Section thirty-eight of the Interpretation Act, 1889, shall apply as if these Regulations were an Act of Parliament and as if any Regulations revoked by these Regulations were Acts of Parliament repealed by an Act of Parliament.

(3) Any appointment, grant, withdrawal of a grant or publication made or approval, certificate, consent or notice given or any record kept or other thing done under any Regulation revoked by these Regulations shall not be invalidated by the revocation effected by paragraph (1) of this Regulation, but shall, in so far as it could have been made, given, kept or done under a provision of these Regulations, have effect as if it had been made, given, kept or done under that provision.

(4) Any proceedings initiated, suspension from duty ordered or punishment imposed in respect of an offence or alleged offence against the code of offences against discipline for any police force shall be deemed to have been initiated, ordered or imposed under these Regulations.

(5) Any reference in any document to any regulations made under section four of the Police Act, 1919, or any provision thereof shall, unless the contrary intention appears, be construed as a reference to these Regulations or the corresponding provisions of these Regulations. [3418]

88.—(1) These Regulations may be cited as the Police (Women) (Consolidation) Regulations, 1948.

(2) These Regulations shall come into force on the fifth day of July, 1948. [3419]

* * * * *

SCHEDULES

FIRST SCHEDULE

DUTIES WHICH MAY BE ASSIGNED TO WOMEN MEMBERS OF A POLICE FORCE

Patrol duty.

Duties in connection with women and children reported missing, found ill, injured, destitute, or homeless, and those who have been the victims of sexual offences, or are in immoral surroundings.

Taking statements from women and children in cases of sexual offences.

Duties in connection with the conveyance of women and children to or from hospitals, poor-law institutions, police stations, prisons, remand homes, and approved schools.

Watching female prisoners or women who have attempted suicide detained in hospitals, etc.

Attendance on women and children in court.

Searching and attending female prisoners.

Clerical work.

Plain clothes duty and detective work. [3420]

SECOND SCHEDULE

1. A constable shall at all times abstain from any activity which is likely to interfere with the impartial discharge of her duties or which is likely to give rise to the impression amongst members of the public that it may so interfere; and in particular a constable shall not take any active part in politics.

2. The place at which a constable resides shall be subject to the approval of the chief officer of police.

3.—(1) A constable shall not, without the previous consent of the chief officer of police, receive a lodger in a house or quarters with which she is provided by the police authority or sub-let any part of the house or quarters.

(2) A constable shall not, unless she has previously given written notice to the chief officer of police, receive a lodger in a house in which she resides and in respect of which she receives a rent allowance or sub-let any part of such a house.

4. A constable shall not wilfully refuse or neglect to discharge any lawful debt. [3421]

THIRD SCHEDULE

REGULATIONS REVOKED

The Police (Women) Regulations, 1947.
The Police (Women) (No. 2) Regulations, 1947.
The Police (Women) (No. 3) Regulations, 1947.
The Police (Women) Regulations, 1948.
The Police (Women) (No. 2) Regulations, 1948. [3422]

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations consolidate, with amendments the Regulations set out in the Third Schedule. Amendments are made in Regulations 32 *and* 32A *(which relate to a day's leave or payment in lieu of the weekly rest day or a public holiday),*

Regulation 77 (which relates to sick leave) and Regulation 79 (which relates to deductions from pay of insurance benefits), together with minor amendments in Regulations 3 (3), 21 (2), 47 (2), 81A (2) and (3) (a), 82 (1) (c) and (3) and 87 (5), Regulations 80A (3) and 81 of the existing Regulations being omitted.

POLICE WAR RESERVE (NO. 3) RULES, 1948

S.I. 1948 *No.* 1476

June 29, 1948

General note.—These rules further amend S. R. & O., 1945, No. 361.

In pursuance of the power conferred on me by Regulation 40AC of the Defence (General) Regulations, 1939, as having effect by virtue of the Emergency Laws (Miscellaneous Provisions) Act, 1947, I [*i.e.*, the Secretary of State] hereby make the following Rules amending the Police War Reserve Rules, 1945, as subsequently amended :—

1. For Rule 27 of the said Rules there shall be substituted the following Rule :—

"27. The pay of a police war reservist during a period of sick leave shall be reduced by the amount of any sickness benefit under the National Insurance Act, 1946, or injury benefit under the National Insurance (Industrial Injuries) Act, 1946, to which he may be entitled." [3423]

2. In paragraph (2) of Rule 34 of the said Rules after the words "the National Health Insurance Acts, 1936 to 1941" there shall be inserted the words "or the National Insurance Acts, 1946". [3424]

3.—(1) These Rules may be cited as the Police War Reserve (No. 3) Rules, 1948.

(2) These Rules shall come into operation on the fifth day of July, 1948. [3425]

* * * * *

WOMEN'S AUXILIARY POLICE CORPS (NO. 3) RULES, 1948

S.I. 1948 *No.* 1477

June 29, 1948

General note.—These rules further amend S. R. & O., 1945, No. 362.

In pursuance of the power conferred on me by Regulation 40AC of the Defence (General) Regulations, 1939, as having effect by virtue of the Emergency Laws (Miscellaneous Provisions) Act, 1947, I [*i.e.*, the Secretary of State] hereby make the following Rules amending the Women's Auxiliary Police Corps Rules, 1945 :—

1. For Rule 35 of the said Rules there shall be substituted the following Rule :—

"35. The pay of a member of Class A during a period of sick leave shall be reduced by the amount of any sickness benefit under the National Insurance Act, 1946, or injury benefit under the National Insurance (Industrial Injuries) Act, 1946, to which she may be entitled." [3426]

2. These Rules may be cited as the Women's Auxiliary Police Corps (No. 3) Rules, 1948. [3427]

3. These Rules shall come into operation on the fifth day of July, 1948. [3428]

* * * * *

POLICE PENSIONS REGULATIONS, 1948

S.I. 1948 *No.* 1531

July 2, 1948

General note.—As from January 3, 1949, these regulations are amended by S.I. 1948 No. 2802, the amendments being noted in the text of the regulations, *post.*

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In exercise of the powers conferred on me by sections one, three and five of the Police Pensions Act, 1948, I [*i.e.*, the Secretary of State] hereby, with the consent of the Treasury and after consultation with the Police Council, make the following Regulations :—

General note.—The words in square brackets are an editorial addition and not an amendment.

PART I

GENERAL

1. Entitlement to award.—(1) Subject to the provisions of these Regulations, every man or woman who is a regular policeman, that is to say, a member of a home police force who is not an auxiliary policeman and a member of an overseas corps who is a reversionary member of a home police

force, shall, on retiring from the force of which he is a member, be entitled to an award under these Regulations.

(2) Subject to the provisions of these Regulations, every man or woman who is permanently disabled as the result of any injury or disease whether of body or mind (hereafter in these Regulations referred to as " an injury ") received in the execution of his duty as a member of a police force without his own default shall be entitled to an award under these Regulations on retiring from the police force or, where he has retired before becoming disabled, on the date when he becomes so disabled which, if it cannot be ascertained, shall be taken to be the date when the claim that he is disabled is first made known to the police authority.

(3) The widow of a man who has been a member of a police force shall, in the circumstances specified in these Regulations, be entitled to an award.

(4) The child, step-child, illegitimate child and adopted child (hereafter in these Regulations referred to as the " child ") of a man or woman who has been a member of a police force *and has died* shall be entitled on the death of that man or woman to an award in the circumstances specified in these Regulations :

Provided that this paragraph shall only apply to a step-child, illegitimate child or adopted child who was dependent to a substantial extent on the said man or woman at the time of the death.

(5) The chief constable of the force of an area which has been amalgamated with another police area by a scheme made under the Police Act, 1946, who is not transferred to the combined force by the scheme and does not, during the period of three months referred to in subsection (3) of section eleven of that Act or, as the case may be, that subsection as applied by paragraph (*a*) of subsection (3) of section fourteen of that Act, join the combined force, shall be treated for the purposes of these Regulations as if he had retired at the end of the said period from the force of which he was chief constable. [3429]

General note.—In paragraph (4), *supra*, the words in italics are deleted as from January 3, 1949, by S.I. 1948 No. 2802.

2. Authorities responsible for payment of awards.—(1) An award which is payable on retirement shall be payable by the police authority of the force of which the person in question was a member at the time of his retirement.

(2) An award which is payable on disablement shall—

(*a*) where the injury was received by a regular policeman, be payable by the police authority of the force in which he last served as such, and

(*b*) where the injury was received by a member of a force other than a regular policeman, be payable by the police authority of the force of which he was a member at the time when he received the injury.

(3) An award to a widow or child to which the widow or, as the case may be, child becomes entitled by reason of her husband or, as the case may be, his parent having been injured while a member of a force other than as a regular policeman, shall be payable by the police authority of the force of which he was a member at the time when he received the injury and, in any other case, shall be payable by the police authority of the force in which he last served as a regular policeman. [3430]

3. Duration, amount and payment of awards.—(1) A pension shall be for life unless it is forfeited under the Act or varied, suspended or terminated under these Regulations.

(2) The amount of a pension payable to a person who has been a member of a police force shall, in the manner hereafter provided, be calculated with reference to his annual pensionable pay and shall be payable in respect of each year after his retirement.

(3) A pension to a widow or an allowance to a child shall be of such amount as is hereafter provided and shall be payable in respect of each week. [3431]

PART II

AWARDS ON RETIREMENT AND DISABLEMENT

4. Policeman's ordinary pension.—(1) Subject to the provisions of these Regulations, where a regular policeman who is entitled to reckon twenty-five years' pensionable service retires from a police force, the award shall be an ordinary pension.

(2) The amount of an ordinary pension shall be determined in accordance with Parts I and III of the First Schedule to these Regulations.

(3) This Regulation shall not apply where—

(*a*) a chief officer of police, assistant commissioner of police of the metropolis, assistant commissioner of police for the City of London, assistant chief constable, or a commander or deputy commander in the metropolitan police retires before he has attained the age of sixty, or

(*b*) a regular policeman has not given to the police authority one month's written notice or such shorter notice as the police authority may accept of his intention to retire,

unless—

(i) the police authority otherwise decide, or

(ii) he is required to retire under the provisions of Part IX of these Regulations, or

(iii) he is required to retire as an alternative to dismissal.

(4) Paragraph (1) shall not apply where a member of an overseas corps retires before the completion of his period of overseas service and paragraph (3) shall not apply in relation to any member of an overseas corps. [3432]

5. Policeman's ill-health award.—(1) Where a regular policeman retires from a police force on the ground that he is permanently disabled, the award shall be an ill-health award which—

(*a*) if at the time when he so retires either—

(i) he is entitled to reckon ten years' pensionable service, or

(ii) his disablement is the result of an injury received in the execution of his duty,

shall be a pension (hereafter in these Regulations referred to as an "ill-health pension"), and

(*b*) in other cases, shall be a gratuity.

(2) The amount of the said pension or gratuity shall be determined in accordance with Parts II and III of the First Schedule to these Regulations. [3433]

6. Policeman's short service award.—(1) Where a regular policeman is required to retire under the provisions of Part IX of these Regulations or a chief constable is deemed to retire under subsection (3) of section eleven of the Police Act, 1946, or, as the case may be, under the said subsection (3) as applied by paragraph (*a*) of subsection (3) of section fourteen of that Act, the award shall, unless Regulation 4 applies, be a short service award.

(2) Where a reversionary member of a home police force who, on or before the date of the termination of his period of overseas service, attains the age of sixty but on that date is not entitled to reckon twenty-five years' pensionable service gives to the Secretary of State notice of his intention to retire on that date, the award, on his retiring on that date, shall be a short service award.

(3) If at the time when he retires he is not entitled to reckon ten years' pensionable service, the award shall be a gratuity and otherwise shall be a pension (hereafter in these Regulations referred to as a "short service pension").

(4) The amount of the said pension or gratuity shall be determined in accordance with paragraphs 1, 2 and 3 of Part II and with Part III of the First Schedule to these Regulations. [3434]

7. Policeman's supplemental pension.—(1) Where a member of a police force or a person who has been a member of a police force is permanently disabled as a result of an injury received in the execution of his duty without his own default, the award shall include a supplemental pension in respect of any week in respect of which—

(*a*) none of the payments described in paragraph (3) is payable to him, or

(*b*) if one or more of the said payments is payable, that payment or the aggregate of those payments, as the case may be, is less than the standard amount appropriate to his case determined in accordance with Part IV of the First Schedule to these Regulations.

(2) The amount of the supplemental pension in respect of any week shall—

(*a*) if none of the said payments is payable in respect of that week, be equal to the said appropriate standard amount, and

(*b*) if one or more of the said payments is payable in respect of that week, be equal to the difference between that payment or, as the case may be, the aggregate of those payments and the said appropriate standard amount.

(3) The payments referred to in paragraph (1) are—

(*a*) any injury benefit or disablement pension payable under the National Insurance (Industrial Injuries) Act, 1946,

(*b*) any sickness benefit payable under the National Insurance Act, 1946, until the first day after his retirement which is not or is deemed not to be a day of incapacity for work under section eleven of the last-mentioned Act or regulations made thereunder, and

(*c*) where the person concerned received the injury while serving as a regular policeman any ordinary pension or ill-health pension which becomes or became payable under these Regulations or, as the case may be, the Police Pensions Acts after the time when he received the injury by the police authority of the force in which he was serving at that time.

(4) For the purposes of this Regulation no account shall be taken of so much of a disablement pension as represents an increase payable under section fifteen of the National Insurance (Industrial Injuries) Act, 1946.

(5) Where a person receives a disablement gratuity under the National Insurance (Industrial Injuries) Act, 1946, this Regulation shall apply as if he were entitled during the relevant period to a disablement pension under that Act of such amount as would be produced by converting the gratuity into an annuity for that period.

In this paragraph the expression "the relevant period" means the period taken into account, in accordance with section twelve of the said

Act, for the purpose of making the assessment by reference to which the gratuity became payable. [3435]

8. Award where no other award payable.—(1) Where a person retires from a police force in circumstances which do not entitle him to any other award under these Regulations, the award shall be of an amount equal to the amount of his aggregate pension contributions in respect of the relevant period of service.

(2) Where a member of a police force is dismissed the police authority may, if in their discretion they think fit, either pay to him or apply for the benefit of his dependants an amount equal to the whole or such part as in their discretion they think fit of his aggregate pension contributions in respect of the relevant period of service. [3436]

9. Right to secured pension in case of dismissal. If after becoming entitled on giving due notice to retire and receive an ordinary pension a regular policeman is dismissed otherwise than for a cause for which a pension granted to him could have been forfeited, he shall for the purposes of these Regulations be treated as if he had retired on the date on which he is dismissed and had given one month's written notice of his intention so to do. [3437]

10. Awards to servicemen.—(1) If a serviceman at the end of his relevant period of service in the armed forces of the Crown is permanently disabled, he shall be entitled to the same award on the same conditions in all respects as if he had retired at the end of the said period on the ground of disablement.

(2) If a serviceman within one month from the end of the said period does not resume service in the force in circumstances in which no award is payable to him under these Regulations and does not become a regular policeman in another force with the written consent of the chief officer of police of the former force or if he was immediately before the beginning of the said period the chief officer of police of the former force the written consent of the police authority of that force, these Regulations shall have effect as if he had retired from the force at the end of the said period. [3438]

11. Awards to servicemen (1939–1945).—(1) If a serviceman (1939–1945) is still serving in His Majesty's forces on the appointed day and is prevented within such period after the appointed day as the Secretary of State on the application of the police authority of the force in which he was a regular policeman may direct from resuming service in the force as a regular policeman because he is permanently disabled for the performance of his duty as such, these Regulations shall have effect as if he were serving in the force at the time when he is so disabled and his disablement were not the result of an injury received in the execution of his duty.

(2) If a serviceman (1939–1945) becomes entitled to an award under paragraph (1), the police authority may, in their discretion, pay him a pension in lieu of a gratuity at a rate not less than the amount, which shall be increased in accordance with the provisions of paragraph (6) of Regulation 69, of one-twelfth of his pensionable pay and may, in their discretion, increase any pension subject to and in accordance with Part V of the First Schedule to these Regulations.

(3) If a serviceman (1939–1945) resumes or has resumed his service as a regular policeman and is permanently disabled as a result of an injury received while serving in His Majesty's forces, the police authority may exercise the same discretion as is conferred on them by paragraph (2).

(4) If a serviceman (1939–1945) not being prevented, within the meaning of paragraph 1, from resuming service does not resume service, these Regulations shall have effect as if he had retired at the end of the period mentioned in the said paragraph for reasons other than disablement. [3439]

(2) Where a reversionary member of a home police force who, on or before the date of the termination of his period of overseas service, attains the age of sixty but on that date is not entitled to reckon twenty-five years' pensionable service gives to the Secretary of State notice of his intention to retire on that date, the award, on his retiring on that date, shall be a short service award.

(3) If at the time when he retires he is not entitled to reckon ten years' pensionable service, the award shall be a gratuity and otherwise shall be a pension (hereafter in these Regulations referred to as a "short service pension").

(4) The amount of the said pension or gratuity shall be determined in accordance with paragraphs 1, 2 and 3 of Part II and with Part III of the First Schedule to these Regulations. [3434]

7. Policeman's supplemental pension.—(1) Where a member of a police force or a person who has been a member of a police force is permanently disabled as a result of an injury received in the execution of his duty without his own default, the award shall include a supplemental pension in respect of any week in respect of which—

(*a*) none of the payments described in paragraph (3) is payable to him, or

(*b*) if one or more of the said payments is payable, that payment or the aggregate of those payments, as the case may be, is less than the standard amount appropriate to his case determined in accordance with Part IV of the First Schedule to these Regulations.

(2) The amount of the supplemental pension in respect of any week shall—

(*a*) if none of the said payments is payable in respect of that week, be equal to the said appropriate standard amount, and

(*b*) if one or more of the said payments is payable in respect of that week, be equal to the difference between that payment or, as the case may be, the aggregate of those payments and the said appropriate standard amount.

(3) The payments referred to in paragraph (1) are—

(*a*) any injury benefit or disablement pension payable under the National Insurance (Industrial Injuries) Act, 1946,

(*b*) any sickness benefit payable under the National Insurance Act, 1946, until the first day after his retirement which is not or is deemed not to be a day of incapacity for work under section eleven of the last-mentioned Act or regulations made thereunder, and

(*c*) where the person concerned received the injury while serving as a regular policeman any ordinary pension or ill-health pension which becomes or became payable under these Regulations or, as the case may be, the Police Pensions Acts after the time when he received the injury by the police authority of the force in which he was serving at that time.

(4) For the purposes of this Regulation no account shall be taken of so much of a disablement pension as represents an increase payable under section fifteen of the National Insurance (Industrial Injuries) Act, 1946.

(5) Where a person receives a disablement gratuity under the National Insurance (Industrial Injuries) Act, 1946, this Regulation shall apply as if he were entitled during the relevant period to a disablement pension under that Act of such amount as would be produced by converting the gratuity into an annuity for that period.

In this paragraph the expression "the relevant period" means the period taken into account, in accordance with section twelve of the said

Act, for the purpose of making the assessment by reference to which the gratuity became payable. [3435]

8. Award where no other award payable.—(1) Where a person retires from a police force in circumstances which do not entitle him to any other award under these Regulations, the award shall be of an amount equal to the amount of his aggregate pension contributions in respect of the relevant period of service.

(2) Where a member of a police force is dismissed the police authority may, if in their discretion they think fit, either pay to him or apply for the benefit of his dependants an amount equal to the whole or such part as in their discretion they think fit of his aggregate pension contributions in respect of the relevant period of service. [3436]

9. Right to secured pension in case of dismissal. If after becoming entitled on giving due notice to retire and receive an ordinary pension a regular policeman is dismissed otherwise than for a cause for which a pension granted to him could have been forfeited, he shall for the purposes of these Regulations be treated as if he had retired on the date on which he is dismissed and had given one month's written notice of his intention so to do. [3437]

10. Awards to servicemen.—(1) If a serviceman at the end of his relevant period of service in the armed forces of the Crown is permanently disabled, he shall be entitled to the same award on the same conditions in all respects as if he had retired at the end of the said period on the ground of disablement.

(2) If a serviceman within one month from the end of the said period does not resume service in the force in circumstances in which no award is payable to him under these Regulations and does not become a regular policeman in another force with the written consent of the chief officer of police of the former force or if he was immediately before the beginning of the said period the chief officer of police of the former force the written consent of the police authority of that force, these Regulations shall have effect as if he had retired from the force at the end of the said period. [3438]

11. Awards to servicemen (1939–1945).—(1) If a serviceman (1939–1945) is still serving in His Majesty's forces on the appointed day and is prevented within such period after the appointed day as the Secretary of State on the application of the police authority of the force in which he was a regular policeman may direct from resuming service in the force as a regular policeman because he is permanently disabled for the performance of his duty as such, these Regulations shall have effect as if he were serving in the force at the time when he is so disabled and his disablement were not the result of an injury received in the execution of his duty.

(2) If a serviceman (1939–1945) becomes entitled to an award under paragraph (1), the police authority may, in their discretion, pay him a pension in lieu of a gratuity at a rate not less than the amount, which shall be increased in accordance with the provisions of paragraph (6) of Regulation 69, of one-twelfth of his pensionable pay and may, in their discretion, increase any pension subject to and in accordance with Part V of the First Schedule to these Regulations.

(3) If a serviceman (1939–1945) resumes or has resumed his service as a regular policeman and is permanently disabled as a result of an injury received while serving in His Majesty's forces, the police authority may exercise the same discretion as is conferred on them by paragraph (2).

(4) If a serviceman (1939–1945) not being prevented, within the meaning of paragraph 1, from resuming service does not resume service, these Regulations shall have effect as if he had retired at the end of the period mentioned in the said paragraph for reasons other than disablement. [3439]

PART III

AWARDS ON DEATH

Widows

12. Widow's ordinary pension.—(1) Subject to the provisions of these Regulations, the widow of such a regular policeman as is described in paragraph (2) shall be entitled to a widow's ordinary pension of the amount described in Part I of the Second Schedule to these Regulations.

(2) The regular policeman referred to in paragraph (1) is one—

(*a*) who is entitled to reckon three years' pensionable service and—

(i) dies while serving in the force, or

(ii) retires because he is disabled and his death results from the same injury as resulted in his disablement, or

(iii) retires and receives a pension and dies when still in receipt of the pension ; [or]

(*b*) who, not being such a person as is described in sub-paragraph (*c*), after completing three years' approved service retired between the first day of September, 1918, and the appointed day—

(i) on account of any injury and dies in consequence of that injury, or

(ii) with a pension and dies while in receipt of the pension ; [or]

(*c*) who—

(i) either was serving on the first day of September, 1918, or was a person who having, while serving as a regular policeman, been called out as a reservist or entered or re-entered, enlisted or re-enlisted in any of His Majesty's naval, military or air forces for the purposes of the war in progress on that date was on the said date serving in any such forces, and

(ii) would have been such a regular policeman as is referred to in sub-paragraph (*a*) or (*b*) if he had been entitled to reckon three years' pensionable service or, as the case may be, had completed three years' approved service. [3440]

General note.—The words in square brackets, *supra*, are inserted as from January 3, 1949, by S.I. 1948 No. 2802.

13. Discretionary increase in widow's ordinary pension.—(1) Where a widow is entitled to an ordinary pension under Regulation 12 the police authority may, in their discretion, increase that pension in accordance with the provisions of this Regulation.

(2) Where a person who was a regular policeman before the first day of September, 1918, and has not been a regular policeman since that date retired from being a regular policeman—

(*a*) on account of any injury and dies in consequence of that injury, or

(*b*) with a pension and dies while in receipt of the pension,

the police authority may in their discretion pay his widow, if she is not entitled to a special pension under these Regulations, a pension in accordance with the provisions of this Regulation.

(3) The increase or, as the case may be, the pension shall only be payable—

(*a*) if the widow would have been entitled to receive widow's benefit or a retirement pension under the National Insurance Act, 1946, but for the fact that her husband had not satisfied the contribution condition set out in paragraph (*a*) of sub-paragraph (1) of paragraph 4 of the Third Schedule to the said Act ; and

(*b*) *in respect of any week during which the widow is not receiving a retirement pension under the said Act, a pension under the Old Age Pensions Act, 1936, or any grant payable out of any naval, military or air force fund in pursuance of any royal warrant or other instrument or any payment under any scheme made under the Personal Injuries (Emergency Provisions) Act, 1939.*

[(*b*) in respect of any week during which the widow is not receiving—

(i) a retirement pension under the National Insurance Act, 1946, or

(ii) a pension under the Old Age Pensions Act, 1936, or

(iii) any grant payable out of any naval, military or air force fund made in respect of the death of her husband in pursuance of any royal warrant or other instrument, or

(iv) any payment made in respect of the death of her husband under any scheme made under the Personal Injuries (Emergency Provisions) Act, 1939.]

(4) The rate up to which the pension may be increased or the rate at which the pension may be granted shall be, *during the period of thirteen weeks next following her husband's death* [for the first thirteen weeks that the pension is payable] thirty-six shillings a week and thereafter, during the periods and in the conditions set out in Part II of the Second Schedule to these Regulations, twenty-six shillings a week. [3441]

General note.—In this regulation the words in square brackets are substituted for those in italics as from January 3, 1949, by S.I. 1948 No. 2802.

14. Widow's special pension.—(1) Where a man dies as the result of an injury received in the execution of his duty as a member of a police force without his own default, the award to his widow shall be a widow's special pension.

(2) The amount of a widow's special pension shall be determined in accordance with Part III of the Second Schedule to these Regulations. [3442]

15. Gratuity in lieu of pension.—Where a widow is entitled to a pension and the police authority are satisfied that there is sufficient reason for granting her a gratuity in lieu thereof, they may in their discretion and with her consent substitute for the pension a gratuity determined in accordance with Part IV of the Second Schedule to these Regulations. [3443]

16. Widow's ordinary gratuity.—[(1)] Where a regular policeman dies and his widow is not entitled to a pension under these Regulations, the award shall be a widow's ordinary gratuity which shall be determined in accordance with Part V of the Second Schedule to these Regulations.

[(2) Where an auxiliary policeman who is called up for service dies otherwise than as the result of an injury received in the execution of his duty as such, the award to his widow shall be a gratuity equal to the amount of his aggregate pension contributions in respect of the relevant period of service.] [3444]

General note.—The new paragraph in square brackets, *supra*, is inserted as from January 3, 1949, by S.I. 1948 No. 2802. The numbering of the existing paragraph is implied.

17. Date of payment of award.—A pension or gratuity to a widow shall be payable on the death of her husband except—

(*a*) where her husband was in receipt of a pension and he dies during a period in respect of which he has already received his pension, in which case the widow's pension shall be payable at the end of that period;

(*b*) where her husband has received a gratuity, in which case the widow's pension shall be payable at such time as the police authority may, in their discretion, determine to be reasonable, not being more than one year after his death, having regard to all the circumstances, including the amount of the gratuity. [3445]

18. Awards to existing widows.—(1) Where a member of a police force or a person who has been a member of a police force has died and immediately before the appointed day his widow was entitled to a pension or gratuity under the Police Pensions Acts, any such widow shall continue to be entitled to the pension or gratuity in all respects in the same manner as if these Regulations had not come into force:

Provided that the pension payable in each case shall be that provided for in the said Acts without taking into account, except in the manner hereinafter specified, any increase under the Pensions (Increase) Acts, 1944 and 1947.

(2) The amount of any such pension as provided by paragraph (1) shall be increased in accordance with the provisions of paragraph (6) of Regulation 69.

(3) Where a widow is entitled under the provisions of paragraphs (1) and (2) of this Regulation to a pension the police authority may, in their discretion, increase that pension in accordance with the provisions of this Regulation.

(4) Where the widow of a regular policeman—

(*a*) is not entitled to a pension from the police authority, and

(*b*) either—

(i) would have been entitled to such pension if in paragraph (*a*) of section three of the Police Pensions Act, 1921, the words "three years' approved service" had been substituted for the words "five years' approved service", or

(ii) is the widow of a regular policeman who died while serving before the first day of September, 1918, or, having retired before that date on account of any injury, died in consequence of that injury or retired before that date with a pension and died while in receipt of the pension,

the police authority, if in their discretion they think fit, may grant her a pension in accordance with the provisions of this Regulation.

(5) *The increase or, as the case may be, the pension shall only be payable in respect of any week during which the widow is not receiving widow's benefit or a retirement pension under the National Insurance Act, 1946, a pension under the Old Age Pensions Act, 1936, or any grant payable out of any naval, military or air force fund in pursuance of any royal warrant or other instrument or any payment under any scheme made under the Personal Injuries (Emergency Provisions) Act, 1939.*

[(5) The increase or, as the case may be, the pension shall only be payable in respect of any week during which the widow is not receiving—

(*a*) widow's benefit or a retirement pension under the National Insurance Act, 1946, or

(*b*) a pension under the Old Age Pensions Act, 1936, or

(*c*) any grant payable out of any naval, military or air force fund made in respect of the death of her husband in pursuance of any royal warrant or other instrument, or

(*d*) any payment made in respect of the death of her husband under any scheme made under the Personal Injuries (Emergency Provisions) Act, 1939.]

(6) The rate up to which the pension may be increased or the rate at which the pension may be granted shall be, during the periods and in the conditions set out in Part VI of the Second Schedule to these Regulations, twenty-six shillings a week.

(7) Where a police authority decide to increase or to grant a pension under this Regulation they may, if in their discretion they think fit, pay in addition as a lump sum the amount they would have paid had they decided to increase or, as the case may be, to grant the pension at whichever is the later of the two following dates, namely—

(*a*) the appointed day ;

(*b*) six months before the date on which the police authority decided to increase or, as the case may be, to grant the pension. [3446]

General note.—In this regulation the new para. (5) in square brackets is substituted for that in italics as from January 3, 1949, by S.I. 1948 No. 2802.

19. Limitation on awards to widows with reference to date of marriage.—(1) A widow shall not be entitled to a widow's ordinary pension or gratuity [or be granted a pension in accordance with the provisions of paragraph (2) of Regulation 13 or paragraph (4) of Regulation 18] unless she was married to her husband before he last ceased to be a regular policeman.

(2) A widow shall not be entitled to a widow's special pension unless she was married to her husband before—

(*a*) if he received the injury while he was a regular policeman, he last ceased to be a regular policeman, and

(*b*) if he received the injury while serving as a member of a police force other than as a regular policeman, the end of the continuous period of service during which he received the injury. [3447]

General note.—The words in square brackets, *supra*, are inserted as from January 3, 1949, by S.I. 1948 No. 2802.

20. Limitation on award to widow living apart from husband.—(1) When a man dies leaving a widow who was living apart from him at the time of his death, no pension or gratuity shall be payable to her unless either—

(*a*) at the time of the death the deceased was regularly contributing to her support, or was liable to contribute to her support by virtue of any agreement or any order of a competent court, or

(*b*) she was living apart from him because he had deserted her :

Provided that where the preceding provisions of this paragraph would prevent the payment of a widow's pension or gratuity, the police authority may in their discretion, if they consider that the application of those provisions would cause substantial hardship in that case, pay the pension or gratuity.

(2) For the purposes of this Regulation contributions to a woman for the support of her child shall be treated as contributions to her support. [3448]

21. Termination of widow's pension on remarriage.—(1) Where a pension becomes payable to a widow under these Regulations other than Regulation 60, then, if she subsequently remarries, she shall not be entitled to receive any payment on account of the pension in respect of any period after her remarriage :

Provided that if at any time after her remarriage she again becomes a widow, the police authority may, in their discretion, resume payment of the pension.

(2) Where a gratuity becomes payable to a widow under these Regulations then, if she subsequently remarries, so much of the gratuity as has not been paid before her remarriage shall not be payable thereafter :

Provided that if at any time after her remarriage the woman again becomes a widow, the police authority may, in their discretion, pay to her the sums which they were actually or contingently liable to pay to her in respect of the gratuity immediately before her remarriage.

(3) Where a woman is cohabiting with a man this Regulation shall apply as if she were married to him. [3449]

Children

22. Child's ordinary allowance.—(1) Subject to the provisions of these Regulations, each of the children of such a regular policeman or person who has been a regular policeman as is described in paragraph (2) shall be entitled to a child's ordinary allowance determined in accordance with Part I of the Third Schedule to these Regulations.

(2) The regular policeman or person who has been a regular policeman referred to in paragraph (1) is one who—

(*a*) dies while serving in the force, or

(*b*) retires or has retired with a pension and dies while still in receipt of the pension, or

(*c*) dies after having retired when he was entitled to reckon not less than three years' pensionable service or, if he retired before the appointed day, after completing three years' approved service, and in either case received a gratuity. [3450]

23. Child's special allowance.—Subject to the provisions of these Regulations, where a member of a police force, or a person who has been a member of a police force, dies as the result of an injury received in the execution of his duty without his own default, each of his children shall be entitled to a child's special allowance determined in accordance with Part II of the Third Schedule to these Regulations. [3451]

24. Variation in child's allowance.—(1) Subject to the provisions of these Regulations, a child's allowance may, if the police authority in their discretion think fit, be increased in accordance with Part III of the Third Schedule to these Regulations.

(2) Notwithstanding anything in Regulations 22 and 23, a child's allowance, in the circumstances described in Part IV of the Third Schedule to these Regulations, shall, in accordance with the provisions of the said Part IV, be reduced to nothing or be paid at a lesser amount than that to which the child would otherwise be entitled. [3452]

25. Gratuity in lieu of allowance.—Where a child is entitled to an allowance under these Regulations and the police authority are satisfied that there are sufficient reasons for the grant of a gratuity in lieu thereof they may, in their discretion and with the consent of the child's surviving parent (if any) or guardian, substitute for the allowance a gratuity determined in accordance with Part V of the Third Schedule to these Regulations. [3453]

26. Limitation on right to child's allowance.—(1) A child shall not be *entitled to* [granted] an allowance under these Regulations unless—

(*a*) if a legitimate child, he is the child of or has been legitimated by a marriage which took place before the relevant date,

(*b*) if a step-child, he is the child of a spouse whose marriage to the parent in respect of whose death the allowance is payable took place before the relevant date,

(*c*) if an illegitimate child, he was born before the relevant date,

(*d*) if an adopted child, he was adopted before the relevant date.

(2) The relevant date in the case of a child's ordinary allowance [or an allowance granted in accordance with the provisions of paragraph (5) of

Regulation 28] is the date on which the person in respect of whose death the allowance is payable ceased to be a regular policeman and, in the case of a child's special allowance—

(*a*) if the said person received the injury while he was a regular policeman, is the date on which he last ceased to be a regular policeman,

(*b*) if the said person received the injury while serving as an auxiliary policeman, is the end of the continuous period of service during which he received the injury. [3454]

General note.—In this regulation the words in italics are deleted and those in square brackets are inserted as from January 3, 1949, by S.I. 1948 No. 2802.

27. Duration of child's allowance.—A child's allowance shall be payable up to the time when the child attains the age of sixteen years and, if on attaining that age he is receiving full-time education, thereafter until the next thirty-first day of July or until he first ceases to receive full-time education, whichever is the earlier. [3455]

28. Awards to children of parent who died before appointed day.—(1) Where a member of a police force or a person who has been a member of a police force has died and immediately before the appointed day any child of his was entitled to an allowance under the Police Pensions Acts, any such child shall continue to be entitled to the allowance in all respects in the same manner as if these Regulations had not come into force :

Provided that the allowance payable in each case shall be that provided for in the said Acts without taking into account, except in the manner hereinafter specified, any increase under the Pensions (Increase) Acts, 1944 and 1947.

(2) The amount of any such allowance as provided by paragraph (1) shall be of an amount increased in accordance with the provisions of paragraph (6) of Regulation 69.

(3) *The amount of any allowance ascertained in accordance with the provisions of paragraphs* (1) *and* (2) *of this Regulation may, if the police authority by whom it is payable in their discretion think fit, be increased in the circumstances and manner provided by Part VI of the Third Schedule to these Regulations.*

[(3) Where a child in receipt of an allowance payable in accordance with the provisions of paragraph (1) of this Regulation is receiving full-time education on attaining the age of sixteen years, the allowance shall continue to be payable until the next thirty-first day of July or until he first ceases to receive full-time education, whichever is earlier.

(4) The amount of any allowance ascertained in accordance with the provisions of paragraphs (1) and (2) of this Regulation may, if the police authority by whom it is payable in their discretion think fit, be increased in the circumstances and manner provided by Part VI of the Third Schedule to these Regulations.

(5) The child of such a regular policeman or person who has been a regular policeman as is described in paragraph (6) who is not entitled to an allowance from the police authority, may be granted an allowance, subject to the provisions of Part VI of the Third Schedule to these Regulations, if the police authority in their discretion think fit.

(6) The regular policeman or person who has been a regular policeman referred to in paragraph (5) is one who before the appointed day—

(*a*) has died while serving in the force, or

(*b*) has retired with a pension and died while still in receipt of the pension, or

(*c*) has died after having retired and received a gratuity after completing three years' approved service.] **[3456]**

General note.—In this regulation the existing para. (3) shown in italics is deleted and new paras. (3), (4), (5) and (6) indicated by square brackets are inserted as from January 3, 1946, by S.I. 1945 No. 2802.

Widows, Children and Dependants

29. Awards on death of servicemen.—If a serviceman dies during his relevant period of service in the armed forces of the Crown, these Regulations shall have effect as if he had died while serving as a regular policeman in the force in which he ceased to serve when called up for service in His Majesty's forces. **[3457]**

30. Awards on death of servicemen (1939-1945).—(1) If a serviceman (1939-1945) either—

(*a*) dies while serving in His Majesty's forces within such period after the appointed day as the Secretary of State, on the application of the police authority of the force in which he was a regular policeman, may direct, or

(*b*) within the same period is or has been prevented from resuming service in the force as a regular policeman by disablement and dies as the result of the same injury as resulted in his disablement,

these Regulations shall have effect as if he were serving in the force at the time of his death and his death had not resulted from an injury received in the execution of his duty as a regular policeman.

(2) The police authority may, in their discretion, pay a pension at a rate of not less than eleven shillings and sixpence a week to a widow who is entitled to a gratuity under paragraph (1) and may, in their discretion, increase any pension or allowance payable under this Regulation so that the pension payable to any widow does not, when aggregated with the amount of any grant which is also payable to her out of any naval, military or air force fund in pursuance of any royal warrant or other instrument, exceed an amount, which shall be increased in accordance with the provisions of paragraph (6) of Regulation 69, equal to one-third of the deceased's pensionable pay, and the allowance payable to any child does not, when so aggregated with any grant so payable to the child, exceed an amount which shall be increased in accordance with the provisions of paragraph (6) of Regulation 69 equal to one-fifteenth of the deceased's pensionable pay.

(3) If a serviceman (1939-1945), after resuming service as a regular policeman, dies as the result of an injury received while serving in His Majesty's forces, the police authority may exercise the same discretion as is conferred on them by paragraph (2).

(4) Where any grant which is to be aggregated under paragraph (2) is a gratuity the amount of the grant for that period shall be taken to be the amount which would be payable for that period under Part I of the Government Annuities Act, 1929, if the gratuity had been laid out at the date when it became payable in the purchase of an annuity dependent on the life of the person to whom it is paid. **[3458]**

31. Awards to relatives or estate.—(1) If a member of a police force dies and no other award is payable under these Regulations, the police authority—

(*a*) may, if in their discretion they think fit, grant a gratuity to any of his relatives who were dependent on him to any degree at the time of his death, and

(*b*) if either no gratuity is paid under sub-paragraph (*a*) or any gratuities so paid do not exhaust the maximum amount provided for in paragraph (3), shall pay his legal personal representatives a gratuity sufficient to exhaust the said maximum amount.

(2) If the death of a person in receipt of a pension, not being a widow's pension, under these Regulations—

(*a*) results from an injury received in the execution of his duty, or

(*b*) takes place within two years of the grant of his pension,

the police authority may, in their discretion, grant a gratuity to any relative who was at the time of his death dependent on him to any degree.

(3) The aggregate of all gratuities paid under this Regulation shall not exceed the aggregate pension contributions in respect of the relevant period of service of the member of the police force or, as the case may be, the person in receipt of the pension. [3459]

32. Prevention of duplication.—[(1)] A person who but for this Regulation would become entitled to two awards under this Part of these Regulations shall, on the events occurring which would otherwise create the entitlement, select one of the said awards and thereupon the entitlement to the other or, as the case may be, any further payment under the other, shall cease forthwith.

[(2) For the purposes of this Regulation an award under paragraph (2) of Regulation 16 shall be ignored.] [3460]

General note.—The new paragraph in square brackets, *supra*, is inserted as from January 3, 1949, by S.I. 1948 No. 2802. The numbering of the existing paragraph is implied.

PART IV

PENSIONABLE SERVICE

33. Reckoning of pensionable service.—(1) A regular policeman shall be entitled to reckon as pensionable service all his service as such on and after the appointed day in the force of the police authority by whom the award is payable, together with such additional periods as he may be entitled so to reckon under the succeeding provisions of these Regulations, but where he leaves and rejoins the same force shall not, save as provided in the said succeeding provisions, be entitled to reckon any period of service as such before he last rejoined the force:

Provided that he shall not be entitled to reckon as pensionable service—

(*a*) any service before attaining the age of twenty years except where he is permanently disabled as the result of an injury received in the execution of his duty as a regular policeman without his own default;

(*b*) any period during which, if a woman, she was on unpaid maternity leave;

(*c*) if the police authority so direct the whole or such part as they may direct of any period of suspension from duty under any regulations made under subsection (1) of section four of the Police Act, 1919, at the end of which he did not return to duty without having been found guilty of any offence under such regulations.

(2) Where a regular policeman has ceased to do duty as such in order to become a serviceman, he shall be entitled to reckon as pensionable service in the force in which he so ceased to serve his relevant period of service in the armed forces of the Crown.

(3) A member of a police force other than a regular policeman shall be entitled to reckon as pensionable service, in the case of—

(*a*) an auxiliary policeman, all his service as such since he was called up for service as such or, if he has been called up for service more than once, since he was last called up for service, and

(*b*) a member of an overseas corps who is not a reversionary member of a home police force, all his service as such a member while not being such a reversionary member. [3461]

34. Additions to pensionable service.—A regular policeman shall be entitled to reckon as pensionable service in the force—

(*a*) where he was serving as such immediately before the appointed day, any period of approved service which he was then entitled to reckon under the Police Pensions Acts ;

(*b*) where from being a regular policeman in another police force he has transferred to the force, any period of pensionable service which he was entitled to reckon immediately before the transfer ;

(*c*) where he was formerly retired from the force with an ill-health pension under these Regulations or a pension under the Police Pensions Acts which has been cancelled under these Regulations or those Acts and has subsequently rejoined the force, any period of pensionable service or, as the case may be, approved service which he was entitled to reckon at the time when he so retired ;

(*d*) where he has retired and has been in receipt of a pension in respect of a non-accidental injury under the Police Pensions Acts and that pension is cancelled, the period during which he was in receipt of that pension. [3462]

35. Additions to pensionable service on payment.—(1) A regular policeman shall be entitled to reckon as pensionable service in the force any of the periods before he last entered the force specified in this Regulation on making to the police authority the payments so specified as appropriate.

(2) Where a regular policeman who retires or before the appointed day has retired and on retirement is not or was not granted a pension rejoins the force, the period shall be that which he was entitled to reckon as pensionable service when he so retired or, if he so retired before the appointed day, the period which he was entitled then to reckon as approved service, and the appropriate payment shall be any gratuity, return of pension contributions or, as the case may be, rateable deductions which he may have received on his retirement.

(3) Where he has served as a member of the first class of the police reserve, of the Police War Reserve or of Class A of the Women's Auxiliary Police Corps or as a special constable, the period shall be half the period of service as a member of the first class of the police reserve during which he was not in receipt of a pension under these Regulations or the Police Pensions Acts, half the period of service as a member of the Police War Reserve, half the period of service as a member of the Women's Auxiliary Police Corps, whether in Class A of that Corps or otherwise, and half the period of service as a special constable while serving as such in a whole-time capacity and in receipt of pay in respect of such service, and the appropriate payment shall be five per cent. of, in the case of a man ninety shillings, and in the case of a woman seventy-nine shillings, in respect of each week which he is entitled under this paragraph to reckon as pensionable service.

(4) Where he was a person to whom section one of the Police and Firemen (War Service) Act, 1939, as extended by Regulation 60DA of the Defence (General) Regulations, 1939, applies the period shall be the period during which he was engaged in war work within the meaning of the said Defence Regulation between the date on which the emergency that was the occasion of the passing of the said Act came to an end and one year after that date, and the appropriate payment shall be the aggregate of the payments that he would have been required to make under the said Act as so extended in respect of the said period if the said date had fallen at the end of the said period. [3463]

36. Additions to pensionable service at discretion of police authority.—(1) A regular policeman shall be entitled to reckon as pensionable service in the force to the extent specified in this Regulation any of the periods so specified before he last entered the force and, where paragraph (2) applies, on making to the police authority the payments specified in that paragraph.

(2) Where before joining the force he became entitled to a gratuity, return of pension contributions or rateable deductions on retiring from being a regular policeman in another force, the period, if his present police authority in their discretion think fit, shall be the whole or so much as his present police authority in their discretion think fit of the period of pensionable service or, where he retired before the appointed day, approved service which he was entitled to reckon on retiring from the other force on condition that he pays to them a proportionate part of any such gratuity, return of pension contributions or, as the case may be, rateable deductions.

(3) Where he has ceased to serve as a regular policeman in order to enter or enlist in any one of His Majesty's naval, military or air forces for the purposes of the war in progress on the eighteenth day of September, 1914, if the police authority of the force of which he was a member before he so ceased to serve in their discretion think fit, the period shall be the period of service in His Majesty's forces. [3464]

37. Additions to pensionable service in case of servicemen (1939–1945).—(1) Where a serviceman (1939–1945) is, on the appointed day, still serving in His Majesty's forces, he shall be entitled to reckon as pensionable service any period of service after that day in His Majesty's forces up to such limit as the Secretary of State may from time to time in his case fix and such further period, not exceeding three months, after ceasing to be a member of His Majesty's forces and before becoming a member of the police force or becoming entitled to an award under these Regulations as the Secretary of State may fix, together with approved service which he would be entitled to reckon immediately before the appointed day.

(2) Where a serviceman (1939–1945) after receiving a pension under the Police and Firemen (War Service) Acts, 1939, and 1944, rejoins [or before the appointed day has rejoined] as a regular policeman the force of the police authority by whom that pension was paid, he shall, if the police authority in their discretion so decide, be entitled to reckon as pensionable service the whole of the period during which he was in receipt of the said pension or such part of the said period as the police authority in their discretion decide. [3465]

General note.—In this regulation the words in square brackets are inserted as from January 3, 1949, by S.I. 1948 No. 2802.

38. Added years in case of displaced chief constable.—(1) Where a police area has been amalgamated with another police area by a scheme made under the Police Act, 1946, the chief constable of the force of an area so amalgamated who is deemed to have retired under subsection (3) of section eleven of that Act—

(*a*) if during the period of three months referred to in the said subsection he joins the combined force, shall be entitled to reckon as pensionable service in the combined force the period during which he was in receipt of a salary under the said subsection;

(*b*) if during the said period he does not join the combined force, shall, at the expiration of the said three months, be entitled to reckon as pensionable service the pensionable service which he was entitled to reckon at the date when he was so deemed to retire, with the

addition of the said period of three months and also of the shortest of the three following periods, namely :—

(i) ten years ;

(ii) the period between the time when he was deemed to retire and the date on which he would, if he had continued to serve in the force from which he was so deemed to retire, have been entitled to reckon thirty years' pensionable service ; and

(iii) the period between the date when he was so deemed to retire and the date on which he would, if he were to live so long, attain the age of sixty-five years.

(2) The reference in paragraph (1) to the chief constable of an amalgamated area includes a reference to a person who engaged for a period of overseas service and, immediately before he so engaged, was the chief constable of the force of an area which, while he was so engaged, was amalgamated with another police area, and the reference to subsection (3) of section eleven of the Police Act, 1946, includes a reference to that subsection as applied by paragraph (*a*) of subsection (3) of section fourteen of the said Act. [3466]

39. Added years in case of displaced reversionary member of home police force.—A reversionary member of a home police force—

(*a*) who is a member of the Special Police Corps of the Control Commission for Germany (British Element) or the Public Safety Branch of the Allied Commission for Austria (British Element), and

(*b*) who, after notice has been given to him that for the purpose of reducing the numbers of the corps it is desired *so to vary the period* [to vary his period of overseas service] by advancing the date of its termination from a date at which he would have been entitled to retire and receive an ordinary pension, has had his period of overseas service varied in accordance with the said notice, and

(*c*) who gives written notice to the Secretary of State of his intention to receive the benefit of this Regulation,

shall, on retiring at the end of the said period from the overseas corps of which he is a member otherwise than on being disabled, be entitled to reckon the pensionable service which he is entitled to reckon at the date when he retires with the addition of the period between the time when he retires and the date on which his period of overseas service would have terminated had it not been so varied. [3467]

General note.—In this regulation the words in square brackets are substituted for those in italics as from January 3, 1949, by S.I. 1948 No. 2802.

40. Reckoning of service in Scotland. [3468]

PART V

PENSION CONTRIBUTIONS

41. Pension contributions.—(1) Subject to the provisions of these Regulations, a member of a police force shall pay pension contributions to the police authority equal to one shilling and twopence a week less than five per cent. of his pensionable pay.

(2) The pension contribution upon each instalment of pay shall fall due at the same time as that instalment and may without prejudice to any other method of payment be discharged by way of a deduction of an appropriate amount made by the police authority from the said instalment.

(3) Where any person who is on the appointed day a regular policeman, an auxiliary policeman or a serviceman (1939–1945) he shall, in the case of

a serviceman (1939–1945) while he remains a serviceman (1939–1945), and, in any case while he is at any time after the appointed day a regular policeman, pay pension contributions at the rate of twopence a week less than five per cent. of his pensionable pay, but may elect, if he gives notice in writing to that effect to the appropriate police authority not later than three months after the appropriate date, to pay pension contributions at the rate specified in paragraph (1), and if he so elects he shall be liable to pay pension contributions at the latter rate from the appropriate date and any overpayment of contributions already made since the appropriate date shall be repaid to him by the police authority to whom they were paid and he shall remain liable to pay pension contributions at the latter rate while he is a regular policeman in any force :

Provided that a serviceman (1939–1945) shall not be compelled by this paragraph to pay pension contributions except in respect of such periods as those in respect of which he would have been compelled to pay sums equal to rateable deductions if the Act had not been passed.

(4) The appropriate date for the purpose of paragraph (3) shall be—

(*a*) in the case of a person who is on the appointed day a regular policeman or a serviceman (1939–1945), the appointed day,

(*b*) in the case of a person who is an auxiliary policeman on the appointed day, the date on which he first after the appointed day becomes a regular policeman,

and the appropriate authority for the purpose of paragraph (3) shall be—

(i) in the case of a person who is a regular policeman on the appointed day, the police authority of the force of which he is a member,

(ii) in the case of a serviceman (1939–1945), the police authority of the force in which he ceased to serve in order to serve in His Majesty's forces,

(iii) in the case of a person who is an auxiliary policeman on the appointed day, the police authority of the force in which he first after the appointed day becomes a regular policeman. [3469]

PART VI

CANCELLATION, REVISION, REDUCTION AND WITHDRAWAL OF AWARDS

42. Cancellation of ill-health pension.—(1) As long as a person—

(*a*) is in receipt of an ill-health pension,

(*b*) would not if he had continued to serve as a regular policeman instead of retiring with an ill-health pension have been entitled to reckon twenty-five years' pensionable service, and

(*c*) if he continued so to serve would not have been compelled to retire under Regulation 54,

the police authority may, if they wish to exercise the powers conferred by this Regulation, consider, at such intervals as they in their discretion think proper, whether his disability has ceased.

(2) If on any such consideration it is found that his disability has ceased, the police authority may give the person concerned notice that if he wishes to rejoin the force as a regular policeman within a period of not less than three months from the date on which he has been given such notice he will be permitted to do so.

(3) If the person concerned within the period referred to in paragraph (2) offers to rejoin the force as a regular policeman, he shall be permitted to do so in a rank not lower than that he held immediately before he retired

with the ill-health pension, and on the date when he so rejoins the ill-health pension shall cease.

(4) If he does not within the period referred to in paragraph (2) offer to rejoin the force as a regular policeman, the pension shall cease at the end of the said period. [3470]

43. Reassessment of supplemental pension.—Subject as hereinafter provided, where a supplemental pension is payable under these Regulations, the police authority shall, at such intervals as may be suitable, consider whether the degree of the pensioner's disablement has altered; and if after such consideration the police authority find that the degree of the pensioner's disablement has substantially altered, the pension shall be revised accordingly. [3471]

44. Reduction of pension in case of default.—Where a member of a police force or a person who has been a member of a police force becomes permanently disabled and has brought about or substantially contributed to the disablement by his own default, the police authority may reduce the amount of any ill-health award or supplemental pension payable to him by them by an amount not exceeding one-half of that to which he would otherwise be entitled:

Provided that this Regulation shall not apply where the person concerned would, if he had continued to serve instead of retiring with an ill-health award, have been entitled to reckon twenty-five years' pensionable service. [3472]

45. Withdrawal of pension during re-employment.—A police authority by whom a pension is payable under these Regulations may, in their discretion, withdraw the whole or any part of the pension for any period during which the pensioner is employed as a regular policeman in any police force. [3473]

46. Discharge of liability of police authority on withdrawal of pension.—To the extent to which a pension or allowance is withdrawn under any power conferred by the preceding provisions of these Regulations, the police authority shall be discharged from all actual or contingent liability in respect thereof. [3474]

PART VII

DETERMINATION OF QUESTIONS

47. Reference of medical questions.—(1) Subject as hereinafter provided, the question whether a person is entitled to any and, if so, what awards under these Regulations shall be determined in the first instance by the police authority.

(2) Where the police authority are considering whether a person is disabled they shall refer for decision to a duly qualified medical practitioner selected by them the following questions:—

(*a*) whether the person concerned is disabled,

(*b*) whether the disablement is likely to be permanent,

and, if they are further considering whether to grant a supplemental pension, shall so refer the following questions:—

(*c*) whether the disablement is the result of an injury received in the execution of duty, and

(*d*) the degree of the person's disablement,

and, if they are considering whether to revise a supplemental pension, shall so refer question (*d*) above.

(3) A police authority, if they are considering the exercise of their powers under Regulation 44, shall refer for decision the question whether the person

concerned has brought about or substantially contributed to the disablement by his own default to a duly qualified medical practitioner selected by them.

(4) The certificate of the selected medical practitioner on the questions referred to him under the preceding provisions of this Regulation shall, subject to the provisions of Regulations 48 and 49, be final. [3475]

48. Appeal to medical referee.—(1) Where a person has been informed of the determination of the police authority on any question which involves the reference of questions under Regulation 47 to a selected medical practitioner, he shall, if, within fourteen days after being so informed or such further period as the police authority may in any case allow, he applies to the police authority for a copy of the certificate of the selected medical practitioner, be supplied with such a copy.

(2) If the person concerned is dissatisfied with the decision of the selected medical practitioner as set out in his certificate, he may, within fourteen days after being supplied with the certificate or such longer period as the police authority may allow and subject to and in accordance with the provisions of the Fourth Schedule to these Regulations, give notice to the police authority that he appeals against the said decision, and the police authority shall notify the Secretary of State accordingly, and the Secretary of State shall appoint an independent person or persons (hereafter in these Regulations referred to as the " medical referee ") to decide the appeal.

(3) The decision of the medical referee shall, if he disagrees with any part of the certificate of the selected medical practitioner, be expressed in the form of a certificate of his decision on any of the questions referred to the selected medical practitioner on which he disagrees with the latter's decision, and the decision of the medical referee shall, subject to the provisions of Regulation 49, be final. [3476]

49. Further reference to medical referee.—(1) A court hearing an appeal under section five of the Act or a tribunal hearing an appeal under Regulation 51 may, if they consider that the evidence before the medical authority who has given the final decision was inaccurate or inadequate, refer the decision of that authority to him for resonsideration in the light of such facts as the court or the tribunal may direct, and the medical authority shall accordingly reconsider his decision and, if necessary, issue a fresh certificate which, subject to any further reconsideration under this paragraph, shall be final.

(2) The police authority and the claimant may, by agreement, refer any final decision of a medical authority who has given such a decision to him for reconsideration on fresh evidence and he shall accordingly reconsider his decision and, if necessary, issue a fresh certificate which, subject to any further reconsideration under this paragraph or paragraph (1), shall be final.

(3) If a court or tribunal decide, or a claimant and the police authority agree, to refer a decision to the medical authority for reconsideration under this Regulation and that medical authority is unable or unwilling to act, the decision may be referred to a duly qualified medical practitioner selected by the court or tribunal or, as the case may be, agreed upon by the claimant and the police authority, and his decision shall have effect as if it were that of the medical authority who gave the decision which is to be reconsidered.

(4) In this Regulation references to a medical authority who has given a final decision mean the selected medical practitioner if the time for appeal from his decision has expired without an appeal to a medical referee being made and the medical referee, if there has been such an appeal. [3477]

50. Refusal to be medically examined.—If a question is referred to a medical authority under Regulation 47, 48 or 49 and the person concerned

wilfully or negligently fails to submit himself to such medical examination as the medical authority may consider necessary in order to enable him to make his decision—

(*a*) if the question arises otherwise than on an appeal to a medical referee, the police authority may make their determination on such evidence and medical advice as they in their discretion think necessary ;

(*b*) if the question arises on an appeal to a medical referee, the appeal shall be deemed to be withdrawn. [3478]

51. Appeal by member of overseas corps.—(1) Where a person is aggrieved by the refusal of the Secretary of State as police authority of an overseas corps to admit a claim to receive as of right a pension or a larger pension than that granted under these Regulations or the forfeiture under the Act of any pension, he may give notice of appeal to the Secretary of State.

(2) The Secretary of State, on receiving such a notice of appeal, shall appoint an appeal tribunal consisting of a barrister or solicitor of not less than seven years' standing, a duly qualified medical practitioner of not less than seven years' standing and a retired member of an overseas corps or of a home police force who, before he retired, held a rank not lower than that of Deputy Assistant Inspector-General or, as the case may be, of superintendent.

(3) Subject to any general or special directions of the Secretary of State, the appeal tribunal shall determine its own procedure.

(4) The provisions of subsection (3) of section five of the Act shall have effect in relation to any decision of an appeal tribunal with the substitution for references to quarter sessions of references to the appeal tribunal. [3479]

PART VIII

PAYMENT AND ASSIGNMENT OF AWARDS

52. Payment of awards.—(1) Subject to the provisions of these Regulations, every pension or allowance payable thereunder shall, subject to such delay as may be necessary for the purpose of determining any question as to the liability of the police authority in respect thereof, be discharged by payments in advance at such reasonable intervals as the police authority may, in their discretion, determine.

(2) Where a person dies after receiving a sum paid in advance on account of a pension or allowance under these Regulations neither the said sum nor any part thereof shall be recoverable although referable to a period after his death.

(3) Where a widow remarries after receiving a sum paid in advance on account of a pension under these Regulations, neither the said sum nor any part thereof shall be recoverable, although referable to a period after her remarriage.

(4) Every gratuity payable under these Regulations shall be paid in one sum :

Provided that where a police authority are satisfied that it would be for the advantage of the beneficiary to pay a gratuity in instalments, they may pay it in instalments of such reasonable amounts and over such reasonable period as they think fit. [3480]

53. Payment of awards other than to person entitled.—(1) Where any sum is due on account of a pension, and any debt is due to the police authority or, where the police authority is the police authority for the metropolitan police district, to the Receiver for that district, from the pensioner, so much of the said sum as does not exceed the debt may be applied by the authority or, as the case may be, the Receiver in or towards the satisfaction of the debt.

(2) If it appears to the police authority that a pensioner is insane or otherwise incapable of managing his affairs, the authority may in their discretion pay the pension or any part thereof to any person having the care of the pensioner, and, in so far as they do not dispose of the pension in that manner, may apply it in such manner as they think fit for the benefit of the pensioner or his dependants.

(3) On the death of a pensioner to whom a sum not exceeding two hundred pounds is due on account of a pension, the police authority may, without probate, confirmation or any other formality or proof of title, pay the said sum to the persons appearing to the authority to be beneficially entitled to the personal estate of the deceased or, as the authority think fit, pay the said sum to one or more of those persons or distribute it among all or any of those persons in such proportions as the authority may determine.

(4) Where any sum is payable to a minor on account of a pension, the authority may, if they think fit, in lieu of paying the said sum to the minor, pay it to such other person as they may determine.

A person who receives any sum paid under this paragraph shall, subject to and in accordance with any directions of the police authority, apply the said sum for the minor's benefit.

(5) This Regulation shall apply with respect to other awards payable under these Regulations as it applies with respect to pensions, and accordingly any reference in this Regulation to a pension shall be construed as including a reference to any other award, and any reference therein to a pensioner shall be construed as including a reference to a person to whom any award is payable.

(6) A police authority shall obtain a good discharge by applying or paying any sum in the manner provided by this Regulation. [3481]

PART IX

COMPULSORY RETIREMENT

54. Compulsory retirement on account of age.—(1) Subject to the provisions of paragraph (2), every regular policeman—

(*a*) who is not a member of the metropolitan police or of an overseas corps shall be required to retire—

(i) if he is the commissioner or assistant commissioner of police for the City of London or is a chief constable or assistant chief constable, on attaining the age of sixty-five ;

(ii) if he is a superintendent or inspector, on attaining the age of sixty ;

(iii) if he is a sergeant or constable, on attaining the age of fifty-five ;

(*b*) who is a member of the metropolitan police shall be required to retire—

(i) if he is an assistant commissioner, on attaining the age of sixty ;

(ii) if he is a commander or deputy commander, on attaining the age of fifty-seven ;

(iii) if he holds any lower rank, on attaining the age of fifty-five :

Provided that where a regular policeman was serving in any force on the twenty-eighth day of August, 1921, or was serving as a member of the metropolitan police in a rank above that of sergeant immediately before the appointed day, the time at which he shall cease to be a member of the force shall, unless at any time he elects by notice in writing to the police

authority of the force in which he is serving that this proviso shall not apply to him, be the time at which he would have been required to retire on the ground of age if these Regulations had not come into force.

(2) The time at which, under paragraph (1), a person shall be required to retire may be postponed, if the person concerned holds a rank above that of superintendent, by the police authority and, if he holds the rank of superintendent or any lower rank, by the chief officer of police with the approval of the police authority in a borough force and by the chief officer of police in any other force :

Provided that no such postponement or postponements shall extend beyond five years from the time at which under paragraph (1) he would have been required to retire. [3482]

55. Compulsory retirement on grounds of efficiency of the force.—If a police authority determine that the retention in the force of a regular policeman who if required to retire is entitled to receive a pension of an amount not less than two-thirds of his pensionable pay would not be in the general interests of efficiency, he may be required to retire on such date as the police authority determine. [3483]

56. Compulsory retirement on grounds of disablement.—Every regular policeman may be required to retire on the date on which the police authority determine that he ought so to retire on the ground that he is permanently disabled for the performance of his duty :

Provided that a retirement under this Regulation shall be void if, after the said date, on an appeal against the medical opinion on which the police authority acted in determining that he ought to retire the medical referee decides that the appellant is not permanently disabled. [3484]

57. Effect of requirement to retire.—Where a person is required to retire under this Part of these Regulations he shall be deemed to retire on the date on which he is so required to retire. [3485]

PART X

MISCELLANEOUS AND SUPPLEMENTAL

58. Funds out of which and into which payments are to be made.—(1) Subject to the provisions of this Regulation, all payments by or to a police authority under these Regulations shall be paid out of or into the police fund.

(2) All payments by or to the Common Council of the City of London shall be paid out of or into the police rate of the City of London.

(3) All payments by or to the Secretary of State as police authority for the metropolitan police district shall be paid out of or into the metropolitan police fund, save that any award to or in respect of the commissioner of police of the metropolis and such part of any award to or in respect of any assistant commissioner of police of the metropolis as may be determined by the Treasury shall be paid out of moneys provided by Parliament, and all pension contributions by the said commissioner and such part of any pension contributions by any such assistant commissioner as is attributable to that part of his pay which is paid out of moneys provided by Parliament shall be paid into the Exchequer.

(4) All payments by or to the Secretary of State as police authority for an overseas corps shall be paid out of moneys provided by Parliament or into the Exchequer. [3486]

59. Contributions between police authorities in case of transfer.—(1) Subject to the provisions of this Regulation, where a regular policeman transfers or has transferred from one force to another in such circumstances that he

is entitled to reckon pensionable service or, as the case may be, approved service in the former force as such service in the latter, the police authority of the latter force shall be entitled, if they become liable to make any award under these Regulations to or in respect of that person, to a contribution of a proportionate part of such award from the police authority of the former force reckoned according to his service and pay while a member of the former force of an amount to be agreed between the authorities, or in default of agreement to be settled by arbitration.

(2) Where a regular policeman transfers or has transferred from a police force to which these Regulations apply to a police force to which the Police Pensions (Scotland) Regulations, 1948, apply in such circumstances that he is entitled to reckon pensionable service or, as the case may be, approved service in the former force as pensionable service within the meaning of the said Regulations, the police authority of the latter force shall be entitled, if they become liable to make an award under the said Regulations to or in respect of that person, to a contribution of a proportionate part of such award from the police authority of the former force reckoned according to his service and pay while a member of the former force of an amount to be agreed between the authorities or in default of agreement to be settled by arbitration.

(3) Where a regular policeman transfers from an overseas corps to a home police force and becomes entitled to a supplemental pension or the widow or any child of a man who so transfers becomes entitled to a widow's special pension or, as the case may be, a child's special allowance by reason of an injury received by the policeman while he was a member of the overseas corps, the police authority of the home police force shall be entitled to a contribution from the Secretary of State as police authority of the overseas corps of an amount equal to—

(*a*) the amount of any supplemental pension and the difference between any widow's special pension and the widow's ordinary pension that would otherwise have been payable and between any child's special allowance and the child's ordinary allowance that would otherwise had been payable, and

(*b*) the amount which the Secretary of State as police authority of the overseas corps would have been liable to contribute if the policeman had received the injury otherwise than in the execution of his duty.

(4) Where a reversionary member of a home police force has given the notice referred to in Regulation 39, the Secretary of State as police authority of the overseas corps shall not be entitled to a contribution from the police authority of any home police force in respect of the period between the date when the member retired and *the date when his period of overseas service would have terminated if it* [the date on which he would have completed twenty-five years' pensionable service if the period of his overseas service] had not been varied as mentioned in the said Regulation.

(5) Where a regular policeman leaves a police force and joins the Royal Ulster Constabulary in such circumstances that, if the said Constabulary were a home police force, his so leaving and joining would be a transfer and the Government of Northern Ireland become liable to make payments under any legislation for the time being in force in Northern Ireland relating to pensions, allowances, gratuities, return of pension contributions or similar awards to or in respect of persons who have been members of the Royal Ulster Constabulary, the said Government shall be entitled to a contribution from the police authority of the said police force of such an amount as may be agreed between the said Government and the said police authority, or in default of such agreement settled by arbitration, and the arbitrator

shall take into consideration the amount of the contribution that would have been payable under these Regulations if the Royal Ulster Constabulary had been a home police force. [3487]

General note.—In this regulation the words in square brackets are substituted for those in italics as from January 3, 1949, by S.I. 1948 No. 2802.

[59A. Chief constables who join or are transferred to a combined police force.—Where a chief constable of an area that is amalgamated with another area by a scheme under section three, four or six of the Police Act, 1946, is transferred to the combined police force in pursuance of an agreement made by him before the date of transfer, or joins that force within the period of three months beginning with the date of transfer, in any capacity other than that of chief constable or assistant chief constable, then, subject to any agreement to the contrary made between him and the police authority of the combined area, he shall, while he serves in that force, be treated for the purposes of Regulations 4 and 54 as if he were a chief constable.] [3488]

General note.—This new regulation is inserted as from January 3, 1949, by S.I. 1948 No. 2802.

60. Allocation of part of pension.—(1) If before retiring with an ordinary pension or a short service pension a regular policeman—

(*a*) gives notice to the police authority by whom the pension will be payable of his intention to surrender a portion of the pension not exceeding one-third thereof, and

(*b*) nominates the person in whose favour the surrender is to take effect, and

(*c*) provides the police authority with such evidence of his good health as the authority consider satisfactory,

the pension shall be reduced accordingly, and after his death the police authority shall pay to the person so nominated, if that person survives him, a pension of such amount as, according to tables from time to time prepared by the Government Actuary, is actuarially equivalent, as at the time when the ordinary or short service pension first became payable, to that part of the pension which he has surrendered.

(2) A regular policeman shall not be entitled under this Regulation to surrender a part of his pension in favour of any person other than his wife or her husband unless the police authority are satisfied that that person is dependent to a substantial extent on the regular policeman when he gives notice of his desire so to surrender part of his pension. [3489]

61. Special arrangements for pensions to commissioner and assistant commissioners of police of the metropolis.—Notwithstanding anything in these Regulations, the Secretary of State, with the approval of the Treasury, may make such special arrangements as he may think fit in exceptional circumstances in the public interest as to the rates and conditions of pension of the commissioner and assistant commissioners of police of the metropolis and of persons holding the rank of commander in that force, and such arrangements to such extent as may be provided therein may be substituted for any provisions of these Regulations. [3490]

62. Minimum pension of ex-reversionary member of home police force.—Where a person who has been a reversionary member of a home police force becomes a regular policeman in a home police force and an award becomes payable to or in respect of him by reason of his having received an injury in the execution of his duty as a member of an oversea corps without his own default, the award shall not be less than it would have been if he had not after being a reversionary member of a home police force become such a regular policeman. [3491]

63. Special arrangements for pensions in respect of members of overseas corps with previous police service outside Great Britain.—Notwithstanding anything in these Regulations, where the Secretary of State is satisfied that a member of an overseas corps before becoming such a member had been engaged in the performance of police duties in any country or territory outside Great Britain, and that under legislation in force in that country or territory grants were, at the time he became such a member, payable to or in respect of persons similarly engaged on their retirement or, as the case may be, death, the Secretary of State may, in accordance with any agreement made with that person in consideration of his becoming a member of the overseas corps, make awards, in addition to any award payable under these Regulations, to or in respect of that person payable to such persons on such conditions and of such a nature and amount as will ensure that the awards and any grants under the said legislation taken together are on the whole not less favourable to the persons concerned than they would have been if the said police duties had been performed as a regular member of a home police force and the member of the overseas corps had been a reversionary member of a home police force. [3492]

64. Pensionable service in respect of certain members of overseas corps.—Where a reversionary member of a home police force has served in an overseas corps for one year or less he shall be treated for all purposes of reckoning pensionable service as if the condition as to completion of not less than one year's approved service contained in subsection (1) of section eight of the Police Pensions Act, 1921, had not been applied by any regulations made under the Police (Overseas Service) Act, 1945. [3493]

65. Lincolnshire.—Notwithstanding anything in these Regulations—

(*a*) the Lincolnshire joint police superannuation fund shall continue to be maintained and managed in the same manner as it was immediately before the appointed day until the police authorities for the three divisions of Lincolnshire otherwise agree or until any one of the three forces ceases to have the same chief constable as the other two, whichever shall first happen ;

(*b*) the police authorities of any two of the three police forces which have the same chief constable may maintain a joint police superannuation fund to be managed and maintained as may be agreed from time to time between them ;

(*c*) as long as there is a joint police superannuation fund for any two or more of the said divisions the forces of the divisions with the said joint fund shall be treated for the purposes of these Regulations as one force, and the fund out of and into which all payments which under these Regulations or the Police Pensions Acts are to be made out of or into the police fund shall be the joint fund :

Provided that in the case of any insufficiency in the joint fund nothing in this Regulation shall relieve the police authority of any liability in respect of the award to which they would be subject if this Regulation had not been made ;

(*d*) if a joint fund comes to an end the assets of the fund shall be distributed among the police authorities concerned in such manner as they may agree or, if they fail to agree, in such manner as may be decided by arbitration. [3494]

66. Saving of sections 10 and 22 (2) of Police Pensions Act, 1921.—On the coming into force of these Regulations—

(*a*) section ten of the Police Pensions Act, 1921, shall continue to have effect so far as relates to the period between the date when these

Regulations come into force and the date when rules under subsection (1) of section two of the Superannuation (Miscellaneous Provisions) Act, 1948, relating to employment in service as a member of a police force come into force, and

(*b*) subsection (2) of section twenty-two of the Police Pensions Act, 1921, shall continue to have effect. [3495]

67. Posthumous children.—Where a legitimate child is born after his father's death he shall, as from his birth, be entitled to receive any allowance which would have become payable to him under these Regulations or the Police Pensions Acts on his father's death if he had been born immediately before his father died, and any reference in these Regulations to an allowance payable on death shall be construed as including a reference to an allowance payable by virtue of this Regulation. [3496]

68. Pensionable pay.—(1) *Subject to paragraph* (2), *the pensionable pay of a regular policeman shall be his pay at the rate to which he was entitled at the time when he last ceased to be such in the force of a police authority by whom the award is payable and, in the case of an auxiliary policeman, shall be his pay at the rate to which he was entitled at the end of the continuous period of being called up for service as such in which he received the injury which resulted in the disablement and in the case of a member of an overseas corps who is not a reversionary member of a home police force, his pay at the end of his last period of overseas service.*

[(1) The pensionable pay of a member of a police force shall be his pay at the rate to which he was entitled immediately before the relevant date for the purposes of calculation.

(1A) The relevant date in the case of calculations for the purposes of pension contributions is the date on which the contribution falls due and in the case of calculations for the purposes of awards—

(*a*) if the award is made to or in respect of a regular policeman, is the date when he last ceased to be such in the force of the police authority by whom the award is payable ;

(*b*) if the award is made to or in respect of an auxiliary policeman, is the date of the end of the continuous period of being called up for service as such in which he received the injury which resulted in disablement ;

(*c*) if the award is made to or in respect of a member of an overseas corps who is not a reversionary member of a home police force, is the date of the end of the period of overseas service in which he received the injury which resulted in disablement.]

(2) [Notwithstanding anything in paragraph (1)] where a member of a police force at the date of his death or retirement holds a rank to which he has been promoted within the three preceding years his pensionable pay shall be the average of the rate of pay to which he has been entitled during those three years :

Provided that—

(*a*) promotion within any of the following three groups of ranks in a home police force shall not for the purposes of this Regulation be deemed to be promotion :—

Group 1
Chief Superintendent
Superintendent

Group 2

Chief Inspector
Sub-Divisional Inspector
Inspector
Station Inspector
Sub-Inspector

Group 3

Station Sergeant
Sergeant
Acting Sergeant

and promotion within such groups of ranks in an overseas corps as may from time to time be directed by the Secretary of State shall not be deemed to be promotion ;

(*b*) in the case of a reversionary member of a home police force his appointment to the overseas corps otherwise than by way of transfer from another overseas corps shall be deemed to be a promotion for the purposes of this paragraph, and where he has given the notice referred to in Regulation 39 the average of his rate of pay shall be deemed to be the average of the pay to which he would have been entitled if he had continued to serve in the corps without alteration in the amount of his pay till the date on which his period of overseas service would have terminated if it had not been varied as mentioned in the said Regulation ;

(*c*) this paragraph shall not apply to a member of the City of London police force who was serving as such on the twenty-eighth day of July, 1921, and is still so serving on the appointed day ;

(*d*) the effect of this paragraph shall not reduce the amount of any award under these Regulations below what it would have been if the promotion had not occurred.

(3) *For the purpose of this Regulation any temporary reduction in pay imposed by way of punishment shall be ignored.*

[(3) Where the rate of pay of a member of a police force at the date of his death or retirement is temporarily reduced by way of punishment, such a reduction shall be ignored in the case of calculations for the purposes of awards.]

(4) Where it is necessary for the purpose of any award under these Regulations to calculate the annual pensionable pay of or the pay received in a year by a person who was in receipt of weekly pay the annual pensionable pay or pay received in a year shall be fifty-two and one-sixth times the amount of the weekly pay.

(5) A serviceman (1939–1945) who is still serving in His Majesty's forces on the appointed day shall be deemed to receive from that day to the date when he dies or is deemed under these Regulations to retire the pay which he would have received if he had continued to serve as a regular policeman in the force in which he ceased to serve in order to serve in His Majesty's forces.

(6) A serviceman shall, for the purposes of the calculation of any award under these Regulations, be deemed to receive, during his relevant period of service in the armed forces of the Crown, the amount of pay he would have received if he had continued to serve in the police force.

(7) For the purpose of calculating the pension of the chief constable of the force of an area which has been amalgamated with another police

area by a scheme made under the Police Act, 1946, to whom a pension becomes payable by virtue of paragraph (5) of Regulation 1, his pensionable pay shall include—

(*a*) where he was immediately before the date on which the area was amalgamated in receipt of a rent allowance, the annual amount of that rent allowance ;

(*b*) where he was immediately before the said date provided with a house or quarters free of rent and rates, the annual worth of the house or quarters as determined in their discretion and with the approval of the Secretary of State by the police authority of the force of which he was chief constable. [3497]

General note.—In this regulation the words in italics are deleted and those in square brackets are inserted as from January 3, 1949, by S.I. 1948 No. 2802.

69. Interpretation.—(1) In these Regulations, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say :—

" the Act " means the Police Pensions Act, 1948 ;

" appointed day " means the fifth day of July, 1948 ;

" approved service " has the same meaning as in the Police Pensions Acts ;

" auxiliary policeman " means a member of the first class of the police reserve, a member of the Police War Reserve, and a member of Class A of the Women's Auxiliary Police Corps ;

" chief officer of police " in relation to an overseas corps means the senior member of that corps ;

" child " has the meaning assigned to it by paragraph (4) of Regulation 1 ;

" home police force " has the same meaning as in the Police (Overseas Service) Act, 1945 ;

" injury " includes any injury or disease, whether of body or mind ;

" inspector " includes chief inspector, sub-divisional inspector, station inspector and sub-inspector ;

" medical referee " has the meaning assigned to it by paragraph (2) of Regulation 48 ;

" member of a police force " includes—

(i) the commissioner and assistant commissioners of police of the metropolis ;

(ii) the commissioner of police for the City of London and any person who, on the appointed day, is either the surgeon of the City of London police force or a clerk or other person employed in or in connection with that force ; and

(iii) a member of an overseas corps ;

" member of the first class of the police reserve " includes any member of a home police force appointed temporarily other than a member of the Police War Reserve or the Women's Auxiliary Police Corps ;

" overseas corps " means the special police corps of the Control Commission for Germany (British Element), the public safety branch of the Allied Commission for Austria (British Element), the British Police Mission to Greece and any body in which persons such as are mentioned in subsection (1) of section one of the Police (Overseas

Service) Act, 1945, are serving and in relation to which regulations made under subsection (2) of section one of the said Act have been made ;

" overseas service " means service in an overseas corps ;

[" period of overseas service " means the period of overseas service for which a member of an overseas corps has engaged with the consent, in the case of a reversionary member of a home police force, of the appropriate authority and of the Secretary of State, and if such a period has been varied under regulations made in pursuance of the powers contained in section one of the Police (Overseas Service) Act, 1945, means the period as so varied ;]

" police authority " and " police force " have the same meanings as in the Act ;

" Police Pensions Acts " means the Police Pensions Acts, 1921 and 1926, and those Acts as applied and extended by or under any enactment ;

" regular policeman " means a member of a home police force who is not an auxiliary policeman and a member of an overseas corps who is a reversionary member of a home police force ;

" reversionary member of a home police force " means a member of an overseas corps who has been a member of a home police force and has not lost his right of reversion under subsection (1) of section two of the Police (Overseas Service) Act, 1945, and includes a person who has transferred to that corps from being either a civil servant within the meaning of the Superannuation Act, 1887, or an officer of the staff of the metropolitan police within the meaning of the Metropolitan Police Staff (Superannuation) Act, 1875 ;

" sergeant " includes station sergeant and the rank of acting sergeant ;

" serviceman " means a person who has ceased to do duty as a regular policeman by reason either—

(*a*) of being called up for service in the armed forces of the Crown under the National Service Acts, 1939 to 1946, or under the National Service Act, 1947, or

(*b*) by reason of being required for training or called into actual service or called out for training or for permanent service in the armed forces of the Crown in pursuance of his obligations as a member of the Territorial Army or any reserve of the armed forces of the Crown ;

" serviceman (1939–1945) " means a person who ceased to serve as a regular policeman in such circumstances that he became a person to whom section one of the Police and Firemen (War Service) Act, 1939, applied ;

" superintendent " includes chief superintendent.

(2) A reference in these Regulations to a rank in a home police force shall, in relation to a member of an overseas corps, be construed as a reference to such rank in that corps as the Secretary of State may from time to time direct.

(3) A reference in these Regulations to a regular policeman transferring from one force to another shall be construed as a reference to a regular policeman—

(*a*) leaving a home police force with the written consent of the chief officer of police of that force or, if he is the chief officer of police

of that force, of the police authority of that force, for the purpose of joining another home police force as a regular policeman and joining that other force in that capacity;

(*b*) leaving a home police force with the consent of the Secretary of State and with the written consent of the chief officer of police of that force acting with the consent of the police authority or, if he is the chief officer of police of that force, of the police authority, for the purpose of engaging for a period of overseas service as a reversionary member of a home police force and joining an overseas corps in that capacity;

(*c*) transferring or being transferred from one overseas corps to another;

(*d*) exercising his right of reversion to a home police force under subsection (1) of section two of the Police (Overseas Service) Act, 1945, or that subsection as applied either by subsection (2) of section fourteen of the Police Act, 1946, or by subsection (1) of section nine of the Police (Scotland) Act, 1946, at the end of a period of overseas service; and

(*e*) at the end of a period of overseas service, joining, with the written consent of the chief officer of police of the home police force to which he had the right of reversion referred to in sub-paragraph (*d*) acting with the consent of the police authority of that force or, if he was at the time when he left that force the chief officer of police, of the police authority of that force, another home police force.

(4) A reference in these Regulations to retirement includes a reference to an auxiliary policeman ceasing to be called up for service and to the termination of a period of overseas service otherwise than by dismissal or transfer, but does not include a reference to leaving a force on transferring from one force to another, and a reference to a continuous period of service is a reference to a period of service uninterrupted by any such retirement.

(5) A reference in these Regulations to a person being in receipt of a supplemental pension includes a reference to a person who would be in receipt of such a pension if the aggregate of any of the payments described in paragraph (3) of Regulation 7 were less than the standard amount appropriate to his case.

(6) Where it is provided in these Regulations that an amount shall be increased in accordance with the provisions of this paragraph, it shall be increased by the amount by which a pension of the amount first mentioned would be increased if the person concerned were in receipt of such a pension and paragraph 2 of Part II of the First Schedule to the Pensions (Increase) Act, 1944, and subsection (3) of section two of the Pensions (Increase) Act, 1947, had not been included in Part I of the First Schedule to the Act.

(7) Where for the purpose of calculating the amount of any award it is necessary to do so by reference to the aggregate pension contributions of a person in respect of the relevant period of service, the relevant period of service shall be taken to be the period ending in the retirement, dismissal or death on which the award is payable and beginning, where the person—

(*a*) was a regular policeman, with the date on which he became a regular policeman in the force from which he retired or was dismissed or in which he died or, if he has more than once been a regular policeman in that force, the date on which he last joined that force;

(*b*) was an auxiliary policeman, with the date of the commencement of his last continuous period of service as such;

(*c*) was a member of an overseas corps otherwise than as a reversionary member of a home police force with the date of the commencement of his period of overseas service ;

and the aggregate pension contributions in respect of the relevant period means—

(i) the aggregate of the pension contributions made in respect of that period by that person to the police authority by whom the award is payable and any rateable deductions made in respect of that period by that authority from his pay under the Police Pensions Acts and, where that person has made no pension contributions but has had rateable deductions made in respect of that period from his pay by that authority, those rateable deductions, together with—

(ii) the amount of any sum paid by that person to the said police authority as a condition of being entitled to reckon service before the said period as pensionable service or, as the case may be, approved service, and

(iii) where the person concerned has transferred to the force of the police authority by whom the award is payable, any sum which had he retired instead of transferring would have been calculable under the foregoing provisions of this paragraph as aggregate pension contributions at the time of the transfer.

(8) A reference to an injury received in the execution of duty by a member of a police force—

(*a*) means an injury received in the execution of that person's duty as a constable and, where the person concerned is an auxiliary policeman, during a period while he is called up for service as such, and

(*b*) where the person concerned is treated as a member of a police force by virtue of the definition of " member of a police force " in paragraph (1) but is not a constable means the execution of his duty in the appropriate capacity mentioned in the said definition,

and includes any injury received while on duty and while on a journey necessary to enable him to report for duty or to return home after duty.

(9) A reference in these Regulations to a person being permanently disabled is to be taken as a reference to that person being disabled at the time when the question arises for decision and to that disablement being at that time likely to be permanent, and disablement where the person concerned is a member of a police force means inability to perform the ordinary duties, where the person is a man, of a male member of the force and, where the person is a woman, of a female member of the force and where it is necessary to determine the degree of a person's disablement it shall be determined by reference to the degree to which his earning capacity has been affected and a person shall be deemed to be totally disabled if, and only if, either he is incapable by reason of the disablement of earning any money in any employment or is receiving treatment as an in-patient at a hospital.

(10) Disablement shall be deemed to be the result of an injury if the injury has caused or substantially contributed to the disablement.

(11) A reference to the relevant period of service in the armed forces of the Crown of a serviceman is to be construed as a reference to—

(*a*) any whole-time service in consequence of an enlistment notice under the National Service Act, 1947, while he is serving by reason only of being deemed to be enlisted under that Act, and

(*b*) any period of training or any embodied service in any of the armed forces of the Crown immediately succeeding a period of service as a regular policeman.

(12) (*a*) Where a police area is or has been combined with another police area, the police force, police authority and police fund for any police area of which the first-named area for the time being forms part shall, for the purposes of these Regulations, be deemed to be the same force, authority and fund as the force, authority and fund for the first-named area.

(*b*) Where a police area is or has been divided, in relation to any person—

(i) who is transferred by the instrument effecting the division from the combined force to another force, that other force and the police authority and police fund for the area of that other force shall, for the purposes of these Regulations, be deemed to be the same force, authority and fund as the combined force, authority and fund,

(ii) who ceased to be a member of the force before the division of the combined area, the force, authority and fund for that police area designated for the purpose by the instrument effecting the division shall, for the purposes of these Regulations, be deemed to be the same force, authority and fund as the combined force, authority and fund.

(*c*) In this paragraph a reference to combination or division of a police area includes a reference to an agreement under section fourteen of the County Police Act, 1840, and the termination of such an agreement, and a reference to a combined force, authority or fund shall be construed accordingly.

(13) Notwithstanding anything in these Regulations relating to a period of service in the armed forces of the Crown, an injury received in the execution of duty as a member of the armed forces shall not be deemed to be an injury received in the execution of duty as a member of a police force.

(14) In these Regulations, unless the contrary intention appears, a reference to a Regulation shall be construed as a reference to a Regulation contained in these Regulations, a reference to a paragraph shall be construed as a reference to a paragraph in the same Regulation or, as the case may be, Part of the Schedule and a reference to a sub-paragraph shall be construed as a reference to a sub-paragraph contained in the same paragraph.

(15) The Interpretation Act, 1889, shall apply for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament. [3498]

General note.—In this regulation the words in square brackets are inserted as from January 3, 1949, by S.I. 1948 No. 2802.

70. Citation, commencement and extent.—(1) These Regulations may be cited as the Police Pensions Regulations, 1948, and shall come into operation on the fifth day of July, 1948.

(2) These Regulations shall not, except where the context otherwise requires, extend to Scotland. [3499]

* * * * *

SCHEDULES

Regulation 4

FIRST SCHEDULE

PART I

POLICEMAN'S ORDINARY PENSION

1. The amount of the pension shall be calculated in accordance with the subjoined Table, except that if the amount of the pension as so calculated would be less than the amount it would have been had the person in question become entitled to receive an ordinary pension by retiring after due notice from the same police force at an earlier date the pension to which he is entitled shall be of the last-named amount :

Provided that where immediately before the appointed day—

(*a*) the scale of ordinary pensions applicable immediately before the commencement of the Police Pensions Act, 1921, applied to a regular policeman by virtue of paragraph (*a*) of subsection (1) of section twenty-nine of that Act, that scale shall in his case be substituted for the said Table ;

(*b*) by virtue of subsection (4) of section twenty-six of the Police Pensions Act, 1921, a member of the police force of the City of London was entitled to a scale of ordinary pension different from that under the said Act, the scale to which he was so entitled shall in his case be substituted for the said Table.

TABLE

Policeman's completed years of pensionable service	Pension expressed in 60ths of annual pensionable pay
25 but less than 26	30
26 but less than 27	32
27 but less than 28	34
28 but less than 29	36
29 but less than 30	38
30 or more	40

2. The amount of the pension calculated under paragraph 1 shall be increased in accordance with the provisions of paragraph (6) of Regulation 69. [3500]

Regulations 5, 6

PART II

POLICEMAN'S ILL-HEALTH OR SHORT SERVICE AWARD

1. Where the award is a gratuity and the policeman has completed at least one year of pensionable service, the gratuity shall be whichever is the greater of the two following amounts :—

(i) one-twelfth of the policeman's annual pensionable pay multiplied by the number of completed years of pensionable service which he is entitled to count ; or

(ii) the policeman's aggregate pension contributions in respect of the relevant period of service.

2. Where the award is a gratuity and the policeman has not completed one year of pensionable service, the gratuity shall be an amount equal to the policeman's aggregate pension contributions in respect of the relevant period of service.

3. Where the award is a pension, the amount thereof, which shall be increased in accordance with the provisions of paragraph (6) of Regulation 69, shall be

calculated in accordance with the following Table, the figures in the second column of the Table representing sixtieths of the policeman's annual pensionable pay :—

TABLE

Policeman's completed years of pensionable service	Pension expressed in 60ths of annual pensionable pay
Less than 2	1
2 but less than 3	2
3 but less than 4	3
4 but less than 5	4
5 but less than 6	5
6 but less than 7	6
7 but less than 8	7
8 but less than 9	8
9 but less than 10	9
10 but less than 11	10
11 but less than 12	11
12 but less than 13	12
13 but less than 14	13
14 but less than 15	14
15 but less than 16	15
16 but less than 17	16
17 but less than 18	17
18 but less than 19	18
19 but less than 20	19
20 but less than 21	20
21 but less than 22	22
22 but less than 23	24
23 but less than 24	26
24 but less than 25	28
25 but less than 26	30
26 but less than 27	32
27 but less than 28	34
28 but less than 29	36
29 but less than 30	38
30 or more	40

4. Where a member of a police force retires with an ill-health pension, and the pension is subsequently cancelled but he does not before the cancellation thereof resume service as a member of the force from which he retired with the pension, then, if the aggregate amount paid to him in respect of the pension is less than the amount of his aggregate pension contributions in respect of the relevant period of service, the police authority shall pay to him the difference. [3501]

Regulations 4, 5, 6 PART III

REDUCTIONS IN ORDINARY, SHORT SERVICE OR ILL-HEALTH PENSIONS

1. When a person in receipt of an ordinary pension, a short service pension or an ill-health pension attains, if he is a man, the age of sixty-five and, if she is a woman, the age of sixty, the pension shall, unless he is a person to whom one of the succeeding paragraphs of this Schedule applies, be reduced by an amount at an annual rate equal to the amount obtained by multiplying £1 14s. by the number of years specified in paragraph 4.

2. Where a person who immediately before he retired and was granted a pension was paying contributions at the rate specified in paragraph (3) of Regulation 41 there shall not be any reduction of the pension under this Part of this Schedule

3. When a person who immediately before he retired and was granted a pension was paying contributions at the rate specified in paragraph (1) of Regulation 41 by reason of an election under paragraph (3) of the said Regulation, attains, if he is a man, the age of sixty-five and, if she is a woman, the age of sixty, the pension shall be reduced by an amount at an annual rate equal to the amount obtained by multiplying the sum in the second column of the subjoined Table set opposite to the age in the first column of the said Table which he had attained at the appropriate date by the number of years specified in paragraph 4 :—

TABLE

Age on appropriate date	Sums to be multiplied
	£ s. d.
Less than 23	1 14 0
23	1 13 0
24	1 12 0
25	1 11 0
26	1 10 6
27	1 10 0
28	1 9 6
29	1 9 0
30	1 8 6
31	1 8 0
32	1 7 6
33	1 7 0
34	1 6 6
35	1 6 0
36	1 6 0
37	1 5 6
38	1 5 0
39	1 5 0
40	1 4 6
41	1 4 6
42	1 4 0
43	1 4 0
44 or more	1 3 6

4. The number of years referred to in paragraph 1 and in paragraph 3 by which the sums therein respectively specified are to be multiplied for the purposes of those paragraphs is the highest whole number of years in the aggregate period during which the person concerned has paid contributions as a regular policeman at the rate specified in paragraph (1) of Regulation 41 :

Provided that in arriving at the said aggregate any period or periods—

(*a*) in respect of which the person concerned was not entitled to reckon any pensionable service for the purposes of the pension in question, or

(*b*) which fell after the date on which the person concerned would have been entitled, if he had retired, to a pension equal to two-thirds of his annual pensionable pay,

shall be disregarded.

5. When a person in receipt of a short service pension under paragraph (5) of Regulation 1 attains the age of sixty-five the pension shall, in addition to any reduction under paragraph 1 or paragraph 3 of this Part of this Schedule, be reduced by any amount by which it was increased by the operation of paragraph (7) of Regulation 68. [3502]

Regulation 7 PART IV

STANDARD AMOUNT FOR REGULATION 7

1. The standard amount referred to in Regulation 7 shall be determined by reference to the number of the policeman's completed years of pensionable service and by reference to his annual pensionable pay.

2. Where the policeman is totally disabled, the standard amount shall be the amount specified in the second column of the Table appended to this paragraph, and where the policeman is partly disabled, the standard amount shall be such proportion of the amount so specified as the degree of the actual disablement bears to total disablement, subject to its not being less than the proportion of the annual pensionable pay specified in the third column of the said Table :

Provided that the amount calculated according to the second column of the said Table and that calculated according to the third column of the said Table shall both be increased in accordance with the provisions of paragraph (6) of Regulation 69 :

TABLE

Policeman's completed years of pensionable service	Minimum injury award on total disablement expressed in 60ths of annual pensionable pay	Lower limit of minimum injury award expressed in 60ths of annual pensionable pay
Less than 11	40	15
11 but less than 12	41	16
12 but less than 13	41	17
13 but less than 14	42	18
14 but less than 15	42	19
15 but less than 16	43	20
16 but less than 17	43	21
17 but less than 18	44	22
18 but less than 19	44	23
19 but less than 20	45	24
20 but less than 21	45	25
21 but less than 22	46	27
22 but less than 23	46	29
23 but less than 24	47	31
24 but less than 25	47	33
25 but less than 26	48	35
26 but less than 27	48	36
27 but less than 28	49	37
28 but less than 29	49	38
29 but less than 30	50	39
30 or more	50	40

3. Notwithstanding anything contained in this Part of this Schedule, the standard amount in relation to a member of the police force of the City of London, who was serving as such on the 28th day of July, 1921, and is still serving as such on the appointed day, shall, whatever the degree of his disablement, be the amount of the pension that could have been granted to him had the first proviso to section four of the City of London Police Superannuation Act, 1889, been still in force. [3503]

Regulation 11 PART V

LIMITS IN RESPECT OF AWARDS TO SERVICEMEN (1939–1945)

1. The amount of the pension shall not, when aggregated with the amount of any grant which is also payable to the same person out of any naval, military or air force fund in pursuance of any royal warrant or other instrument, exceed the

amount, which shall be increased in accordance with the provisions of paragraph (6) of Regulation 69, calculated according to the subjoined Table :—

TABLE

Completed years of pensionable service	Amount expressed in 60ths of annual pensionable pay
Less than 11	45
11 or more but less than 16	48
16 or more but less than 21	51
21 or more but less than 26	54
26 or more but less than 30	57
30 or more	60

2. Where the grant, the amount whereof for any period is to be aggregated for the purpose of the last foregoing paragraph with the amount of a pension or allowance payable to any person for that period, is a gratuity, the amount of the grant for that period shall be taken to be the amount which would be payable for that period under Part I of the Government Annuities Act, 1929, if the gratuity had been laid out at the date when it became payable in the purchase of an annuity dependent on the life of that person. [3504]

Regulation 12

SECOND SCHEDULE

PART I

WIDOW'S ORDINARY PENSION

The amount of a widow's ordinary pension in respect of each week shall be the amount calculated according to whichever of the two Schemes set out below applies from time to time to her case and, if both Schemes apply simultaneously, according to that one which would give her the higher amount in respect of that week.

The Schemes hereinbefore referred to are as follows :—

Scheme I

If her husband at the time when he ceased to be a regular policeman—

(*a*) held a rank higher than that of inspector, the widow's ordinary pension shall be at the rate of nineteen shillings and twopence a week ;

(*b*) held the rank of inspector, the widow's ordinary pension shall be at the rate of fifteen shillings and fourpence a week ;

(*c*) held a rank lower than that of inspector, the widow's ordinary pension shall be at the rate of eleven shillings and sixpence a week.

Scheme II

1. The widow's ordinary pension shall be at a rate equal to the amount set out in paragraph 2, and if the widow is receiving either widow's benefit under the National Insurance Act, 1946, or a retirement pension under the said Act by virtue of the insurance of her husband, that amount shall be reduced by the amount of such benefit or pension.

2. The amount first referred to in paragraph 1 is an amount, which shall be increased in accordance with the provisions of paragraph (6) of Regulation 69, equal to the percentage of her husband's pensionable pay at the time of his ceasing to be a regular policeman set out in the second column of the subjoined Table

opposite to the number of years of pensionable service or, where he retired before the appointed day and has not since that date been a regular policeman, approved service he was entitled to reckon at the time of his so leaving set out in the first column of the said Table :—

TABLE

Number of completed years of pensionable service	Percentage of pensionable pay
10, 11, 12, 13 and 14	4 per cent.
15, 16, 17, 18 and 19	6 per cent.
20, 21, 22, 23 and 24	8 per cent.
25, 26, 27, 28 and 29	10 per cent.
30 or more	12½ per cent.

3. If any widow's benefit to which she may be entitled is either a widow's allowance under the National Insurance Act, 1946, increased under section twenty-three of that Act, or a widowed mother's allowance under that Act, and if any retirement pension is increased under the said section twenty-three, then the benefit or, as the case may be, the retirement pension is, for the purposes of this Scheme, to be deemed to be of an amount seven shillings and sixpence less than it is. [3505]

Regulation 13

PART II

DISCRETIONARY INCREASE IN WIDOW'S ORDINARY PENSION

The periods referred to in Regulation 13 are as follows :—

(i) the period of the rest of the widow's life if, at the date of the husband's death, either she had attained the age of sixty or he and the widow had been married for not less than ten years and she had attained the age of fifty ;

(ii) any period during which the widow either is pregnant by her late husband or has a family, within the meaning of the Family Allowances Act, 1945, which includes a child who is entitled to an allowance under these Regulations ;

(iii) any period during which the widow is incapable of self-support within the meaning of paragraph (a) of subsection (5) of section thirty-five of the National Insurance (Industrial Injuries) Act, 1946, by reason of any infirmity which rendered her incapable of self-support within the meaning of the said enactment at the expiry either of *the period of thirteen weeks next following her husband's death* [the first thirteen weeks that the pension is payable] or of the period specified in sub-paragraph (ii) ;

(iv) if the conditions specified in sub-paragraph (iii) have been fulfilled in respect of a widow, the period of the rest of the widow's life after the expiry of any period of incapability of self-support within the meaning of sub-paragraph (iii) which expires at a date when either the widow has attained the age of sixty or ten years have elapsed since the date of the marriage and the widow has attained the age of fifty ;

(v) if the conditions specified in sub-paragraph (ii) have been fulfilled in respect of a widow, the period of the rest of the widow's life after the expiry of the period mentioned in sub-paragraph (ii) if at the expiry of that period either the widow has attained the age of sixty or ten years have elapsed since the date of the marriage and the widow had attained the age of forty. [3506]

General note.—In this Part of Sched. II the words in square brackets are substituted for those in italics as from January 3, 1949, by S.I. 1948 No. 2802.

Regulation 14 PART III

WIDOW'S SPECIAL PENSION

1. A widow's special pension shall not be less than the amount, which shall be increased in accordance with the provisions of paragraph (6) of Regulation 69, of one-sixth of her husband's pensionable pay and, subject as aforesaid, shall be such that, when it is added to—

(*a*) any pension payable to her under section nineteen of the National Insurance (Industrial Injuries) Act, 1946, in consequence of the death of her husband ; and

(*b*) any widow's benefit or retirement pension payable to her under the National Insurance Act, 1946, by virtue of her husband's insurance,

the aggregate is equal to the amount, which shall be increased in accordance with the provisions of paragraph (6) of Regulation 69, of one-third of her husband's pensionable pay.

2. If any widow's benefit to which she may be entitled is either a widow's allowance under the National Insurance Act, 1946, increased under section twenty-three of that Act, or a widowed mother's allowance under that Act, and if any retirement pension is increased under the said section twenty-three, then the benefit or, as the case may be, the retirement pension is, for the purposes of this Scheme, to be deemed to be of an amount seven shillings and sixpence less than it is. [3507]

Regulation 15 PART IV

WIDOW'S GRATUITY IN LIEU OF PENSION

The gratuity referred to in Regulation 15 shall be such sum as may be agreed between the police authority and the widow not exceeding the capitalised value of the pension to which the gratuity is an alternative determined in accordance with tables prepared from time to time for that purpose by the Government Actuary. [3508]

Regulation 16 PART V

WIDOW'S ORDINARY GRATUITY

The gratuity referred to in Regulation 16 shall be equal to whichever is the greater of the two following amounts :—

(i) one-twelfth of her husband's annual pensionable pay multiplied by the number of years of pensionable service he would have been entitled to reckon at the time he ceased to be a member of the force ;

(ii) the aggregate of the husband's pension contributions in respect of the relevant period of service. [3509]

Regulation 18 PART VI

DISCRETIONARY INCREASE IN WIDOW'S PENSION WHERE HUSBAND DIED BEFORE APPOINTED DAY

The periods referred to in Regulation 18 are as follows :—

(i) any period after the widow has attained the age of sixty ;

(ii) any period during which the widow has a family within the meaning of the Family Allowances Act, 1945, which includes a child *entitled to* [in receipt of] an allowance from the police authority ;

(iii) any period during which the widow is incapable of self-support within the meaning of paragraph (a) of subsection (5) of section thirty-five of the National Insurance (Industrial Injuries) Act, 1946, by reason of any infirmity which rendered her incapable of self-support within the meaning of the said enactment either on the appointed day or at the expiry of the period mentioned in sub-paragraph (ii) ;

(iv) if the conditions specified in sub-paragraph (iii) have been fulfilled in respect of a widow, the period of the rest of the widow's life after the

expiry of any period of incapability of self-support within the meaning of sub-paragraph (iii) which expires at a date when either the widow has attained the age of sixty or ten years have elapsed since the date of the marriage and the widow has attained the age of fifty ;

(v) and if the conditions specified in sub-paragraph (ii) have been fulfilled in respect of a widow, the period of the rest of the widow's life after the expiry of the period mentioned in sub-paragraph (ii) if at the expiry of that period either the widow has attained the age of sixty or ten years have elapsed since the marriage and the widow has attained the age of forty. [3510]

General note.—In this Part of Sched. II the words in square brackets are substituted for those in italics as from January 3, 1949, by S.I. 1948 No. 2802.

Regulation 22

THIRD SCHEDULE

PART I

CHILD'S ORDINARY ALLOWANCE

1. Subject as hereafter in this Schedule provided, a child's ordinary allowance shall, if the parent in respect of whose death the allowance is payable held at the time when he ceased to be a regular policeman—

(*a*) a rank higher than that of inspector, be at the rate of eight shillings and one penny a week ;

(*b*) the rank of inspector, be at the rate of six shillings and sevenpence a week ;

(*c*) a rank lower than that of inspector, be at the rate of five shillings and fivepence a week.

2. Where both parents of the child are dead at the time when the allowance becomes payable, the child's ordinary allowance shall, if the parent in respect of whose death the allowance is payable held at the time when he ceased to be a regular policeman—

(*a*) a rank higher than that of inspector, be at the rate of twelve shillings and twopence a week ;

(*b*) the rank of inspector, be at the rate of nine shillings and elevenpence a week ;

(*c*) a rank lower than that of inspector, be at the rate of eight shillings and twopence a week.

3. Where a child's surviving parent dies while the child is entitled to a child's ordinary allowance, the allowance shall, as from the date of the death, be determined in accordance with paragraph 2 of this Part of this Schedule. [3511]

Regulation 23

PART II

CHILD'S SPECIAL ALLOWANCE

1. Subject as hereinafter provided, a child's special allowance shall be at the rate of an amount, which shall be increased in accordance with the provisions of paragraph (6) of Regulation 69, equal to one-fifteenth of the pensionable pay of the parent in respect of whose death the allowance is payable.

2. If neither parent of the child is alive at the time when the allowance first becomes payable, the child's special allowance shall be at a rate equal to an amount, which shall be increased in accordance with the provisions of paragraph (6) of Regulation 69, equal to one-tenth of the pensionable pay of the parent in respect of whose death the allowance is payable.

3. Where a child's surviving parent dies while the child is entitled to a child's special allowance, the allowance shall, as from the date of the death, be determined in accordance with paragraph 2 of this Part of this Schedule. [3512]

Regulation 24 PART III

DISCRETIONARY INCREASE IN CHILD'S ALLOWANCE

1. Where both parents of the child are dead—

(*a*) a child's ordinary allowance may be increased, if the parent in respect of whose death the allowance is payable held at the time when he ceased to be a regular policeman—

(i) a rank higher than that of inspector, to a rate not exceeding sixteen shillings and twopence a week,

(ii) the rank of inspector, to a rate not exceeding thirteen shillings and twopence a week,

(iii) a rank lower than that of inspector, to a rate not exceeding ten shillings and tenpence a week ;

(*b*) a child's special allowance may be increased to an amount, which shall be increased in accordance with the provisions of paragraph (6) of Regulation 69, equal to two-fifteenths of the pensionable pay of the parent in respect of whose death the allowance is payable.

2. Where the parent in respect of whose death the allowance is payable was the child's father—

(*a*) and the mother of the child is alive and would have been entitled to receive widow's benefit or a retirement pension under the National Insurance Act, 1946, but for the fact that the father had not satisfied the contribution condition set out in paragraph (*a*) of sub-paragraph (1) of paragraph 4 of the Third Schedule to the said Act, then, if the child is *either the only child in that family for the time being* entitled to a child's allowance in respect of the death of the father *or that one of such children who is older than the others*, the child's allowance in respect of any week during which—

(i) the mother is not receiving a retirement pension under the said Act,

(ii) *the child is included in a family within the meaning of the Family Allowances Act*, 1945,

[(ii) the child is the only child included in a family within the meaning of the Family Allowances Act, 1945, or that one of the children so included who is older than the others,]

(iii) where the allowance is a child's special allowance, no allowance is payable under section twenty-one of the National Insurance (Industrial Injuries) Act, 1946, in respect of that child, and

(iv) no grant is payable to or in respect of the child out of any naval, military or air force fund in pursuance of any royal warrant or other instrument or under any scheme made under the Personal Injuries (Emergency Provisions) Act, 1939,

may be increased to a rate not exceeding seven shillings and sixpence a week ;

(*b*) and the father had attained the age of sixty-five on the appointed day and the mother of the child is dead, the child's allowance in respect of any week during which—

(i) no person is receiving a guardian's allowance under the National Insurance Act, 1946, in respect of that child,

(ii) the child is included in a family within the meaning of the Family Allowances Act, 1945, and

(iii) where the child's allowance is a child's special allowance, no allowance is payable under section twenty-one of the National Insurance (Industrial Injuries) Act, 1946, in respect of that child,

(iv) no grant is payable to or in respect of the child out of any naval, military or air force fund in pursuance of any royal warrant or other instrument or under any scheme made under the Personal Injuries (Emergency Provisions) Act, 1939.

may be increased to a rate not exceeding twelve shillings a week. [3513]

General note.—In this Part of Sched. III the words in italics are deleted and those in square brackets are inserted as from January 3, 1949, by S.I. 1948 No. 2802.

Regulation 24 PART IV

REDUCTION IN CHILD'S ALLOWANCE

1. In the circumstances hereinafter set out the amount of an allowance ascertained under Part I or, as the case may be, Part II of this Schedule, or if a police authority decide in their discretion to increase such an allowance in accordance with Regulation 24 and Part III of this Schedule, the maximum to which that allowance may be increased under the said Part III shall be reduced by the appropriate amount hereinafter set out, and if the appropriate amount is greater than the amount of the allowance or the said maximum, the amount of the allowance shall be reduced to nothing.

(2) Where a child who is entitled to an allowance is the only child in that family so entitled or that one of the children in that family so entitled who is older than the others and the child's mother is in receipt under the National Insurance Act, 1946, of a widow's allowance or a retirement pension, which is increased under section twenty-three of the said Act, or of a widowed mother's allowance under the said Act, then that child's allowance shall be reduced by seven shillings and sixpence a week.

(3) Where an allowance is payable in respect of a child under section twenty-one of the National Insurance (Industrial Injuries) Act, 1946, and a child's special allowance is also payable to that child, the said child's special allowance shall be reduced by seven shillings and sixpence a week.

4. Where an allowance is payable in respect of a child under the Family Allowances Act, 1945, that child's allowance shall be reduced by five shillings a week.

5. Where a guardian's allowance is payable in respect of a child under the National Insurance Act, 1946, that child's allowance shall be reduced by twelve shillings a week. [3514]

Regulation 25 PART V

CHILD'S GRATUITY

The gratuity referred to in Regulation 25 shall be such sum as may be agreed between the police authority and the father, mother or guardian, as the case may be, not exceeding the capitalised value of the allowance to which the gratuity is an alternative determined in accordance with tables prepared from time to time by the Government Actuary. [3515]

Regulation 28 PART VI

DISCRETIONARY INCREASE IN CHILD'S ALLOWANCE WHERE PARENT DIED BEFORE APPOINTED DAY

1. *Where under the provisions of Regulation 28 a child is entitled to an allowance and* [Where a child is entitled to an allowance under paragraph (1) of Regulation 28 and the amount of the allowance as ascertained under the provisions of the said Regulation is less than seven shillings and sixpence a week or where a child is granted an allowance under paragraph (3) of the said Regulation, and]—

(*a*) the parent in respect of whose death the allowance is payable was his father; [and]

(*b*) the mother of the child is alive;

(*c*) *the child is either the only child for the time being entitled to a child's allowance in respect of the said death or that one of the children so entitled who is older than the others; and*

(*d*) *the amount of the allowance as ascertained under the provisions of the said Regulation is less than seven shillings and sixpence a week,*

then in respect of any week during which the mother is not receiving widow's benefit or a retirement pension under the National Insurance Act, 1946, and no grant is payable to or in respect of the child out of any naval, military or air force fund in pursuance of any royal warrant or other instrument or under any scheme made under the Personal Injuries (Emergency Provisions) Act, 1939, *and during*

which the child is included in a family within the meaning of the Family Allowances Act, 1945, the police authority may in their discretion increase the amount of the allowance by the difference between the amount of the allowance ascertained as aforesaid and seven shillings and sixpence a week [and during which the child is the only child included in a family within the meaning of the Family Allowances Act, 1945, or that one of the children so included who is older than the others the police authority may in their discretion grant an allowance of seven shillings and sixpence a week, or increase the amount of the allowance, if any, to which the child is entitled, by the difference between the amount of the allowance ascertained as aforesaid and seven shillings and sixpence a week].

2. *Where under the provisions of Regulation 28 a child is entitled to an allowance and* [Where a child is entitled to an allowance under paragraph (1) of Regulation 28 and the amount of the allowance as ascertained under the provisions of the said Regulation is less than twelve shillings a week, or where a child is granted an allowance under paragraph (5) of the said Regulation, and]—

(*a*) the person in respect of whose death the allowance is payable was his father, [and]

(*b*) the mother of the child is dead,

(*c*) *the child is either the only child for the time being entitled to a child's allowance in respect of the death of the father or the eldest such child, and*

(*d*) *the amount of the allowance as ascertained under the provisions of the said Regulation is less than twelve shillings a week,*

then in respect of any week during which *the child is included in a family within the meaning of the Family Allowances Act, 1945, and during which* no person is receiving a guardian's allowance under the National Insurance Act, 1946, in respect of that child, and no grant is payable to or in respect of the child out of any naval, military or air force fund in pursuance of any royal warrant or other instrument or under any scheme made under the Personal Injuries (Emergency Provisions) Act, 1939, the police authority may in their discretion *increase the amount of the allowance by the difference between the amount of the allowance ascertained as aforesaid and twelve shillings a week*—

[(i) in the case of a child who is the only child included in a family within the meaning of the Family Allowances Act, 1945, or that one of the children so included who is older than the others, grant an allowance of twelve shillings a week or increase the amount of the allowance, if any, to which the child is entitled by the difference between the amount of the allowance ascertained as aforesaid and twelve shillings a week ;

(ii) in the case of any other child included in a family within the meaning of the Family Allowances Act, 1945, grant an allowance of seven shillings a week]. [3516]

General note.—In this Part of Sched. III the words in italics are deleted and those in square brackets are inserted as from January 3, 1949, by S.I. 1948 No. 2802. The insertion of the word " and " in the two places where it appears as a single insertion is, however, implied and not express.

Regulation 48

FOURTH SCHEDULE

MEDICAL APPEALS

1. Every notice of appeal under paragraph (2) of Regulation 48 shall be in writing.

2. On receipt of the appeal the police authority shall forward to the Secretary of State two copies thereof and of the certificate appealed against, with the name and address of the appellant.

3. A medical referee shall appoint a time and place for interviewing the appellant and for any such further interviews or examinations as he may consider necessary and shall give reasonable notice thereof to the appellant and the police authority.

4. At any time before any interview with the medical referee either the appellant or the police authority may submit to the medical referee a statement relating

to the subject matter of the appeal, and if they so submit a statement they shall send a copy thereof to the other party.

5. Any interview or examination may be attended (a) by the selected medical practitioner and (b) by any duly qualified medical practitioner appointed for the purpose by either party.

6. The medical referee shall give written notice to the police authority and appellant of his decision and, if that decision is that he disagrees with any part of the certificate of the selected medical practitioner, shall send a copy of his certificate to the police authority and the appellant.

7.—(1) The medical referee shall be entitled to such fees and allowances as the Secretary of State may from time to time determine.

(2) The said fees and allowances shall be paid by the police authority and shall be treated as part of the police authority's expenses for the purposes of this Schedule.

8.—(1) Save as hereinafter provided, the expenses of each party to the appeal shall be borne by that party.

(2) Where the medical referee decides in favour of the police authority, the authority may require the appellant to pay towards the cost of the appeal such sum not exceeding the referee's total fees and allowances as the authority think fit.

(3) Where the medical referee decides in favour of the appellant, the police authority shall refund to the appellant any expenses actually and reasonably incurred by the appellant in respect of any such interview or examination as is mentioned in paragraph 3 of this Schedule. [3517]

POLICE (OVERSEAS SERVICE) (GREECE) (AMENDMENT) REGULATIONS, 1948

S.I. 1948 *No.* 1642

July 13, 1948

General note.—These regulations amend S.I. 1948 No. 313, *ante*. As to the repeal of the Schedule referred to *infra*, see also the Police Pensions Act, 1948, s. 3 and Sched. I, Part II, and the notes thereto, *ante*.

I, the Right Honourable Ernest Bevin, His Majesty's Principal Secretary of State for Foreign Affairs, in pursuance of the powers conferred on me by Section One of the Police (Overseas Service) Act, 1945, hereby make the following Regulations :—

(1) The Schedule to the Police (Overseas Service) (Greece) Regulations, 1948, shall be deleted. [3518]

(2) This Order may be cited as the Police (Overseas Service) (Greece) (Amendment) Regulations, 1948, and shall come into operation on the seventeenth day of July, 1948. [3519]

* * * * *

POLICE (CONSOLIDATION) (NO. 2) REGULATIONS, 1948

S.I. 1948 *No.* 1679

July 19, 1948

General note.—These regulations amend as from July 26, 1948, S.I. 1948 No. 1216, *ante*.

I, the Right Honourable James Chuter Ede, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by section four of the Police Act, 1919, hereby make the following Regulations :—

1. For Regulation 81 of the Police (Consolidation) Regulations, 1948, there shall be substituted the following Regulation :—

" 81. Subject to any modifications approved by the Secretary of State, the issues of articles of uniform and equipment for sergeants and constables shall be as follows :—

Article	Issue	Period of Wear	Number in Possession
Jacket (closed-neck and open-neck)	Annual .. .. .. (closed-neck and open-neck jackets to be issued in alternate years)	Four years	Two of each
Trousers	Two pairs annually ..	Two years	Four pairs
(Where more than one material is provided, the issue shall be alternated to meet the demands of use.)			
Greatcoat	Every three years	Six years	Two
Cape	As required, but not more than one issue every five years	Ten years	Two
Raincoat	As required, but not more than one issue every four years	Four years	One
Headdress	As required	—	Two
(Where a second pattern of headdress is supplied, the issue shall be alternated to meet the demands of use.)			
Shirts	Two annually, after an initial issue of four	—	—
Collars	Six annually, after an initial issue of twelve	—	—
Ties	Two annually	—	—

Where boots are provided by the police authority for the purposes of duty, the issue shall be at the rate of two pairs annually, or as may be approved by the Secretary of State." [3520]

2. In Regulation 82 of the said Regulations for the words " Waterproof coat or cape " there shall be substituted the words " Waterproof cape ". [3521]

3. These Regulations may be cited as the Police (Consolidation) (No. 2) Regulations, 1948, and shall come into force on the twenty-sixth day of July, 1948. [3522]

* * * * *

POLICE (WOMEN) (CONSOLIDATION) (NO. 2) REGULATIONS, 1948

S.I. 1948 *No.* 1680

July 19, 1948

General note.—These regulations amend as from July 26, 1948, S.I. 1948 No. 1217, *ante.*

I, the Right Honourable James Chuter Ede, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by

section four of the Police Act, 1919, hereby make the following Regulations :—

1. For Regulation 71 of the Police (Women) (Consolidation) Regulations, 1948, there shall be substituted the following Regulation :—

"**71.** Subject to any modifications approved by the Secretary of State, the issues of articles of uniform and equipment for sergeants and constables shall be as follows :—

Article	Issue	Period of Wear	Number in Possession
Jacket	Annual	Four years	Four
Skirt	Annual	Four years	Four
(Where more than one material is provided, the issue shall be alternated to meet the demands of use.)			
Greatcoat	Every two years	Four years	Two
Raincoat	As required, but not more than one issue every four years	Four years	One
Headdress	Issue to be as required ..	—	Two
(Where a second pattern of headdress is supplied, the issue shall be alternated to meet the demands of use.)			
Shirts	Two annually after an initial issue of four	—	—
Collars	Six annually after an initial issue of twelve	—	—
Ties	Two annually	—	—
Stockings	Twelve pairs annually ..	—	—

Where boots are provided by the police authority for the purposes of duty, the issue shall be at the rate of two pairs annually, or as may be approved by the Secretary of State." [3523]

2. In Regulation 72 of the said Regulations the words "Shirts, collars and ties" shall be omitted. [3524]

3. These Regulations may be cited as the Police (Women) (Consolidation) (No. 2) Regulations, 1948, and shall come into force on the twenty-sixth day of July, 1948. [3525]

* * * * *

CASES

Police—Metropolitan Police Force—Receiver for Metropolitan Police District—Treasurer of fund for the purposes of the police—Power to sue—Accident to police officer through negligence of third party—Hospital charges and officer's wages during illness paid by Receiver—Right of Receiver to recover expenses from third party—Metropolitan Police Act, 1829 (*c.* 44), *s.* 12—*Metropolitan Police (Receiver) Act,* 1861 (*c.* 124), *s.* 1.

Under the Metropolitan Police Act, 1829, ss. 10 and 12, the Receiver for the Metropolitan Police District is appointed by the Crown as treasurer of the fund for the purposes of the police and is an agent and servant of the Crown, his duties being (*inter alia*) to pay the wages and allowances of

members of the police force and " all other charges and expenses " as directed by a Secretary of State. By the Metropolitan Police (Receiver) Act, 1861, s. 1, the person holding the office of Receiver is a corporation sole with perpetual succession and with power to sue and be sued and " to do all other acts necessary or expedient to be done in the execution of the duties of his office."

Owing to the negligence of the defendant, a police officer was injured in an accident while on duty and had to be in hospital for some months. Under regulations made by the Home Secretary, the Receiver paid the hospital charges and the officer's pay and allowances while he was ill. In an action by the Receiver to recover these expenses from the defendant, it was contended by the defendant (i) that the claim for the hospital expenses should have been brought by the Attorney-General and not by the Receiver, and (ii) that the Receiver was not entitled to recover the pay and allowances paid to the officer while ill because such a claim must be based on the loss of a servant's services and the police officer was the servant, not of the Receiver, but of the Crown :—

Held : (i) the hospital charges resulting from the defendant's negligence were an expense which the Receiver was legally bound to incur and which he was, therefore, entitled to recover from the defendant, and, since the expenses were paid out of the fund of which the Receiver was the custodian on behalf of the Crown, he alone could bring the action.

(ii) the claim to recover the pay and allowances paid to the police officer during his illness was based, not on loss of service, but on the fact that the Receiver had been compelled by the defendant's negligence to pay the sums in question, and, therefore, the Receiver was entitled to recover.

Brook's Wharf and Bull Wharf, Ltd. v. *Goodman Bros.*, [1937] 1 K. B. 534 ; [1936] 3 All E. R. 696, *applied.*—METROPOLITAN POLICE DISTRICT RECEIVER *v.* TATUM, [1948] 2 K. B. 68 ; [1948] 1 All E. R. 612 ; [1948] L. J. R. 1171 ; 112 J. P. 209 ; 92 Sol. Jo. 221 ; 46 L. G. R. 219. [3526]

Police—Pension—Widow's special pension—" Non-accidental injury "—" Special risks "—Heart disease aggravated by duty—Police Pensions Act, 1921 (*c.* 31), *ss.* 3 (*b*), 33 (3).

By the Police Pensions Act, 1921, s. 3 (*b*) : " Where . . . a member of a police force dies whilst serving in the force from the effects of an injury received in the execution of his duty . . . his widow shall be entitled, where the injury was accidental to a widow's ordinary pension, and where the injury was non-accidental to a widow's special pension." By s. 33 (3) : " Any injury intentionally inflicted, or incurred in the performance of a duty involving special risks, shall be deemed to be a non-accidental injury." By previous decisions of the Divisional Court, a disease can be an injury within the meaning of the Act.

A police officer died from the effects of heart disease which was aggravated by his duty, and his widow claimed a special pension under s. 3 (*b*), on the ground that his death was caused by a " non-accidental injury " :—

Held : although the definition in s. 33 (3) of the Act was not comprehensive, a " non-accidental injury " must be, or must be *sui generis* with, an injury intentionally inflicted, or incurred in the performance of a duty involving special risks, and the special risks must be risks special to the duty which the police officer was called on to perform and not risks special to the officer, and, therefore, the widow was not entitled to a special pension.—GORDON *v.* BARNSLEY POLICE AUTHORITY, [1948] 2 All E. R. 79 ; 112 J. P. 342 ; 64 T. L. R. 406 ; 92 Sol. Jo. 393 ; 46 L. G. R. 362. [3527]

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STATUTES

NATIONAL ASSISTANCE ACT, 1948

(11 & 12 Geo. 6, c. 29)

PRELIMINARY NOTE

This Act, which received the Royal Assent on May 13, 1948, forms part of the new social security group of Acts which were introduced by the Family Allowances Act, 1945 (38 Halsbury's Statutes 340), and include the two National Insurance Acts, 1946 (39 Halsbury's Statutes 322, 412), and the National Health Service Act, 1946 (39 Halsbury's Statutes 515). The present Act is intended to provide for all those residual social needs not covered by the other Acts of the group and, except for ss. 37–40, relating to disabled and old persons' homes, came into force simultaneously with the Acts of 1946 on July 5, 1948 (see S.I. 1948 No. 1218).

The Act applies to all persons in Great Britain other than children under sixteen years of age who are without parents or guardians, who are protected by the Children Act, 1948 (see title INFANTS, CHILDREN AND YOUNG PERSONS, *ante*).

The principal effect of the Act is to replace the existing poor law, finally abolished by Part I, and other public assistance services with a comprehensive system consisting of : (*a*) financial and other forms of assistance by the National Assistance Board, as the Assistance Board is re-named (Part II) ; and (*b*) accommodation and welfare services by the major local authorities (Part III).

The Act contains, in addition, a number of general and supplementary provisions (Part IV), including provision for the compulsory registration of disabled and old persons' homes (not yet brought into force) and a provision bringing the administration of the Old Age Pensions Act, 1936 (29 Halsbury's Statutes 1051), into line with the general scheme of the present Act.

The financial assistance provided by the National Assistance Board supersedes :

(1) Unemployment allowances paid by the Board under the Unemployment Assistance Act, 1934 (27 Halsbury's Statutes 786), as extended by the Unemployment Assistance (Emergency Powers) Act, 1939 (32 Halsbury's Statutes 1117), and under the Polish Resettlement Act, 1947, s. 2 (40 Halsbury's Statutes 671) ;

(2) Supplementary pensions paid by the Board under the Old Age and Widows' Pensions Act, 1940 (33 Halsbury's Statutes 511), as extended by the Pensions and Determination of Needs Act, 1943 (36 Halsbury's Statutes 323) ;

(3) Outdoor relief provided by local authorities under the Poor Law Act, 1930 (12 Halsbury's Statutes 968), as amended by the Poor Law Act, 1934 (27 Halsbury's Statutes 457) ;

(4) Payments to blind persons made by local authorities under the Blind Persons Acts, 1920 and 1938 (20 Halsbury's Statutes 593 ; 31 Halsbury's Statutes 812) ; and

(5) Allowances payable by local authorities under the war-time scheme to persons undergoing approved treatment for tuberculosis.

The Board, whose duties have hitherto been confined to assisting the special categories of persons to whom the enactments mentioned in (1) and (2), *supra*, relate, are now broadly required to provide assistance for all persons in need. Children under sixteen years of age without parents or guardians, however, are the responsibility of local authorities under the Children Act, 1948 (title INFANTS, CHILDREN AND YOUNG PERSONS, *ante*), since their need is for personal care and protection rather than financial assistance.

Assistance from the Board will usually take the form of cash assistance grants (s. 8 (1)), though in special circumstances assistance in kind may be given (s. 12 (1)). Rules for computing the requirements and resources of applicants are contained in the National Assistance (Determination of Need) Regulations, 1948 (S.I. 1948 No. 1334), made under the Act. These Regulations follow the general pattern of the corresponding regulations which previously governed the Board's administration of unemployment assistance and supplementary pensions. As required by the Act, the regulations make special provision for blind persons and for persons who suffer a loss of income to undergo treatment for tuberculosis of the respiratory system (s. 5 (3)).

The new uniform scale of assistance is, in general, more favourable to an applicant than the various scales under any of the Acts superseded by this Act, and special provision is made to safeguard a person previously in receipt of any form of assistance against loss of income resulting from the introduction of the new scale (Sched. VI, para. 3).

A person who persistently refuses or neglects to maintain himself or any person he is liable under the Act to maintain may be required to attend an approved course of instruction or training as a condition of receiving an assistance grant, or, in lieu of a grant, may be maintained in a re-establishment centre (s. 10). The Board are allowed a wide measure of discretion to deal with cases of urgency (s. 11).

Appeals from decisions of the Board with regard to assistance lie to the Appeal Tribunals constituted under the Act (s. 14). Each tribunal has jurisdiction in a particular district and consists of three persons, one appointed by the Board and two (including the chairman) appointed by the Minister of National Insurance (s. 53, Sched. V).

In addition to the making of assistance grants, the Board have functions with regard to (*a*) re-establishment centres, and (*b*) reception centres. Re-establishment centres are centres which the Board may, with the Minister's approval, provide, where persons in need of re-establishment through lack of regular occupation, training or instruction may be re-fitted for return to regular employment (s. 16). On the other hand, reception centres, which it is the duty of the Board to provide, will take the place of the former casual wards and afford temporary board and lodging for tramps and vagrants. Local authorities may be required to maintain reception centres on behalf of the Board, and casual wards in use on July 5, 1948, which remained vested in the local authority, became reception centres maintainable by the authority (s. 17, Sched. VI, para. 4).

The Board is, as formerly, to be advised by area advisory committees (s. 3); the committees constituted under the Unemployment Assistance Act, 1934, s. 35 (3) (27 Halsbury's Statutes 787) will, until superseded, continue to act as if appointed under the present Act (Sched. VI, para. 2).

The Board is to make an annual report which the Minister is to lay before Parliament (s. 2 (4)).

The assistance to be provided by local authorities (county councils and county borough councils; s. 33 (1)), which is dealt with in Part III of the Act, consists in the provision of accommodation and of welfare services.

Residential accommodation is to be provided for persons who by reason of age, infirmity or any other circumstances are in need of care and attention not otherwise available to them, and temporary accommodation is to be available to meet emergencies (s. 21). It is the Government's intention that Local Authority homes should be free from the workhouse atmosphere of charity and similar, as far as possible, to private residential hotels. Accordingly, charges are to be made for the accommodation provided (s. 22). A standard charge is to be fixed by the authority calculated so as, generally, to reimburse the authority's expenditure without providing a profit. Charges may be reduced in the case of an applicant who is unable to pay in full, but in no case may they be reduced below 21*s.* a week (s. 22 (3) and the National Assistance (Charges for Accommodation) Regulations,

1948 ; S.I. 1948 No. 1385, *post*). This sum is calculated by reference to the amount of old age pension (see the Old Age Pensions Act, 1936 ; 29 Halsbury's Statutes 1052 ; and S. R. & O., 1946, No. 1400), and of retirement pension (see the National Insurance Act, 1946, s. 20, Sched. II ; 39 Halsbury's Statutes 439, 493), which is in both cases 26*s.* a week. A person is entitled, after paying for his accommodation, to have left a prescribed weekly sum for his personal requirements (s. 22 (4)). The prescribed sum is 5*s.* (see the National Assistance (Charges for Accommodation) Regulations, 1948, *supra*). A person drawing old age or retirement pension will thus have exactly the sum required to pay the local authority the minimum charge and retain 5*s.* a week for his own use. Any person in a local authority home whose resources, calculated in accordance with the Act, are less than 26*s.* a week can apply to the National Assistance Board for an assistance grant to bring them up to that amount (see the National Assistance (Determination of Need) Regulations, 1948, Sched., Part I, para. 5 ; S.I. 1948 No. 1334).

The local authority liable to provide residential accommodation is normally the authority in whose area the person is ordinarily resident, but in cases of urgent need accommodation must be provided by the authority in whose area the person actually is (ss. 24, 25). Any question concerning the ordinary residence of a person will be determined by the Minister of Health (s. 32 (3)).

Local authorities may make arrangements with voluntary organisations to provide accommodation in lieu or in supplementation of accommodation provided by them (s. 26).

Annual exchequer contributions, similar to the housing subsidy payable under the Housing (Financial and Miscellaneous Provisions) Act, 1946 (39 Halsbury's Statutes 640), will be paid to local authorities in respect of premises in which approved accommodation under the Act is provided. These contributions will apply to premises acquired or constructed after October 31, 1947, and are designed to divide the cost involved between the Exchequer and the local authority in the ratio of three to one (s. 28).

Under the Blind Persons Acts, 1920 and 1938 (20 Halsbury's Statutes 593 ; 31 Halsbury's Statutes 812), which, so far as they affect local authorities, are repealed by s. 62 (3) and Sched. VII, Part III, it was the duty of local authorities to promote the welfare of blind persons. They now have power to provide welfare services not only for the blind but also for the deaf and dumb and other substantially and permanently handicapped persons. To such extent as the Minister may direct, and such a direction has been made in the case of blind persons, a local authority is under a duty of providing such services for persons ordinarily resident in its area. Welfare services may include instruction in handicapped persons' homes in methods of overcoming the effects of their disabilities, the provision of workshops and of hostels for persons employed in them, and the provision of recreational facilities (s. 29). Instead of themselves providing welfare services, local authorities may employ voluntary organisations as their agents for that purpose (s. 30).

Local authorities are to submit to the Minister of Health schemes for the exercise of their functions in connection with the provision of accommodation and welfare services (s. 34). Subject to the provisions of schemes, local authorities are to act under the general guidance of the Minister (s. 35 (2)), who is given power to secure the proper discharge of their duties in cases of default (s. 36).

Part IV of the Act contains a number of general and supplementary provisions. Provision is made for the compulsory registration of disabled persons' and old persons' homes by county councils and county borough councils (s. 37), and for the inspection and conduct of such homes (ss. 39, 40). Regulations may be made empowering a registration authority to limit the number of persons who may be received into a home (s. 40 (1)). These provisions were specifically excluded from the National Assistance Act (Appointed Day) Order, 1948 (S.I. 1948 No. 1218), *post*, which brought the rest of the Act into force on July 5, 1948, and no order bringing them into force had been made at the date of going to press.

Charities for disabled persons are also to be registered, the War Charities Act, 1940 (33 Halsbury's Statutes 47), which provided for the registration of war charities being extended and adapted for this purpose (s. 41).

For the purposes of the Act, liability for maintenance is limited to wife or husband and children, including illegitimate children (s. 42). The National Assistance Board and local authorities are empowered to recover the cost of assistance, including accommodation, from any person liable to maintain the person assisted

(s. 43), and affiliation orders may be made or varied to provide for the recovery of assistance given to illegitimate children (s. 44).

The Old Age Pensions Act, 1936 (29 Halsbury's Statutes 1051), is amended so as to provide for the determination of claims and questions by the National Assistance Board instead of by local pension committees, and for a right of appeal to the Appeal Tribunal constituted under the present Act instead of to the Minister of National Insurance (s. 46).

Provision of general application is made, similar to that hitherto made in the case of London by the Public Health (London) Act, 1936, s. 224 (27 Halsbury's Statutes 566), under which persons in need of care and attention may be removed to suitable premises (s. 47). In addition, duties are placed on local authorities to provide protection for the moveable property of persons admitted to hospitals and homes (s. 48), and to dispose of the bodies of dead persons in their area in cases where no other suitable arrangements are made for that purpose (s. 50).

Other sections of the Act deal with failure to maintain (s. 51), legal proceedings (s. 56), the requisition of land (s. 58) and compensation for displaced officers (s. 60).

On the question of cost, the Financial Memorandum annexed to the Bill stated that it was not possible to estimate the cost of the accommodation to be provided by local authorities or the amount of the Exchequer grants payable in respect thereof. With regard to the welfare services for handicapped persons, it was estimated that the expenditure thereon falling to be met out of local rates might be of the order of £1,000,000 per annum. [3528]

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An Act to terminate the existing poor law and to provide in lieu thereof for the assistance of persons in need by the National Assistance Board and by local authorities; to make further provision for the welfare of disabled, sick, aged and other persons and for regulating homes for disabled and aged persons and charities for disabled persons; to amend the law relating to non-contributory old age pensions; to make provision as to the burial or cremation of deceased persons; and for purposes connected with the matters aforesaid. [3529]

[13th May, 1948.]

PART I

INTRODUCTORY

1. Supersession of existing poor law.—The existing poor law shall cease to have effect, and shall be replaced by the provisions of Part II of this Act as to the rendering, out of moneys provided by Parliament, of assistance to persons in need, the provisions of Part III of this Act as to accommodation and other services to be provided by local authorities, and the related provisions of Part IV of this Act. [3530]

The existing poor law.—The poor law originated in the Poor Relief Act, 1601 (14 Halsbury's Statutes 477), and a multiplicity of enactments were subsequently passed which together with judicial decisions and regulations gave rise to a very complicated system of poor relief.

During the present century it has been generally recognised that the poor law system was a harsh one, and much progress was made, both by Act of Parliament and by administrative action in mitigating its harshness.

By the Local Government Act, 1929, s. 1 (10 Halsbury's Statutes 883), and the Poor Law Act, 1930, ss. 1, 2 (12 Halsbury's Statutes 968, 969), the functions of the old poor law authorities, the Boards of Guardians, were transferred to county and county borough councils, acting under the central authority and control of the Minister of Health. The Act of 1930 was a consolidating measure, and was followed by two amending Acts, of 1934 and 1938 (27 Halsbury's Statutes 457 ; 31 Halsbury's Statutes 553).

As to the poor law, generally, see 12 Halsbury's Statutes 901 *et seq.*, and 25 Halsbury's Laws (2nd Edn.) 365 *et seq.*

For definition of " existing poor law ", see s. 64 (1), *post.*

General note.—The present section abolishes the existing poor law and replaces it with the dual system established by the present Act under which the National Assistance Board are made responsible for the provision of financial and other forms of assistance and county and county borough councils for the provision of accommodation and welfare services for handicapped persons.

Public assistance committees, accordingly, cease to exist. Subject to any direction of the Minister under Sched. III, para. 7, the functions of local authorities under Part III of the Act are to be discharged by new committees established for that purpose (Sched. III, para. 7).

The enactments embodying the existing poor law are repealed by s. 62 (3) and Sched. VII, Part I, *post.*

Local authorities.—" Local authority ", for the purposes of Part III of the Act, means a county council or county borough council (see s. 33 (1), *post*).

PART II

NATIONAL ASSISTANCE

The National Assistance Board

2. The National Assistance Board.—(1) The Assistance Board shall be known as the National Assistance Board, and in addition to the functions for the time being exercisable under any other enactment shall exercise the functions conferred on them by the following provisions of this Act. [3531]

(2) The National Assistance Board (hereafter in this Act referred to as " the Board ") shall exercise their functions in such manner as shall best promote the welfare of persons affected by the exercise thereof. [3532]

(3) For the purpose of securing the prompt discharge of their functions under this Act, the Board shall by regulations provide for the local administration of their said functions, and in particular, but subject to any arrangements for the discharge thereof by officers of another Government department or of a local authority, for the discharge by local officers of the Board of the functions of the Board in relation to applications for assistance and the decision of all questions arising thereon. [3533]

(4) Annual reports on the activities of the Board shall be made by the Board to the Minister of National Insurance, and the said Minister shall lay each report of the Board under this subsection before Parliament. [3534]

(5) The constitution and proceedings of the Board shall continue to be governed by the provisions set out in the First Schedule to this Act, being the provisions in that behalf of the Unemployment Assistance Act, 1934. [3535]

Assistance Board.—The Assistance Board was originally constituted as the Unemployment Assistance Board by s. 35 of the Unemployment Act, 1934 (27 Halsbury's Statutes 786), and was renamed the Assistance Board by s. 10 of the Old Age and Widows' Pensions Act, 1940 (33 Halsbury's Statutes 517). By sub-s. (1), *supra*, it now becomes the National Assistance Board. Its previous functions were concerned with unemployment allowances (see s. 35 (2) of the Act of 1934) and supplementary pensions (see s. 10 (3) of the Act of 1940). The Acts of 1934 and 1940 are now repealed by s. 62 (3) and Sched. VII, Part III, *post.*

Regulations.—Regulations of the Board require confirmation by the Minister of National Insurance (s. 63 (1), *post*).

Under sub-s. (3), *supra*, and ss. 8 (3), 9 (1), 15, *post*, the Board have made the National Assistance (Administration of Assistance) Regulations, 1948, and these are contained in the Schedule to the National Assistance (Administration of Assistance) Regulations Confirmation Instrument, 1948 (S.I. 1948 No. 1482), made by the Minister under s. 63, *post.*

Local administration.—Local education authorities operating a youth employment scheme under the Employment and Training Act, 1948, s. 10 (see title EDUCATION, *ante*) are required to perform such functions as may be prescribed in connection with the grant of assistance under the present Act to persons covered by the scheme ; see s. 11 of the said Act.

Annual report.—As to the first annual report of the Board, see Sched. VI, para. 1, *post.*

Unemployment Assistance Act, 1934.—For that Act, which consists of Part II of, and Scheds. VI–VIII to, the Unemployment Act, 1934 (see s. 57 (2) thereof), see 27 Halsbury's

Statutes 786 *et seq.* The provisions of the Act of 1934 governing the constitution and proceedings of the Board which are reproduced by Sched. I, *post*, were contained in Sched. VI thereto (27 Halsbury's Statutes 820). The Unemployment Act, 1934, is repealed by s. 62 (3) and Sched. VII, Part III, *post*.

Definitions.—For definitions of " functions " and " local authority ", see s. 64 (1), *post*.

3. Advisory Committees.—(1) For the purpose of securing that full use is made of the advice and assistance, both on general questions and on difficult individual cases, of persons having local knowledge and experience in matters affecting the functions of the Board, the Board shall arrange for the establishment of advisory committees throughout Great Britain to act for such areas as the Board think fit. [3536]

(2) The Board shall pay to members of advisory committees appointed by the Board such travelling and other allowances (including compensation for loss of remunerative time) as the Board, after consultation with the Minister of National Insurance and with the consent of the Treasury, may determine. [3537]

Advisory committees.—Advisory committees appointed under this section will take the place of the advisory committees appointed by the Board under s. 35 (3) of the Unemployment Assistance Act, 1934 (27 Halsbury's Statutes 787), which is repealed by s. 62 (3) and Sched. VII, Part III, *post*. Unless and until the Board otherwise determine, the committees appointed under that section are to be deemed to be committees appointed under the present section (Sched. VI, para. 2 (1), *post*).

The new advisory committees will be closely linked, possibly by the overlapping of membership, with the local advisory committees appointed under s. 42 of the National Insurance Act, 1946 (39 Halsbury's Statutes 456) and with the local employment committees of the Ministry of Labour and National Service, since in many cases their work will overlap. The administrative areas of the advisory committees will generally be coterminous with those of the committees under the 1946 Act, though it may be found advantageous to vary them slightly in certain localities (see H. of C. Official Report S.C.C., December 11, 1947, cols. 47, 55).

The Minister of National Insurance has stated his intention of drawing the attention of the Board to the desirability of appointing to the advisory committees former members of the local pension committees set up under s. 10 of the Old Age Pensions Act, 1936 (29 Halsbury's Statutes 1057), which are superseded (see s. 46, *post*) by the Appeal Tribunals established by the present Act (see H. of C. Official Report, S.C.C., December 11, 1947, col. 56).

Persons having local knowledge and experience.—The Minister of National Insurance opposed an amendment moved on the committee stage designed to make it obligatory to include in every advisory committee at least one local government representative, on the ground that it might be interpreted as requiring the inclusion of only one such representative. He stated that on the 83 main advisory committees appointed under the Act of 1934 (see preceding note) there were 371 members nominated by local authorities, and gave an assurance that local authority representation was likely to increase rather than to diminish (see H. of C. Official Report, S.C.C., December 11, 1947, col. 50).

Functions.—" Functions " includes powers and duties (see s. 64 (1), *post*).

Giving of Assistance by Board

4. Duty of Board to assist persons in need.—It shall be the duty of the Board in accordance with the following provisions of this Part of this Act to assist persons in Great Britain who are without resources to meet their requirements, or whose resources (including benefits receivable under the National Insurance Acts, 1946) must be supplemented in order to meet their requirements. [3538]

National Insurance Acts, 1946.—These are the National Insurance Act, 1946 (39 Halsbury's Statutes 412), and the National Insurance (Industrial Injuries) Act, 1946 (39 Halsbury's Statutes 322). The collective title was given by s. 80 of the former Act (39 Halsbury's Statutes 490).

The benefits receivable under the National Insurance Act, 1946, are (1) unemployment benefit; (2) sickness benefit; (3) maternity benefit; (4) widow's benefit; (5) guardian's allowance; (6) retirement pension; and (7) death grant.

The benefits receivable under the National Insurance (Industrial Injuries) Act, 1946, are (1) injury benefit; (2) disablement benefit; and (3) death benefit.

Requirements.—For definition, see s. 64 (1), *post*.

5. Determination of need for assistance.—(1) The question whether a person is in need of assistance, and the nature and extent of any assistance to be given to him, shall, subject to the provisions of this Act as to appeals, be decided by the Board. [3539]

(2) The Minister of National Insurance shall in accordance with the provisions of the next following section make regulations as to the computation of requirements and resources for the purposes of this Part of this Act and as to the decision of any such question as aforesaid, and the Board shall give effect to the relevant provisions of the regulations. [3540]

(3) Regulations under this section may make different provision for different classes of cases, and in particular shall make special provision for blind persons and persons who have suffered a loss of income in order to undergo treatment for tuberculosis of the respiratory system. [3541]

(4) Regulations under this section shall include provision for securing that the rules as to disregarding certain assets set out in the Second Schedule to this Act shall be observed in computing resources. [3542]

Regulations.—The National Assistance (Determination of Need) Regulations, 1948 (S.I. 1948 No. 1334). These Regulations, which follow the general pattern of the regulations relating to unemployment assistance (S. R. & O., 1943, No. 1759; 1946, No. 2011) and supplementary pensions (S. R. & O., 1943, No. 1737; 1946, No. 2072), lay down scales of general application with provision for adjustment to meet special circumstances. The new scales are generally more favourable to an applicant than those previously administered by the Board or by local authorities in respect of poor relief. Special provision is made by the Act to safeguard a person against loss of income resulting from the introduction of the new scales (see Sched. VI, para. 3, *post*).

The Board have power to disregard regulations in urgent cases (see s. 11 (1), *post*).

Nature and extent of any assistance.—Assistance will normally take the form of assistance grants (see s. 8 (1), *post*), but in special circumstances assistance in kind may be given (see s. 12 (1), *post*). See also s. 10 (3), *post*.

Requirements and resources.—As to the aggregation of requirements and resources, see s. 7, *post*. For definition of "requirements", see s. 64 (1), *post*.

Special provision.—Sub-s. (3) provides that regulations may make different provision for different classes of cases, and that in two classes, special provision must be made. The Minister of National Insurance at the committee stage of the Bill explained that two classes only had been specified for whom special provision must be made, since differential scales were difficult to operate owing to the danger of appearing unfairly discriminatory, and, moreover, a multiplicity of special scales made the general scale useless (H. of C. Official Report, S.S.C., December 11, 1947, col. 67).

The two special classes of cases are both cases for which special provision was previously made (*vide infra*).

Blind persons.—Assistance for blind persons was formerly provided by local authorities under the Blind Persons Act, 1920 and 1938 (20 Halsbury's Statutes 593; 31 Halsbury's Statutes 812). Consequent upon the provisions of the present Act, the 1920 Act in its entirety, and the 1938 Act so far as it affects local authorities, are repealed by s. 62 (3) and Sched. VII, Part III, *post*. Special financial provision for blind persons is now made by the National Assistance (Determination of Need) Regulations, 1948, *supra*. As to welfare arrangements for such persons, see s. 29, *post*. For the definition of "blind person", see s. 64 (1), *post*.

Persons undergoing treatment for tuberculosis of the respiratory system.—In order to curb the war-time growth of tuberculosis, a scheme was introduced by the Minister of Health in 1943 under which a special measure of Exchequer assistance was granted to tuberculosis authorities to enable them to make maintenance grants to persons suffering loss of income as a result of undergoing approved treatment for pulmonary tuberculosis (see Ministry of Health Memorandum 266/T; Vol. XX, p. 66). The National Assistance (Determination of Need) Regulations, 1948, *supra*, provide for the continuation of this scheme in a revised form, the payments being made by the National Assistance Board instead of by local authorities. In two respects, the revised scheme will be of wider application. First, under the war-time scheme, the grants payable by the local authority in respect of an individual ceased when it was established that there was no hope of a cure in his case. The Minister of National Insurance on the committee stage of the Bill gave an assurance that under the revised scheme if a man had been induced to undergo treatment and was subsequently pronounced to be beyond recovery, the special scale would not, for that reason, stop (H. of C. Official Report, S.C.C., December 11, 1947, col. 68). Secondly, by an amendment made on the committee stage in the House of Lords, the words "tuberculosis of the respiratory system" were substituted for the words "pulmonary tuberculosis" used both in the war-time scheme and the original Bill. This makes it clear that the scheme will cover tuberculosis of the larynx, which had previously been in doubt.

As to the Government's reasons for excluding other forms of tuberculosis from the scheme, see 155 H. of L. Official Report 168.

The Financial Memorandum issued with the Bill stated that it was estimated that on the basis of the previous regulations governing the scheme, the cost to the Exchequer in a full year from July, 1948, would be £1,150,000.

6. Preparation, making and coming into operation of regulations under section five.—(1) The Board shall as soon as may be after the passing of this Act, and thereafter from time to time as occasion may require, prepare and submit to the Minister of National Insurance (in this section referred

to as "the Minister") draft regulations under the last foregoing section. [3543]

(2) The Minister shall consider any draft submitted to him under the last foregoing subsection and shall make draft regulations either in the form of the draft as submitted or with such variations and amendments as he thinks fit. [3544]

(3) Where the Minister makes any draft regulations otherwise than in the form of the draft submitted to him, then before making the draft regulations he shall inform the Board of the variations and amendments which he intends to make, the Board shall report to him thereon, and he shall consider the report. [3545]

(4) Any draft regulations made by the Minister under this section shall be laid before Parliament as soon as may be after they are made, and, if the draft regulations so laid are made otherwise than in the form submitted to the Minister, there shall also be laid before Parliament a statement of the Minister's reasons for, and a copy of the report of the Board on, the variations and amendments made by him. [3546]

(5) If each House resolves that draft regulations made by the Minister under this section be approved, the Minister shall in the terms of the draft make regulations under the last foregoing section to take effect on such date as may be specified in the regulations. [3547]

General note.—This section reproduces the procedure laid down by s. 52 (2)–(4) of the Unemployment Assistance Act, 1934 (27 Halsbury's Statutes 800), for the making of regulations for the determination of need and assessment of needs under that Act.

Draft regulations are to be prepared by the Assistance Board, submitted to the Minister and laid before Parliament for approval. Variations proposed by the Minister in the draft submitted to him are to be reported upon by the Board, and the Minister is to consider their report before laying his draft before Parliament. When the Minister makes such variations, a statement of his reasons and a copy of the Board's report is to accompany the laying of the draft. On the draft regulations being approved by both Houses of Parliament, the Minister is to make regulations in the terms thereof.

Regulations.—The power of making regulations is exerciseable by statutory instrument (see s. 63 (2), *post*). Regulations made under s. 5, *ante*, are an exception to the general rule that statutory instruments under this Act are subject to the negative resolution procedure (see s. 63 (3), *post*).

Under this section and s. 5, *ante*, the National Assistance (Determination of Need) Regulations, 1948 (S.I. 1948 No. 1334), have been made; see the notes to s. 5, *ante*.

7. Aggregation of requirements and resources.—(1) Where it appears to the Board that an applicant for assistance has to provide for requirements of some other person being a member of the same household, the Board shall, subject to the provisions of this Act, give assistance by reference to the aggregate requirements and aggregate resources of the applicant and the said other person. [3548]

(2) Where in the giving of assistance to an applicant therefor the requirements of another person are taken into account, that person is in this Act referred to as a dependant of the applicant. [3549]

(3) Where a husband and wife are members of the same household, their requirements and resources shall in all cases be aggregated for the purposes of this Part of this Act. [3550]

(4) Notwithstanding anything in the foregoing provisions of this section, where it appears to the Board expedient so to do for the purpose of giving assistance in accordance with the provisions of subsection (3) of section eight or the provisions of section ten of this Act, the Board may decline to treat as a dependant of an applicant for assistance any person who has attained the age of sixteen years. [3551]

(5) No application for assistance shall be made by a person who has not attained the age of sixteen years, but nothing in this subsection shall prejudice the giving of assistance by reference to the requirements of any such person as a dependant of another person. [3552]

(6) Regulations under section five of this Act shall include provision for securing, in the case of a person being a member of a household,—

(*a*) that the resources of any other member of the household, not being the husband or wife, or a dependant, of the said person, shall not be treated as resources of the said person ;

(*b*) that if he is the householder his resources shall, unless exceptional circumstances are shown, be deemed to include contributions at the prescribed rate towards the expenses of the household from members thereof who are not dependants of his :

Provided that paragraph (*b*) of this subsection shall not have effect in relation to a householder who is a blind person or the husband or wife of a blind person. [3553]

Assistance.—Assistance will normally take the form of assistance grants (see s. 8 (1), *post*), but in special circumstances may be given in kind (see s. 12 (1), *post*). See also s. 10 (3), *post*.

Aggregation of requirements and resources.—As to the aggregation of requirements and resources, see respectively Part I, para. 1, and Part II, para. 1, of the Schedule to the National Assistance (Determination of Need) Regulations, 1948 (S.I. 1948 No. 1334).

The age of sixteen years.—Applications for assistance in respect of a child under sixteen years of age must be made by the person on whom he or she is dependant. Where there is no such person, or no such person able and willing to act, there is no power to make an application under this Act, but it becomes the duty of the local authority to assume care of the child under the Children Act, 1948, title INFANTS, CHILDREN AND YOUNG PERSONS, *ante*.

As to when a person is to be deemed to have attained sixteen, see s. 64 (3), *post*.

Determination of resources and needs of members of households.—Rules governing the making of regulations for determining the resources and needs of members of households who applied for unemployment assistance or supplementary pensions were laid down in the Determination of Needs Act, 1941, Sched. I (34 Halsbury's Statutes 438), and extended to apply to applications for outdoor relief or under the Blind Persons Acts, 1920 and 1938, by the Pensions and Determination of Needs Act, 1943, s. 3 (36 Halsbury's Statutes 326). These Acts, so far as relevant, are repealed by s. 62 (3) and Sched. VII, Part III, *post*. Sub-s. (6), *supra*, substantially reproduces, in relation to assistance under this Act, paras. 1 and 2 of the Schedule to the Act of 1941 as so applied.

Para. 3 of Sched. I to the Act of 1941 is not reproduced by the present section. The general effect of that paragraph was, *inter alia*, to provide that where an applicant was the son or daughter, or the mother or father of the householder and had no members of the household dependent on him, his needs were not to be considered as including the needs to constitute to the household expenses where the householder's income exceeded a prescribed amount. The amount prescribed was, in the usual case, £6 a week plus 15*s*. in respect of each additional dependent member of the household after the first. The Minister of National Insurance at the Committee Stage of the Bill stated that no such limitation would be imposed in the future (H. of C. Official Report, S.C.C., December 11, 1947, col. 73).

Prescribed rate.—The rate prescribed for contributions to household expenses from independent members thereof is 7*s*. a week or such lesser amount as may be reasonable having regard to the member's circumstances and personal responsibilities, provided that where the member's resources consist solely of earnings and—

(i) are under 70*s*. but more than 45*s*. a week : the contribution may not exceed 5*s*. a week, or

(ii) are 45*s*. or less but more than 25*s*. a week : the contribution may not exceed 2*s*. 6*d*. a week, or

(iii) are 25*s*. a week or less : no contribution shall be assumed (see the National Assistance (Determination of Need) Regulations, 1948 ; S.I. 1948 No. 1334).

Definitions.—For definitions of "blind person", "prescribed" and "requirements", see s. 64 (1), *post*.

8. Assistance grants.—(1) Subject to the provisions of this Part of this Act, the Board shall discharge their duty to give assistance by the making of grants in money (hereafter in this Act referred to as "assistance grants"). [3554]

(2) Where it appears to the Board that it is necessary for protecting the interests of an applicant for an assistance grant or of his dependants that the whole or any part of the grant should be issued to some person other than the applicant, the Board may issue the grant accordingly. [3555]

(3) The Board may require, as a condition of the making of an assistance grant to a person, that he shall be registered for employment in such manner as may be prescribed by the Board. [3556]

(4) Stamp duty shall not be chargeable on any receipt for an assistance grant. [3557]

"*Subject to the provisions of this Part of the Act.*"—Assistance will normally take the form of a money grant. These words presumably refer to s. 12 (1), *post*, under which, in special circumstances, assistance in kind may be given, and to s. 10 (3), *post*, under which assistance may take the form of maintenance in a reception centre or other similar centre supplemented, if need be, by "pocket money".

Sub-s. (2).—This subsection may be compared with s. 40 (2) (*a*) of the Unemployment Assistance Act, 1934 (27 Halsbury's Statutes 792), under which where an officer of the Board (or, on an appeal, the appeal tribunal) decided that an application was one of special difficulty, the Board (or the tribunal) might determine that the whole or any part of the allowance granted under that Act should be issued to such member of the applicant's household as might be specified in the determination.

An applicant may appeal to the Appeal Tribunal against the issuing of an assistance grant to some other person (see s. 14 (1) (*c*), *post*).

Sub-s. (3).—This subsection reproduces s. 38 (1) (*a*) of the Unemployment Assistance Act, 1934 (27 Halsbury's Statutes 789).

Registered for employment in prescribed manner.—As to the manner prescribed by the Board for registration for employment, see regs. 9–11 of the National Assistance (Administration of Assistance) Regulations, 1948, which are contained in the Schedule to S.I. 1948 No. 1482.

Sub-s. (4).—This subsection reproduces s. 50 (4) of the Unemployment Assistance Act, 1934 (27 Halsbury's Statutes 799). Cf. the National Insurance (Industrial Injuries) Act, 1946, s. 64 (39 Halsbury's Statutes 382), and the National Insurance Act, 1946, s. 51 (39 Halsbury's Statutes 465), which exempt documents under those Acts from stamp duty.

Definitions.—For definitions of "dependant" and "prescribed", see s. 64 (1), *post*.

9. Disqualifications for assistance grants.—(1) An assistance grant shall not be made to meet the requirements of a person (including requirements to provide for any other person) for any period during which that person is engaged in remunerative full-time work, and where a husband and wife are members of the same household no assistance grant shall be made to meet the requirements of the wife for any period during which the husband is so engaged:

Provided that this subsection shall not, where regulations of the Board so provide, apply until the expiration of such time from the beginning of the engagement as may be prescribed by the regulations. [3558]

(2) The last foregoing subsection shall not apply in the case of work otherwise than under a contract of service where the earning power of the person engaged in the work is, by reason of a disability, substantially reduced in comparison with that of other persons similarly occupied. [3559]

(3) An assistance grant shall not be made to meet the requirements of a person, other than requirements to provide for any other person, for any period during which he is without employment by reason of a stoppage of work which was due to a trade dispute at his place of employment and during which the stoppage of work continues, unless during the stoppage of work he has become bona fide employed elsewhere in the occupation which he usually follows or has become regularly engaged in some other occupation:

Provided that this subsection shall not apply in the case of a person who proves—

(*a*) that he is not participating in or financing or directly interested in the trade dispute which caused the stoppage of work; and

(*b*) that he does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at his place of employment any of whom are participating in or financing or directly interested in the dispute. [3560]

General note.—This section lays down disqualifications for assistance grants. Disqualification is not, however, to prevent the giving of assistance in cases of urgency (see s. 11, *post*).

From a refusal to give assistance, an appeal lies to the Appeal Tribunal (see s. 14 (1) (*a*), *post*).

Sub-s. (1).—Sub-s. (1) of this section lays down the general principle that an assistance grant shall not be paid to a person who is engaged in remunerative full-time work, either to meet his needs or those of his dependants. By a proviso inserted by amendment on the Committee Stage of the Bill in the House of Lords, it is, however, provided that sub-s. (1)

shall not apply until after the expiration of such time from the beginning of the engagement as may be prescribed by regulation (reg. 12 of the National Assistance (Administration of Assistance) Regulations, 1948; see S.I. 1948 No. 1482), which will enable the hiatus between the starting of a new job and the receipt of the first wage packet to be covered by an assistance grant, where necessary.

Sub-s. (2).—The application of sub-s. (1) is further excluded in the case of work otherwise than under a contract of service where the worker's earning power is substantially reduced by reason of a disability. This will enable assistance grants to be given to self-employed disabled persons, such as, for example, blind piano-tuners or basket-makers, even though they are engaged in full-time work.

This exception to the general rule that remunerative full-time employment disqualifies a person for an assistance grant is limited to the case of disabled persons employed otherwise than under a contract of service, since, in the Government's view, to include disabled persons employed under a contract of service would, in effect, be to subsidise the employment of persons under the Disabled Persons (Employment) Act, 1944 (37 Halsbury's Statutes 346), which imposes an obligation upon large-scale employers of labour to employ a quota of disabled persons registered under that Act.

Contract of service.—This term is not defined by the Act. By the National Insurance Act, 1946, s. 78 (39 Halsbury's Statutes 488), however, it is defined to mean any contract of service or apprenticeship, whether written or oral, and whether expressed or implied; and the National Insurance (Industrial Injuries) Act, 1946, Sched. I, Part I, para. 1 (39 Halsbury's Statutes 401), contains a similar definition.

Sub-s. (3).—Sub-s. (3) applies to assistance grants the disqualifications imposed in regard to unemployment benefit by the National Insurance Act, 1946, s. 13 (1) (39 Halsbury's Statutes 432), in the case of a person participating in, financing or having a direct interest in a stoppage of work due to a trade dispute, *i.e.* a strike or lock-out. As to determining the question whether a person is disqualified under this subsection, see s. 14 (3), *post*.

Definitions.—For definition of "disability", "prescribed", "requirements" and "trade dispute", see s. 64 (1), *post*.

10. Assistance in special cases.—(1) Where it appears to the Board that an applicant for assistance, being a person who is not in receipt of unemployment benefit under the National Insurance Act, 1946, refuses or neglects to maintain himself or any person whom for the purposes of this Act he is liable to maintain, the Board may make a report to the Appeal Tribunal, and the Tribunal, after giving the applicant an opportunity of being heard, may direct that during such period as may be specified in the direction he shall be subject to the following provisions of this section. [3561]

(2) The Board may require, as a condition of the making of an assistance grant in respect of any such period as aforesaid, that the applicant shall attend such course of instruction or training approved by the Minister of National Insurance for the purpose of this section as the Board may specify and that he shall comply with the rules there in force. [3562]

(3) The Board may, in lieu of giving assistance in respect of any period specified in a direction under subsection (1) of this section by the making of assistance grants, give assistance by maintaining the applicant in a re-establishment centre provided under this Part of this Act or in accordance with arrangements under subsection (4) of this section, or subsection (5) thereof so long as it is in force, and by making to him such payments (if any) for meeting his personal requirements as the Board think fit. [3563]

(4) The Board may enter into arrangements with another Government department or with a voluntary organisation for the maintenance of persons in whose case directions under subsection (1) of this section are in force in a centre provided by the department or organisation for purposes similar to the purposes of a re-establishment centre. [3564]

(5) The Board may make arrangements with a local authority managing premises in which accommodation is provided under Part III of this Act for the maintenance of such persons as aforesaid in accommodation provided in the premises for the purposes of this subsection. [3565]

(6) Where a person in whose case a direction under subsection (1) of this section is in force represents to the Appeal Tribunal that there has been a change of circumstances and that by reason thereof the direction ought to be revoked, the Tribunal, after giving the Board an opportunity of being heard, may if they think fit revoke the direction. [3566]

(7) Subsection (5) of this section shall continue in force for two years and no longer. [3567]

General note.—This section replaces, with modifications, s. 41 of the Unemployment Assistance Act, 1934 (27 Halsbury's Statutes 793), which Act is repealed by s. 62 (3) and Sched. VII, Part III, *post*. That section provided that an officer of the Unemployment Assistance Board on being satisfied, *inter alia*, that an applicant had persistently refused or neglected to maintain himself or his family, was to make a special report to the Appeal Tribunal established under that Act, and the tribunal might, in effect, direct the disqualification of the applicant for a specified period.

The present section substitutes for disqualification (1) making an assistance grant conditional upon attendance at a course of instruction or training approved by the Minister of National Insurance; and (2) maintenance of the applicant in a re-establishment or similar centre instead of making him assistance grants.

Failure to maintain.—Failure to maintain may constitute an offence; see s. 51, *post*.

National Insurance Act, 1946.—39 Halsbury's Statutes 412. For the right to unemployment benefit, see ss. 11–13 of that Act (39 Halsbury's Statutes 429–432).

Any person whom, for the purposes of this Act, he is liable to maintain.—As to these persons, see s. 42, *post*.

Appeal Tribunal.—As to the Appeal Tribunal, see s. 53 and Sched. V, *post*.

Rules.—Rules of the Board do not take effect until confirmed by the Minister of National Insurance, see s. 63 (1), *post*.

Re-establishment centres.—As to re-establishment centres, see ss. 16, 18, *post*.

Arrangements with a local authority.—The arrangements to be made by the Board with local authorities under sub-s. (5), which, by sub-s. (7), is limited to two years, are intended as provisional arrangements until such time as the Board are able themselves to provide re-establishment centres. As to the provision of accommodation by local authorities (*i.e.* county councils and county borough councils; see s. 33 (1), *post*) under Part III of the Act, see s. 21, *post*. As to penalties for contravention of the local authority's rules for the preservation of order on premises in which accommodation is provided, see s. 19 (3), *post*.

Definitions.—For definitions of "requirements" and "voluntary organisation", see s. 64 (1), *post*.

11. Disqualification, etc., not to prevent assistance in cases of urgency.—(1) Nothing in the two last foregoing sections nor any disqualification or condition attaching thereunder shall prevent the Board's making an assistance grant in an urgent case, and in the making of a grant by virtue of this subsection the Board shall not be bound by any regulations under this Part of this Act which appear to them inappropriate in the circumstances of the case. [3568]

(2) Where by virtue only of the last foregoing subsection the Board make an assistance grant to meet the requirements of a person engaged in remunerative full-time work, they may recover from him the whole or part of the assistance grant if they are satisfied that the circumstances are such that it is equitable so to do. [3569]

General note.—As to poor law relief in cases of sudden or urgent necessity, see the Poor Law Act, 1930, ss. 17, 79 (12 Halsbury's Statutes 978, 1007), which Act is repealed by s. 62 (3) and Sched. VII, Part I, *post*.

As to accommodation in urgent cases, see ss. 24 (3), 25, *post*.

Regulations.—As to regulations, generally, see s. 63, *post*.

Recovery of assistance grant.—Any person aggrieved by a decision of the Board under sub-s. (2) to recover the whole or part of an assistance grant may appeal to the Appeal Tribunal (see s. 14 (1) (*f*), *post*).

Requirements.—For definition of "requirements", see s. 64 (1), *post*.

12. Assistance in kind.—(1) Where it appears to the Board that by reason of special circumstances the requirements of a person can best be met by giving in kind the whole or part of assistance of which he is in need, the Board may so give assistance instead of giving assistance in money. [3570]

(2) References in this Part of this Act to the giving of assistance in kind include references to the issuing of orders for the free provision of goods or services. [3571]

(3) Notwithstanding anything in this Part of this Act or regulations made thereunder, in giving assistance in accordance with this section to meet sudden and urgent need the Board may dispense with inquiry into resources or other circumstances and with compliance with any regulations of the Board. [3572]

(4) Subject to the last foregoing subsection, the provisions of this Act other than this section shall apply to assistance given in accordance with this section as they apply to assistance grants, but with the substitution for

references to the amount of the grant of references to the value of the assistance. [3573]

General note.—Assistance will normally take the form of assistance grants (see s. 8 (1), *ante*). The present section, however, authorises the giving of assistance in kind where, by reason of special circumstances an applicant's requirements can thereby best be met.

Dealing with the way in which it was intended to operate the section, the Minister of National Insurance, at the Committee Stage of the Bill, gave two assurances :

> " One of the features which we all deplored under the old Poor Law was the fact that the emphasis was so much upon relief in kind and not upon relief in cash. . . . Clearly there are circumstances in which the best thing to do is to give relief in kind, but they are exceptional circumstances, and in normal circumstances relief must always be in cash. . . . I give the undertaking that it is the intention of myself and the Government that this clause shall be looked upon as dealing with exceptional, and not normal, cases, and that in the ordinary way relief shall be in cash.
>
> " My hon. Friend . . . asked whether this was intended to be a penal clause. I can give an undertaking that it is not intended to use it as such. There are only two circumstances I can think of in which relief in kind might be said to be approaching anything that could be described as penal. Yesterday, we discussed the question of sanctions against the kind of man who might be called a dodger. It may be that in a case of that kind, as a kind of final sanction, relief may be given in kind. The other case I have in mind is that very exceptional kind . . . in which the officer may find that relief in cash is being badly used. . . . I do not regard cases of the kind I have mentioned as justifying this clause being described as a penal clause " (H. of C. Official Report, S.C.C., December 18, 1947, col. 126).

A person aggrieved by the giving of assistance in kind or the nature or extent of that assistance, may appeal to the Appeal Tribunal (see s. 14 (1) (*c*), *post*).

This section may be compared with the Unemployment Assistance Act, 1934, s. 40 (2) (*b*) (27 Halsbury's Statutes 792), which provided that in a case of special difficulty, an allowance might be issued otherwise than in cash. That Act is repealed by s. 62 (3) and Sched. VII, Part III, *post*.

Sub-s. (3).—This subsection enlarges the discretionary power of granting assistance in urgent cases (see s. 11 (1), *ante*) so far as assistance in kind is concerned.

Requirements.—For definition of this term, see s. 64 (1), *post*.

13. Prevention of duplication of payments.—(1) Where payments in respect of—

(*a*) unemployment, sickness, maternity, or widow's benefit, guardian's allowance, or retirement pension under the National Insurance Act, 1946,

(*b*) benefit under the National Insurance (Industrial Injuries) Act, 1946,

(*c*) pension under the Old Age Pensions Act, 1936, or

(*d*) allowances under the Family Allowances Act, 1945,

are in arrears for any period and assistance grants have been made for that period by reference to the requirements of the person to whom the payments are due, the payments may, at the discretion of the authority administering the benefit, pension or allowances in question, be abated to the extent to which the actual amount of those assistance grants exceeds what would have been their amount, as decided by the Board, if the said payments had not fallen into arrears. [3574]

(2) Where the liabilities of any fund are reduced by virtue of the last foregoing subsection, there shall be paid out of that fund into the Exchequer an amount equal to the reduction. [3575]

General note.—This section authorises the abatement of arrears of payments due under certain other social security Acts by the amount by which assistance grants have been augmented as a result of such payments being in arrears.

Compare the provisions of the National Insurance (Industrial Injuries) Act, 1946, ss. 30, 31 (39 Halsbury's Statutes 352, 353) ; the National Insurance Act, 1946, s. 30 (39 Halsbury's Statutes 450), and the Family Allowances Act, 1945, s. 15 (38 Halsbury's Statutes 350). S. 31 of the National Insurance (Industrial Injuries) Act, 1946, and sub-ss. (1) (*c*) and (5) (*a*) of s. 30 of the National Insurance Act, 1946, which deal with adjustments in respect of outdoor relief, are repealed by s. 62 (3) and Sched. VII, Part III, *post*.

A person aggrieved by the amount of an abatement may appeal to the Appeal Tribunal (see s. 14 (1) (*g*), *post*). Notwithstanding anything in the above-mentioned Acts, the Board's decision as to the amount of any abatement is, subject to any appeal under s. 14, *post*, to be conclusive for the purposes of those Acts (see s. 14 (5), *post*).

National Insurance Act, 1946.—39 Halsbury's Statutes 412.

National Insurance (Industrial Injuries) Act, 1946.—39 Halsbury's Statutes 322.

Old Age Pensions Act, 1936.—29 Halsbury's Statutes 1051.

Family Allowances Act, 1945.—38 Halsbury's Statutes 340.

Requirements.—For definition of this term, see s. 64 (1), *post*.

14. Appeals under Part II.—(1) Where a person applying for, or in receipt of, assistance is aggrieved by a decision of the Board with respect to any of the following matters, that is to say—

(*a*) a refusal to give assistance;
(*b*) the amount of an assistance grant;
(*c*) the issuing of an assistance grant to a person other than the applicant therefor;
(*d*) any condition subject to which an assistance grant is made;
(*e*) the giving of assistance in kind or the nature or extent of assistance in kind;
(*f*) a decision under subsection (2) of section eleven of this Act to recover the whole or part of an assistance grant;
(*g*) the amount of an abatement under subsection (1) of section thirteen of this Act,

he may appeal to the Appeal Tribunal. [3576]

(2) A notice stating the effect of subsection (1) of this section shall be conspicuously displayed in every office where assistance grants are made. [3577]

(3) Where on an appeal under this section any question arises whether a person is disqualified for an assistance grant by virtue of the provisions of this Part of this Act relating to trade disputes, that question shall be referred by the Appeal Tribunal for determination in the manner provided under section forty-three of the National Insurance Act, 1946, and the provisions of the said section forty-three shall have effect accordingly with respect to any question so referred. [3578]

(4) On an appeal under this section the Appeal Tribunal may confirm the decision of the Board appealed against or substitute therefor any decision which the Board could have made under this Part of this Act, and any decision of the Tribunal shall be conclusive for all purposes. [3579]

(5) Notwithstanding anything in the enactments referred to in subsection (1) of section thirteen of this Act, a decision of the Board as to the amount of any abatement under the said subsection (1) shall, subject to any appeal under this section, be conclusive for the purposes of the said enactments. [3580]

Issuing of an assistance grant to a person other than the applicant.—As to when the Board may issue an assistance grant to some person other than the applicant, see s. 8 (2), *ante*.

Giving of assistance in kind.—As to this, see s. 12, *ante*.

Provisions relating to trade disputes.—For the provisions of this Part of this Act relating to trade disputes, see s. 9 (3), *ante*.

National Insurance Act, 1946, *s.* 43.—39 Halsbury's Statutes 457.

Appeal Tribunal.—As to the Appeal Tribunal, see s. 53 and Sched. V, *post*. The Appeal Tribunals appointed under this Act replace the Appeal Tribunals appointed under s. 39 (3) of, and Sched. VII to, the Unemployment Assistance Act, 1934 (27 Halsbury's Statutes 791, 820), which Act is repealed by s. 62 (3) and Sched. VII, *post*. See, however, Sched. VI, para. 2 (2), *post*.

15. Supplementary provisions as to assistance.—(1) The Board may by regulations make provision for carrying this Part of this Act into effect, and in particular (but without prejudice to the generality of this subsection) as to the manner in which applications for assistance are to be made, in which evidence is to be provided of matters relevant to the giving of assistance, and in which assistance grants are to be issued. [3581]

(2) In so far as regulations under this section provide for the issuing of assistance grants through the Post Office, the regulations shall not have effect unless confirmed by the Postmaster General. [3582]

(3) Regulations under this section shall have effect subject to the provisions of regulations under section five of this Act. [3583]

Regulations.—Regulations of the Board require confirmation by the Minister of National Insurance (s. 63 (1), *post*).

Under this section and ss. 2 (3), 8 (3), 9 (1), *ante*, the Board have made the National Assistance (Administration of Assistance) Regulations, 1948, which are contained in the

Schedule to the National Assistance (Administration of Assistance) Regulations Confirmation Instrument, 1948 (S.I. 1948, No. 1482) made by the Minister of National Insurance under s. 63, *post*.

Issuing of grants through the Post Office.—No regulations for the issuing of grants through the Post Office had been made at the date of going to press. As to when rules made by the former Assistance Board could authorise the payment of unemployment allowances and supplementary pensions through the Post Office, see the Unemployment Assistance Act, 1934, s. 42 (1), proviso (27 Halsbury's Statutes 793), and the Old Age and Widows' Pensions Act, 1940, s. 9 (4) (33 Halsbury's Statutes 517), respectively.

Re-establishment Centres and Reception Centres

16. Re-establishment centres.—For the re-establishment of persons in need thereof through lack of regular occupation or of instruction or training the Board may subject to the approval of the Minister of National Insurance provide centres, to be known as re-establishment centres, where (whether in consequence of a decision of the Board under section ten of this Act or otherwise) such persons may attend or may be maintained by the Board, and in either case may be afforded by the Board the occupation, instruction or training requisite to fit them for entry into or return to regular employment. [3584]

General note.—The Act does not lay down any detailed provisions in regard to re-establishment centres, since they are experimental and the Government desire to leave the Board free to develop them in the light of experience. They are intended primarily for the rehabilitation of young persons who have received no proper training and must be distinguished from reception centres (see s. 17, *post*), which provide temporary board and lodging for " casuals " and tramps.

The purpose of the re-establishment centres is rehabilitation and not punishment, and the Board have no power to direct a person to attend a centre. Such a direction may only be made by the Appeal Tribunal under s. 10, *ante*, in the case of a person who refuses or neglects to maintain himself or any person whom under this Act he is liable to maintain.

As to the management of re-establishment centres, see s. 19, *post*. Contributions may be made by the Board to voluntary organisations maintaining similar centres (see s. 20, *post*).

17. Reception centres.—(1) It shall be the duty of the Board to make provision whereby persons without a settled way of living may be influenced to lead a more settled life, and the Board shall provide and maintain centres, to be known as reception centres, for the provision of temporary board and lodging for such persons. [3585]

(2) The Board may require the councils of counties, county boroughs and large burghs to exercise on behalf of, and in accordance with any directions given by, the Board the functions of the Board under the last foregoing subsection of providing and maintaining reception centres. [3586]

(3) A council may recover from the Board any expenditure under the last foregoing subsection incurred by them with the approval of the Board, given either as respects that expenditure or generally as respects expenditure up to a specified amount. [3587]

(4) Before giving directions under subsection (2) of this section the Board shall consult with such local authorities or associations of local authorities as appear to the Board to be concerned. [3588]

General note.—This section transfers the responsibility for the casual poor, which formerly rested under the poor law upon local authorities, to the National Assistance Board, and replaces the casual ward with the reception centre. Local authorities under Part III may, however, be required to provide and maintain reception centres on the Board's behalf.

Any premises being used immediately before the appointed day for the reception or relief of casual poor persons will, for an indefinite period, continue to be used as a reception centre (see Sched. VI, paras. 4, 8 (3), *post*).

As to the management of reception centres, see s. 19, *post*. The Board may contribute to voluntary organisations maintaining similar centres (s. 20, *post*).

As to the provision of residential accommodation for persons with no settled residence, see s. 24 (3), *post*.

Provision of reception centres by local authorities.—The Board's power to arrange for the provision by local authorities of " re-establishment centres " is limited to two years (see s. 10 (5), (7), *ante*). The Parliamentary Secretary to the Ministry of National Insurance opposed an amendment, moved at the Committee Stage of the Bill, similarly to limit the period within which local authorities may be required to provide and maintain reception centres on behalf of the Board, but he gave an assurance that the obligations placed on local authorities by this section were only intended to be transitional. The Parliamentary Secretary

added: "My right hon. Friend is prepared to give a complete undertaking that he will ask the Board to report to him within three or four years of the introduction of the scheme, that the report will be published, and that, on its publication, the administration will be reconsidered in the light of the experience gained during that time" (H. of C. Official Report, S.C.C., December 18, 1947, col. 154).

Recovery of expenditure.—As to recovery of expenditure, see s. 56, *post.*

Definitions.—For definitions of "functions" and "local authority", see s. 64 (1), *post.*

18. Accommodation in reception centres in special cases.—(1) This section applies to reception centres (hereinafter referred to as "designated reception centres") designated by the Minister of National Insurance for the purposes of this section on the application of the Board. [3589]

(2) Where a person seeks lodging in a designated reception centre and it appears to the Board, or if the centre is being provided by a local authority to the local authority, that the said person persistently resorts to reception centres when capable of maintaining himself, the Board or local authority may direct that he shall only be received into the centre subject to the conditions specified in subsection (4) of this section. [3590]

(3) On a direction being given under the last foregoing subsection the person to whom it relates may require that the matter shall be referred to the Appeal Tribunal, and if he so requires—

(*a*) the direction shall not have effect until the matter has been determined by the Tribunal, and

(*b*) on any such reference the Tribunal may either quash the direction or order that during such period as may be specified in the order he shall only be admitted to a designated reception centre subject to the conditions specified in the next following subsection. [3591]

(4) The conditions hereinbefore referred to are—

(*a*) that the person in question shall remain at the centre for at least such period from the time he entered it, not exceeding forty-eight hours, as the Board or the local authority providing the centre may require, and

(*b*) that while the person in question is at the centre he shall do such suitable work within the curtilage thereof as the Board or local authority may require. [3592]

(5) A person received into a centre subject to the said conditions shall, if he fails to comply therewith, be liable on summary conviction to a fine not exceeding ten pounds or to imprisonment for a term not exceeding one month. [3593]

General note.—This section, which was added in the Committee Stage of the Bill in the House of Lords, arose out of representations made by associations of local authorities. It is designed to enable disciplinary measures to be taken against able-bodied persons who persistently resort to reception centres. No action, however, can be taken except in reception centres designated by the Minister of National Insurance. Compare the provisions governing discipline in, and discharge from, casual wards under the Poor Law Act, 1930, ss. 42, 44 (12 Halsbury's Statutes 989), which Act is repealed by s. 62 (3) and Sched. VII, Part I, *post.*

Appeal Tribunal.—As to the Appeal Tribunal, see s. 53 and Sched. V, *post.*

Failure to comply with conditions.—An inmate of a casual ward who absconded therefrom or failed to do the work or observe the regulations prescribed was by virtue of the Poor Law Act, 1930, s. 151 (12 Halsbury's Statutes 1042), an idle and disorderly person within the meaning of the Vagrancy Act, 1824, s. 3 (12 Halsbury's Statutes 913), and accordingly punishable, if brought before a single justice or at an occasional court house, with imprisonment with or without hard labour up to fourteen days (or a fine not exceeding £1), or, if before a petty sessional court, with imprisonment up to one calendar month (or a fine not exceeding £5) (see the Vagrancy Act, 1824, s. 3; 12 Halsbury's Statutes 914; and the Summary Jurisdiction Act, 1879, ss. 4, 5, 20 (7); 11 Halsbury's Statutes 323, 324, 331).

Work.—The work that inmates of reception centres may, in the normal case, be required to do is limited to such work for assisting in the running of the centre as may be specified by or under regulations made by the Board (s. 19 (2), *post*; and the National Assistance (Reception Centres) Regulations, 1948, for which see S.I. 1948 No. 1481).

19. Management of re-establishment and reception centres.—(1) The Board may by regulations make provision for the management of, and preservation of order in, re-establishment centres maintained by the Board

and reception centres maintained by them or on their behalf, and such regulations may provide that any person who contravenes or fails to comply with any specified provision thereof shall be liable on summary conviction to a fine not exceeding ten pounds or to imprisonment for a term not exceeding one month. [3594]

(2) Regulations under the last foregoing subsection may include provision requiring persons accommodated or received in centres, or specified classes of such persons, to do such work for assisting in the running of the centres as may be specified by or under the regulations. [3595]

(3) Rules made by a local authority under Part III of this Act for the preservation of order in premises in which accommodation is provided under the said Part III may provide that this subsection shall apply in relation to any provision of the rules, and where such rules so provide any person to whom under subsection (5) of section ten of this Act assistance is given by maintenance in the premises and who contravenes or fails to comply with the provision in question shall be liable on summary conviction to such a fine or to such imprisonment as aforesaid. [3596]

Regulations.—Regulations of the Board required confirmation by the Minister of National Insurance (see s. 63 (1), *post*). Under this section the Board have made the National Assistance (Reception Centres) Regulations, 1948, which are contained in the Schedule to the National Assistance (Reception Centres) Regulations Confirmation Instrument, 1948 (S.I. 1948 No. 1481), made by the Minister of National Insurance under s. 63, *post*. No regulations relating to re-establishment centres had been made at the date of going to press.

Re-establishment centres.—See s. 16, *ante*.

Reception centres.—See s. 17, *ante*.

Accommodation provided under Part III.—As to the construction of this expression, see s. 21 (5), *post*.

20. Contributions to centres maintained by voluntary organisations.—The Board may make contributions to the funds of any voluntary organisation maintaining centres for purposes similar to the purposes of re-establishment centres or reception centres maintained by the Board. [3597]

General note.—The Board are empowered to arrange with voluntary organisations providing centres similar to re-establishment centres for the maintenance of persons therein (see s. 10 (4), *ante*).

Re-establishment centres.—See s. 16, *ante*.

Reception centres.—See s. 17, *ante*.

Voluntary organisation.—For definition of this term, see s. 64 (1), *post*.

PART III

LOCAL AUTHORITY SERVICES

Provision of Accommodation

21. Duty of local authorities to provide accommodation.—(1) It shall be the duty of every local authority, subject to and in accordance with the provisions of this Part of this Act, to provide—

(*a*) residential accommodation for persons who by reason of age, infirmity or any other circumstances are in need of care and attention which is not otherwise available to them ;

(*b*) temporary accommodation for persons who are in urgent need thereof, being need arising in circumstances which could not reasonably have been foreseen or in such other circumstances as the authority may in any particular case determine. [3598]

(2) In the exercise of their said duty a local authority shall have regard to the welfare of all persons for whom accommodation is provided, and in particular to the need for providing accommodation of different descriptions suited to different descriptions of such persons as are mentioned in the last foregoing subsection. [3599]

(3) A local authority shall exercise their functions under this section in accordance with a scheme made thereunder. [3600]

(4) Accommodation provided by a local authority in the exercise of their said functions shall be provided in premises managed by the authority or, to such extent as may be specified in the scheme under this section, in such premises managed by another local authority as may be agreed between the two authorities and on such terms, including terms as to the reimbursement of expenditure incurred by the said other authority, as may be so agreed. [3601]

(5) References in this Act to accommodation provided under this Part thereof shall be construed as references to accommodation provided in accordance with this and the five next following sections, and as including references to board and other services, amenities and requisites provided in connection with the accommodation except where in the opinion of the authority managing the premises their provision is unnecessary. [3602]

(6) References in this Act to a local authority providing accommodation shall be construed, in any case where a local authority agree with another local authority for the provision of accommodation in premises managed by the said other authority, as references to the first-mentioned local authority. [3603]

(7) Without prejudice to the generality of the foregoing provisions of this section, a local authority may—

(*a*) provide, in such cases as they may consider appropriate, for the conveyance of persons to and from premises in which accommodation is provided for them under this Part of the Act;

(*b*) themselves provide on the premises in which accommodation is being provided such health services, not being specialist services or services of a kind normally provided only on admission to a hospital, as appear to the authority requisite and as may be specified in the scheme under this section;

(*c*) arrange for the provision on the premises of local health services.

In this subsection the expression "local health services" means the like services as are provided under Part III of the National Health Service Act, 1946, or of the National Health Service (Scotland) Act, 1947, for persons in their own homes; and a local health authority for the purposes of the said Part III shall by virtue of this subsection have power to provide any local health services to which arrangements under this subsection relate. [3604]

(8) Save as provided in the last foregoing subsection, nothing in this section shall authorise or require a local authority to make any provision authorised or required to be made (whether by that or by any other authority) by or under any enactment not contained in this Part of this Act. [3605]

General note.—This section must be read in conjunction with the five following sections (see sub-s. (5), *supra*).

Local authority.—A council of a county or county borough in England or Wales (see s. 33 (1), *post*). Note also the provisions of sub-s. (6), *supra*.

Or any other circumstances.—At the Committee Stage of the Bill objection was taken to these words on the ground of indefiniteness, and the fear was expressed that they would involve local authorities in constant references to the Ministry of Health for clarification. The Parliamentary Secretary to the Ministry of Health, however, gave an assurance that the words were designed solely to cover marginal cases, and that it was not intended to place an indefinite responsibility on local authorities (see H. of C. Official Report, S.C.C., January 21, 1948, col. 166).

Schemes.—As to schemes made under this section, see s. 34, *post*.

Local health services.—Local health services which local health authorities are required or empowered to provide under Part III of the National Health Service Act, 1946 (39 Halsbury's Statutes 537–542) consist of:

(*a*) The provision of health centres (s. 21 of the 1946 Act);
(*b*) The care of mothers and young children (s. 22);
(*c*) Midwifery services (s. 23);
(*d*) Health visiting (s. 24);
(*e*) Home nursing (s. 25);

(*f*) Vaccination and immunisation (s. 26);
(*g*) Ambulance services (s. 27); and
(*h*) The prevention of illness, care and after-care (s. 28).

Local health authorities are the same authorities, namely county councils and county borough councils, as exercise functions under this Part of this Act (see the National Health Service Act, 1946, s. 19 (1); 39 Halsbury's Statutes 537).

A local authority is enabled, by sub-s. (7) (*c*), *supra*, to provide the same health services for inmates of local authority hostels as the authority provides for persons in their own homes.

Definitions.—For definitions of "functions" and "hospital", see s. 64 (1), *post*.

22. Charges to be made for accommodation.—(1) Persons for whom accommodation is provided under this Part of this Act shall pay for the accommodation in accordance with the following provisions of this section. [3606]

(2) Subject to the following provisions of this section, the payment for any such accommodation shall be in accordance with a standard rate fixed for that accommodation by the authority managing the premises in which it is provided. [3607]

(3) Where a person for whom accommodation in premises managed by any local authority is provided, or proposed to be provided, under this Part of this Act satisfies the local authority that he is unable to pay therefor at the standard rate, the authority shall assess his ability to pay (apart from any supplementation of his resources which he will receive under Part II of this Act), and accordingly determine at what lower rate he shall be liable to pay for the accommodation:

Provided that the liability shall in no case be reduced below such sum per week as may be prescribed by the Minister. [3608]

(4) In assessing for the purposes of the last foregoing subsection a person's ability to pay, a local authority shall assume that he will need for his personal requirements such sum per week as may be prescribed by the Minister, or such other sum as in special circumstances the authority may consider appropriate. [3609]

(5) In assessing as aforesaid a person's ability to pay, a local authority shall give effect to the relevant provisions of the Second Schedule to this Act. [3610]

(6) Where temporary accommodation is provided for a person for less than a week, or it appears to the authority managing the premises in which temporary accommodation is being provided for a person that by reason of special circumstances charges therefor cannot appropriately be made in accordance with the provisions of subsections (2) and (3) of this section, those provisions shall not apply but the said person shall pay for the accommodation at such rate as the local authority may determine. [3611]

(7) Where accommodation is provided for a child accompanied by a person over the age of sixteen, the foregoing provisions of this section shall have effect subject to the following modifications:—

(*a*) in respect of the accommodation provided for the child payment shall be made by the person by whom the child is accompanied,

(*b*) the personal requirements of the child shall be treated as personal requirements of the person by whom the child is accompanied, and for the purposes of subsection (4) of this section the fact that that person is accompanying the child may be treated as special circumstances. [3612]

(8) Where accommodation is provided by a local authority in premises managed by another local authority, the payment therefor under this section shall be made to the authority managing the premises and not to the authority providing accommodation, but the authority managing the premises shall account for the payment to the authority providing the accommodation. [3613]

(9) Where the whole or part of a liability arising under this section is taken into account by the Board in making an assistance grant, and the person receiving the grant fails to pay any sum due from him under this section, the Board may, in lieu of issuing the whole of the grant to the person to whom it is made, issue to the local authority concerned, in or towards the satisfaction of the liability, so much of the grant as relates to that liability. [3614]

Accommodation provided under this Part of this Act.—As to the construction of this expression, see s. 21 (5), *ante*.

Standard rate.—The Parliamentary Secretary to the Ministry of Health at the Committee Stage of the Bill stated that regulations would require the standard rate to be fixed so as to reimburse local authorities their expenditure incurred in providing accommodation without providing a profit. It was intended that as a matter of principle local authorities should fix a standard charge for each establishment calculated by reference to the running costs plus overheads, the overheads being assessed by reference to the local authority's service as a whole (see H. of C. Official Report, S.C.C., January 21, 1948, cols. 194–95).

Minimum charge for accommodation.—The minimum charge for an adult is 21*s.* a week, and for a child accompanied by an adult, 7*s.* 6*d.*, 9*s.* or 10*s.* 6*d.* according to age (see the National Assistance (Charges for Accommodation) Regulations, 1948 (S.I. 1948 No. 1385), *post*. The sum of 21*s.* is arrived at on the assumption that the majority of persons admitted to residential accommodation will have at least a retirement pension or other insurance benefit of 26*s.* a week, which will leave them 5*s.* a week, the sum prescribed for personal requirements (see para. 25 of the White Paper summarising the Bill; Cmd. 7248).

Sum presented for personal requirements.—The sum prescribed is 5*s.* a week (see the National Assistance (Charges for Accommodation) Regulations, 1948), *post*.

Local authority.—A council of a county or county borough in England or Wales (see s. 33 (1), *post*). See also s. 21 (6), *ante*.

Person over the age of sixteen.—As to when a person is to be deemed to have attained sixteen, see s. 64 (3), *post*. Children not cared for by parents or guardians are outside the scope of this Act; as to the duties of local authorities with respect to such children, see the Children Act, 1948, title INFANTS, CHILDREN AND YOUNG PERSONS, *ante*.

"The Minister."—The Minister of Health in England and Wales (see s. 35 (1), *post*).

Recovery of sums due.—As to the recovery of sums due under this section, see s. 56, *post*.

Definitions.—For definitions of "prescribed" and "requirements", see s. 64 (1), *post*.

23. Management of premises in which accommodation provided.—(1) Subject to the provisions of this Part of this Act, a local authority may make rules as to the conduct of premises under their management in which accommodation is provided under this Part of this Act and as to the preservation of order in the premises. [3615]

(2) Rules under this section may provide that where by reason of any change in a person's circumstances he is no longer qualified to receive accommodation under this Part of this Act or where a person has otherwise become unsuitable therefor, he may be required by the local authority managing the premises to leave the premises in which the accommodation is provided. [3616]

(3) Rules under this section may provide for the waiving of part of the payments due under the last foregoing section where in compliance with the rules persons for whom accommodation is provided assist in the running of the premises. [3617]

General note.—This section may be contrasted with the Poor Law Act, 1930, s. 23 (12 Halsbury's Statutes 982), which dealt with the management of workhouses and the preservation of order therein. That Act is repealed by s. 62 (3) and Sched. VII, Part I, *post*.

Local authority.—A council of a county or county borough in England or Wales (see s. 33 (1), *post*).

Rules.—Regulations may prescribe requirements as to the provision to be made in rules under this section (see s. 35 (3) (*b*), *post*). Rules, etc., for the regulation of workhouses were made by the Minister of Health (see the Poor Law Act, 1930, s. 23, *supra*); rules for the conduct of premises under this section will, however, subject to any requirements prescribed as aforesaid, be made by the local authority.

Qualifications for receipt of accommodation.—See s. 21 (1), *ante*.

Accommodation provided under this Part of this Act.—As to the construction of this expression, see s. 21 (5), *ante*.

Persons assisting in the running of the premises.—Compare the provisions of s. 19 (2), *ante*, under which residents of re-establishment centres and reception centres may be required to assist in running them.

24. Authority liable for provision of accommodation.—(1) The local authority liable under this Part of this Act to provide residential accommodation for any person shall subject to the following provisions of this

Part of this Act be the authority in whose area the person is ordinarily resident. [3618]

(2) The local authority liable under this Part of this Act to provide temporary accommodation for any person shall be the authority in whose area the person is. [3619]

(3) Where a person in the area of a local authority—

(*a*) is a person with no settled residence, or

(*b*) not being ordinarily resident in the area of the local authority, is in urgent need of residential accommodation under this Part of this Act,

the authority shall have the like duty to provide residential accommodation for him as if he were ordinarily resident in their area. [3620]

(4) Subject to and in accordance with the scheme under section twenty-one of this Act, a local authority shall have power, as respects a person ordinarily resident in the area of another local authority, with the consent of that other authority to provide residential accommodation for him in any case where the authority would have a duty to provide such accommodation if he were ordinarily resident in their area. [3621]

(5) Where a person is provided with residential accommodation under this Part of this Act, he shall be deemed for the purposes of this Act to continue to be ordinarily resident in the area in which he was ordinarily resident immediately before the residential accommodation was provided for him. [3622]

General note.—As to poor law relief for persons belonging to another county or county borough, see the Poor Law Act, 1930, ss. 79–83 (12 Halsbury's Statutes 1007–1008); and as to such relief in cases of urgent necessity, see ss. 17 and 79 thereof (12 Halsbury's Statutes 978, 1007). That Act is repealed by s. 62 (3) and Sched. VII, Part I, *post*.

Note the provisions of s. 32, *post*, dealing with the recovery of expenditure where accommodation is provided by one local authority for a person ordinarily resident in the area of another local authority.

Local authority.—A council of a county or county borough in England or Wales (see s. 33 (1), *post*). See also s. 21 (6), *ante*.

Ordinarily resident.—Any question as to a person's ordinary residence will be determined by the Minister of Health (s. 32 (3), *post*). The Minister's determination will, thus, take the place of the old law of settlement. As to that law, see the Poor Law Act, 1930, Part III (12 Halsbury's Statutes 1009 *et seq.*), which Act is repealed by s. 62 (3) and Sched. VII, Part I, *post*; see also 25 Halsbury's Laws (2nd Edn.) 408 *et seq.*

No settled residence.—It is the duty of the Board to make provision whereby persons without a settled way of living may be influenced to lead a more settled way of life, and to maintain reception centres for their temporary accommodation (see s. 17, *ante*).

25. Power of Board to require provision of accommodation in urgent cases.—(1) Where the Board are satisfied that a person in the area of a local authority is in urgent need of accommodation under this Part of this Act, the Board may require the local authority to provide such accommodation for him. [3623]

(2) Notwithstanding anything in section twenty-three of this Act or the rules made thereunder, where accommodation is being provided for a person in compliance with a requirement under the last foregoing subsection, he shall not be required to leave the premises in which the accommodation is provided except with the consent of the Board or, where the Board refuse to give consent, with the consent of the Appeal Tribunal. [3624]

(3) Where a local authority are aggrieved by any requirement made by the Board under subsection (1) of this section, the authority may, but without prejudice to their duty to comply with the requirement in the meanwhile, appeal to the Appeal Tribunal, and on any such appeal the Tribunal may cancel or confirm the requirement of the Board. [3625]

General note.—The Parliamentary Secretary to the Ministry of National Insurance at the Committee Stage of the Bill gave an assurance that the Board's power under this section would apply only to persons seeking assistance from the Board or those in receipt of such assistance. It was not intended that the Board should use its power to compel people to enter local authority accommodation against their will. If an applicant for assistance who

ought to be in an institution, insisted on remaining in his or her home, the proper course for the Board would be to notify the local authority and then the medical officer of health would take any necessary action (H. of C. Official Report, S.C.C., January 22, 1948, col. 209). As to the power of removal following a medical officer of health's certificate, see s. 47, *post*.

As to assistance grants in urgent cases, see s. 11, *ante*.

As to relief in cases of urgent necessity under the poor law, see the Poor Law Act, 1930, ss. 17, 79 (12 Halsbury's Statutes 978, 1007), which Act is repealed by s. 62 (3) and Sched. VII, Part I, *post*.

Accommodation under this Part of this Act.—As to the construction of this expression, see s. 21 (5), *ante*.

Appeal Tribunal.—As to the Appeal Tribunal, see s. 53 and Sched. V, *post*.

26. Provision of accommodation in premises maintained by voluntary organisations.—(1) Notwithstanding anything in the foregoing provisions of this Part of this Act, a scheme under section twenty-one thereof may provide for the making by a local authority in lieu or in supplementation of the provision of accommodation in premises managed by them or another local authority, of arrangements with a voluntary organisation managing any premises for the provision of accommodation in those premises. [3626]

(2) Any such arrangements as aforesaid shall provide for the making by the local authority to the organisation of payments in respect of the accommodation provided at such rates as may be determined by or under the arrangements. [3627]

(3) A person for whom accommodation is provided under any such arrangements shall, in lieu of being liable to make payment therefor in accordance with section twenty-two of this Act, refund to the local authority any payments made in respect of him under the last foregoing subsection:

Provided that where a person for whom accommodation is provided, or proposed to be provided, under any such arrangements satisfies the local authority that he is unable to make a refund at the full rate determined under that subsection, subsections (3) to (5) of section twenty-two of this Act shall, with the necessary modifications, apply as they apply where a person satisfies the local authority of his inability to pay at the standard rate as mentioned in the said subsection (3). [3628]

(4) Subsections (6), (7) and (9) of the said section twenty-two shall, with the necessary modifications, apply for the purposes of the last foregoing subsection as they apply for the purposes of the said section twenty-two. [3629]

(5) Where in any premises accommodation is being provided under subsection (1) of this section in accordance with arrangements made by any local authority, any person authorised in that behalf by the authority may at all reasonable times enter and inspect the premises. [3630]

(6) A local authority may make contributions to the funds of any voluntary organisation providing, or proposing to provide, accommodation for the like purposes as accommodation provided by a local authority under the foregoing provisions of this Part of this Act. [3631]

(7) In this section the expression "voluntary organisation" includes any association which is a housing association for the purposes of the Housing Act, 1936, or the Housing (Scotland) Acts, 1925 to 1946. [3632]

Local authority.—A council of a county or county borough in England or Wales (see s. 33 (1), *post*).

Arrangements with voluntary organisations.—The Minister may make regulations specifying the qualifications of officers employed by voluntary organisations acting under arrangements with a local authority (s. 35 (3) (c), *post*).

Contributions to voluntary organisations.—Contributions to the funds of certain voluntary organisations may also be made by local authorities under ss. 30 (2) and 31, *post*, and by the National Assistance Board under s. 20, *ante*. See also s. 28 (6), *post*.

Housing Act, 1936.—29 Halsbury's Statutes 565. For definition of "housing association", see s. 188 of that Act (29 Halsbury's Statutes 681).

Definition.—For definition of "voluntary organisation", see s. 64 (1), *post*.

27. Investigation of resources, etc., by Board.—A local authority may refer to the Board for investigation any question arising as to the resources

or other circumstances of a person applying for accommodation under this Part of this Act or for whom such accommodation is being provided. [3633]

General note.—An applicant for accommodation under this Part of the Act will generally also be an applicant for financial assistance from the National Assistance Board, who will investigate his resources, etc. This section is designed to avoid the duplication of such investigation by the local authority by enabling them to refer for information to the Board.

Local authority.—A council of a county or county borough in England or Wales (see s. 33 (1), *post*).

Accommodation provided under this Part of this Act.—As to the construction of this expression, see s. 21 (5), *ante*.

28. Exchequer contributions to local authorities.—(1) Subject to the provisions of this section, the Minister shall make annual contributions to local authorities in respect of premises provided by them for the purposes of the foregoing provisions of this Part of this Act, being premises provided in accordance with proposals approved by the Minister and used in accordance with any conditions subject to which the proposals were approved. [3634]

(2) It shall be a condition of the making of contributions under this section in respect of any premises—

(*a*) that the premises are for the time being used or available for the provision therein of accommodation under this Part of this Act; and either

(*b*) that the construction of the premises, and of any other premises forming part of the same building, was begun on or after the thirty-first day of October, 1947; or

(*c*) that the premises were acquired on or after that day. [3635]

(3) Annual contributions under this section in respect of any premises falling within paragraph (*b*) of the last foregoing subsection shall be made for such period not exceeding sixty years as the Minister may determine, being a period beginning with the completion of the premises, and shall be of the following amounts, that is to say—

(*a*) in respect of each single bedroom comprised in the premises which is intended for the provision of accommodation under this Part of this Act, the sum of seven pounds ten shillings;

(*b*) in respect of each other bedroom comprised in the premises which is intended for the provision of accommodation under this Part of this Act, such sum not exceeding six pounds ten shillings as may be prescribed by the Minister, multiplied by the number of persons for whose occupation the room is intended. [3636]

(4) Annual contributions under this section in respect of any premises falling within paragraph (*c*) of subsection (2) thereof shall be made for such period not exceeding sixty years as the Minister may determine, being a period beginning with the time when the adaptation of the premises was completed, or if no adaptation was required with the date of the acquisition of the premises, and shall be of an amount not exceeding the amount specified in paragraphs (*a*) and (*b*) of the last foregoing subsection and not exceeding two-thirds of the difference between—

(*a*) the estimated average annual payments falling to be made by the local authority in question in respect of the charges on account of loans raised by the authority for the purpose of acquiring or adapting the premises, or which would have fallen to be so made if the sums expended by the local authority for the said purpose had been raised by means of loans, and

(*b*) such sum as may be prescribed by the Minister multiplied by the number of persons for whose accommodation under this Part of this Act provision is made in the premises.

The sum to be prescribed for the purposes of paragraph (*b*) of this subsection shall be of an amount equal to fifty-two times such part of the sum

prescribed under the proviso to subsection (3) of section twenty-two of this Act as may be determined by the Minister to represent payment in respect of the use of the premises. [3637]

(5) In the last foregoing subsection references to adaptation are references to adaptation for the provision of accommodation under this Part of this Act, and do not include references to any adaptation carried out after the premises in question have been brought into use for the provision of such accommodation. [3638]

(6) Where a local authority enters into arrangements under section twenty-six of this Act with any such association as is mentioned in subsection (7) of that section, the local authority shall be entitled to receive the like contributions (if any) under this section in respect of any premises to which the arrangements relate as if the premises had been provided by the local authority, but where a local authority receive contributions by virtue of this subsection as respects any year the local authority shall as respects that year make under subsection (6) of the said section twenty-six contributions to the association of amounts not less than the contributions under this section received by the authority. [3639]

(7) Where at any time after the coming into operation of this section the Minister proposes to make an order under section sixteen of the Housing (Financial and Miscellaneous Provisions) Act, 1946 (which provides for the periodical review of contributions under the Housing Acts, 1936 to 1946) he shall consider the relation of the foregoing provisions of this section to the provisions as to contributions of the Housing Acts, 1936 to 1946, and an order under the said section sixteen may provide, in relation to contributions under this section or any class of such contributions, for reducing the amount of the contributions or the period for which they are payable, or both that amount and that period, to such extent, if any, as appears to the Minister to be requisite having regard to any reduction to be effected by the order of contributions under the said Acts of 1936 to 1946 and of the number of years for which those contributions are to be paid. [3640]

(8) In the application of this section to Scotland—

(*a*) subsection (1) shall have effect as if at the end thereof there were added the following proviso—

"Provided that no contribution shall be payable under this subsection in respect of any premises in respect of which a contribution is payable by the Secretary of State under any other enactment";

(*b*) for the references in subsection (3) to seven pounds ten shillings and to six pounds ten shillings there shall be substituted respectively references to eleven pounds and to nine pounds ten shillings;

(*c*) for the references to the Housing (Financial and Miscellaneous Provisions) Act, 1946, and to section sixteen thereof there shall be respectively substituted references to the Housing (Financial Provisions) (Scotland) Act, 1946, and to section fourteen thereof;

(*d*) for the references to the Housing Acts, 1936 to 1946, there shall be substituted references to the Housing (Scotland) Acts, 1925 to 1946. [3641]

General note.—This section provides for annual Exchequer contributions to local authorities in respect of premises in which accommodation is provided, on lines similar to the contributions under the Housing (Financial and Miscellaneous Provisions) Act, 1946 (39 Halsbury's Statutes 640). These contributions will be payable only in respect of newly-constructed premises begun on or after October 31, 1947, or existing premises acquired on or after that date. In respect of newly-constructed premises, the subsidy is payable for a period not exceeding sixty years from completion of the premises at a rate (*a*) in respect of single bedrooms of £7 10*s.* per bedroom, and (*b*) in respect of other bedrooms, of a sum not exceeding £6 10*s.* multiplied by the number of intended occupants. In respect of existing premises, the subsidy is payable for a period not exceeding sixty years from the acquisition or conversion of the premises and will be an amount not exceeding the amount which would have been payable

for newly-constructed premises, and not exceeding two-thirds of the difference between the annual loan charge falling on the local authority in respect of the premises (or, if the acquisition or conversion of the premises was defrayed out of revenue, the amount which would have fallen on the local authority if these expenses had been met by loan) and a prescribed sum determined by the Minister to represent the local authority's receipts in respect of the use of the premises.

The Financial Memorandum annexed to the Bill stated that it was estimated that the number of additional beds required in England and Wales in the next five years would be 20,000, of which about 60 per cent. will have to be provided in new buildings. On the assumption that one-third of all new accommodation is provided in single bedrooms the annual cost to the Exchequer on completion of the programme, so far as new accommodation is concerned, is estimated at about £82,000 in respect of England and Wales. No estimate was given in the Financial Memorandum of the cost of the contributions payable in respect of existing premises, since the subsidy did not cover such premises in the Bill as originally introduced, but was extended thereto by amendment made at the Committee Stage.

Local authority.—A council of a county or county borough in England and Wales (see s. 33 (1), *post*). See also s. 21 (6), *ante*.

Accommodation under this Part of this Act.—As to the construction of this expression, see s. 21 (5), *ante*.

October 31, 1947.—This is the day following the First Reading of the Bill.

Sum prescribed for the purposes of sub-s. (4) (*b*).—"Prescribed" means prescribed by regulations under the Act (s. 64 (1), *post*). The sum proposed to be prescribed for the purposes of sub-s. (4) (*b*), is £7 16s. per year. Explaining how this amount was arrived at, the Parliamentary Secretary to the Ministry of Health, at the Committee Stage of the Bill, said:

> "The limitation to two-thirds of the difference, which I have just described, arises from the basis on which the amounts of £7 10 and not exceeding £6 10—referred to in subsection (3)—have been calculated. These sums have been worked out in relation to the subsidy payable under the Housing Acts in respect of ordinary housing on the basis, first, that the ratio of Exchequer-borne expenditure to rate-borne expenditure shall be as two is to one; and, secondly, that the minimum charge to be paid by the residents for the accommodation—which has to be prescribed by regulations under the proviso of clause 21 (3)—is inclusive of an item for rent as well as for board, attendance, and maintenance. The Committee already know that it is intended to prescribe 21/- per week as the total minimum charge. . . . It has been assumed that 3/- of this 21/- represents rent. It is proposed, therefore, that the sum to be prescribed for the purpose of paragraph (*b*) . . . shall be 52 times 3/-, that is to say, £7 16 per year. That is how the figure is arrived at" (H. of C. Official Report, S.C.C., January 22, 1948, col. 219).

The Minister.—The Minister of Health in England and Wales (s. 35 (1), *post*).

Housing (Financial and Miscellaneous Provisions) Act, 1946, *s.* 16.—39 Halsbury's Statutes 652.

Housing Acts, 1936 *to* 1946.—These are the Housing Act, 1936 (29 Halsbury's Statutes 565); the Housing (Financial Provisions) Act, 1938 (31 Halsbury's Statutes 569); the Housing (Temporary Provisions) Act, 1944 (37 Halsbury's Statutes 412); and the Housing (Financial and Miscellaneous Provisions) Act, 1946, *supra*.

Welfare Services

29. Welfare arrangements for blind, deaf, dumb and crippled persons, etc.—(1) A local authority shall have power to make arrangements for promoting the welfare of persons to whom this section applies, that is to say persons who are blind, deaf or dumb, and other persons who are substantially and permanently handicapped by illness, injury, or congenital deformity or such other disabilities as may be prescribed by the Minister. **[3642]**

(2) In relation to persons ordinarily resident in the area of a local authority the authority shall, to such extent as the Minister may direct, be under a duty to exercise their powers under this section. **[3643]**

(3) The arrangements made by a local authority under this section shall be carried into effect in accordance with a scheme made thereunder. **[3644]**

(4) Without prejudice to the generality of the provisions of subsection (1) of this section, arrangements may be made thereunder—

(*a*) for informing persons to whom arrangements under that subsection relate of the services available for them thereunder;

(*b*) for giving such persons instruction in their own homes or elsewhere in methods of overcoming the effects of their disabilities;

(*c*) for providing workshops where such persons may be engaged (whether under a contract of service or otherwise) in suitable work, and hostels where persons engaged in the workshops, and other persons to whom arrangements under subsection (1) of this section relate and for whom work or training is being provided in pursuance of the Disabled Persons (Employment) Act, 1944, may live;

(*d*) for providing persons to whom arrangements under subsection (1) of this section relate with suitable work (whether under a contract of service or otherwise) in their own homes or elsewhere;

(*e*) for helping such persons in disposing of the produce of their work;

(*f*) for providing such persons with recreational facilities in their own homes or elsewhere;

(*g*) for compiling and maintaining classified registers of the persons to whom arrangements under subsection (1) of this section relate. [3645]

(5) A local authority may recover from persons availing themselves of any service provided under this section such charges (if any) as, having regard to the cost of the service, the authority may determine, whether generally or in the circumstances of any particular case. [3646]

(6) Nothing in the foregoing provisions of this section shall authorise or require—

(*a*) the payment of money to persons to whom this section applies, other than persons for whom work is provided under arrangements made by virtue of paragraph (*c*) or paragraph (*d*) of subsection (4) of this section or who are engaged in work which they are enabled to perform in consequence of anything done in pursuance of arrangements made under this section; or

(*b*) the provision of any accommodation or services required to be provided under the National Health Service Act, 1946, or the National Health Service (Scotland) Act, 1947. [3647]

(7) A person engaged in work in a workshop provided under paragraph (*c*) of subsection (4) of this section, or a person in receipt of a superannuation allowance granted on his retirement from engagement in any such workshop, shall be deemed for the purposes of this Act to continue to be ordinarily resident in the area in which he was ordinarily resident immediately before he became engaged in the work. [3648]

General note.—A duty of making welfare arrangements for blind persons was formerly imposed on local authorities by the Blind Persons Acts, 1920 and 1938 (20 Halsbury's Statutes 593 and 21 Halsbury's Statutes 812). These provisions are repealed by s. 62 (3) and Sched. VII, Part III, *post*, as a result of the wider provision made by the present section which covers the making of welfare arrangements not only for the blind but for deaf, dumb and other persons substantially and permanently handicapped by mental or physical disabilities. As to homes for such persons, see ss. 37-40, *post*. As to the registration of charities for such persons, see s. 41, *post*.

The welfare services to be provided under this section are in addition to the vocational training and industrial rehabilitation courses for disabled persons provided under the Disabled Persons (Employment) Act, 1944 (37 Halsbury's Statutes 346).

As to inspection of premises provided under this section by officers of the Minister, see s. 35 (3), *post*, and the National Assistance (Powers of Inspection) Regulations, 1948 (S.I. 1948 No. 1445), made thereunder.

The expenditure on welfare services falling to be met out of the rates has been estimated to be approximately £1,000,000 per annum (Financial Memorandum annexed to the Bill).

Local authority.—A council of a county or county borough in England and Wales (see s. 33 (1), *post*).

"*The Minister.*"—The Minister of Health in England and Wales (s. 35 (1), *post*).

Scheme.—As to schemes under this section, see s. 34, *post*.

Contract of service.—As to the meaning of this expression, see note to s. 9, *ante*. Note that by s. 9 (2), *ante*, the general rule that remunerative full-time work disqualifies a person from receiving an assistance grant, does not apply in the case of a disabled person employed otherwise than under a contract of service whose earning power is substantially reduced by reason of his disability.

Disabled Persons (Employment) Act, 1944.—37 Halsbury's Statutes 346.

Classified registers.—Classified registers of blind persons have hitherto been maintained by local authorities under the Blind Persons Act, 1920 and 1938, *supra*, and the Parliamentary Secretary to the Ministry of Health at the Committee Stage of the Bill gave an assurance that it was intended to ensure the continuance of these registers (see H. of C. Official Report, S.C.C., January 22, 1948, col. 235).

Charges.—Owing to the varied nature of the welfare services which may be provided under this section, it is considered desirable that local authorities should have a wide discretion in exercising their power of recovering charges, and guidance from the Central Authority will be of a negative, rather than a positive, nature. It is intended, for example, to make regulations forbidding the recovery of charges for permission to work either in workshops or, apart from charges for the supply of materials, under any homeworkers' scheme.

There will be many other services, for example instruction given to persons in their own homes or elsewhere in methods of overcoming the effects of their disabilities in which local authorities will be expected to follow the pattern of the existing services for the welfare of the blind, and not seek to recover charges. On the other hand, there may be persons not only well able to afford to pay but desirous of doing so and it is therefore desirable that local authorities should have a wide discretion as to the making of charges (see H. of C. Official Report, S.C.C., January 22, 1948, cols. 237–238).

Arrangements made by virtue of sub-s. (4) (*c*) *or* (*d*).—These include arrangements made under the corresponding provisions of the Blind Persons Acts, 1920 and 1938, *supra* (see Sched. VII, para. 5 (2), *post*).

National Health Service Act, 1946.—39 Halsbury's Statutes 515.

Ordinarily resident.—Any question as to a person's ordinary residence will be determined by the Minister (s. 32 (3), *post*).

Definitions.—For definitions of " blind person " and " disability", see s. 64 (1), *post*.

30. Voluntary organisations for disabled persons' welfare.—(1) A local authority may, if the scheme under the last foregoing section so provides, employ as their agent for the purposes of that section any voluntary organisation for the time being registered in accordance with this Act being an organisation having for its sole or principal object or among its principal objects the promotion of the welfare of persons to whom the last foregoing section applies. [3649]

(2) A local authority may make contributions to the funds of any such organisation as is referred to in the last foregoing subsection. [3650]

(3) Section one hundred and two of the Local Government Act, 1929, and section sixty-four of the Local Government (Scotland) Act, 1929 (which sections so far as still in force provide for the making of schemes for contribution by local authorities to voluntary associations providing services for the welfare of the blind) shall cease to have effect. [3651]

Local authority.—The council of a county or county borough in England and Wales (s. 33 (1), *post*).

War Charities Act, 1940.—33 Halsbury's Statutes 47. The scope of that Act is extended to cover charities for disabled persons by s. 41, *post*.

Contributions to voluntary organisations.—Contributions to the funds of certain voluntary organisations may also be made by local authorities under s. 26 (6), *ante*, and s. 31, *post*, and by the National Assistance Board under s. 20, *ante*. See also s. 28 (6), *ante*.

Local authorities have hitherto made contributions to voluntary organisations providing services for the blind under schemes made by the Minister of Health under the Local Government Act, 1929, s. 102 (1), *infra*. Such contributions were recovered as part of the general Exchequer grant payable to a local authority under that Act. With the abolition of the block grant system by the Local Government Act, 1948, Part I (title FINANCE, *ante*), it was considered inappropriate for the Minister to make schemes directing local authorities to make contributions in respect of which no recoupment was to be made by the Exchequer. The Local Government Act, 1929, s. 102 (1) is, accordingly, repealed (*vide infra*) and replaced by sub-s. (2), *supra*, under which local authorities are empowered to make contributions to the wider range of voluntary organisations referred to in sub-s. (1), *supra*.

Arrangements have been made to mitigate any resulting loss of income to the voluntary organisations. The Parliamentary Secretary to the Ministry of Health stated at the Committee Stage of the Bill :

> " The Government have decided, after careful consideration, that the amounts at present being paid by local authorities in respect of Braille production and the holding of examinations for home teachers should, under arrangements which are now being considered by my department, be replaced by grants from the Exchequer " (H. of C. Official Report, S.C.C., January 28, 1948, col. 258).

Local Government Act, 1929, *s.* 102.—10 Halsbury's Statutes 948. Sub-ss. (2) and (3) of that section were repealed as from July 5, 1948, by the National Health Service Act, 1946, s. 76, Sched. X, Part II (39 Halsbury's Statutes 570, 590) and S.I. 1948 No. 112. The whole section is repealed by s. 62 (3) and Sched. VII, Part III, *post*.

Inspection.—As to the inspection of premises provided by voluntary organisations under this section, see s. 35 (3), *post*, and the National Assistance (Powers of Inspection) Regulations, 1948 (S.I. 1948 No. 1445), made thereunder.

Definition.—For definition of " voluntary organisation", see s. 64 (1), *post*.

31. Contributions to old people's organisations.—A local authority may make contributions to the funds of any voluntary organisation whose activities consist in or include the provision of recreation or meals for old people. [3652]

Local authority.—In this section the expression " local authority " includes the council of a county, county borough, county district or metropolitan borough or the Common Council of the City of London (ss. 33 (1), proviso, and 64 (1), *post*). In the rest of Part III the expression is confined to the council of a county or county borough.

Contributions to voluntary organisations.—Contributions to the funds of certain voluntary organisations may also be made by local authorities under ss. 22 (6) and 30 (2), *ante*, and by the National Assistance Board under s. 20, *ante*. See also s. 28 (6), *ante*.

Inspection.—Officers of the Minister have power to inspect arrangements for the provision of recreation or meals made by a voluntary organisation where a local authority are making contributions under this section (see the National Assistance (Powers of Inspection) Regulations, 1948 (S.I. 1948 No. 1445), made under s. 35, *post*).

Definition.—For definition of "voluntary organisation", see s. 64 (1), *post*.

Financial adjustments between Local Authorities

32. Adjustments between authority providing accommodation, etc., and authority of area of residence.—(1) Any expenditure which apart from this section would fall to be borne by a local authority—

(*a*) in the provision under this Part of this Act of accommodation for a person ordinarily resident in the area of another local authority, or

(*b*) in the provision under section twenty-nine of this Act of services for a person ordinarily so resident, or

(*c*) in providing under paragraph (*a*) of subsection (7) of section twenty-one of this Act for the conveyance of a person ordinarily resident as aforesaid,

shall be recoverable from the said other local authority. [3653]

(2) For the purposes of paragraph (*a*) of the last foregoing subsection it shall be assumed that the expenditure incurred by a local authority in providing accommodation for any person is, as respects accommodation provided in premises managed by a local authority, at the rate for the time being fixed for that accommodation under subsection (2) of section twenty-two of this Act, and, as respects accommodation provided pursuant to an arrangement made under section twenty-six of this Act, at the rate referred to in subsection (2) of that section. [3654]

(3) Any question arising under this Part of this Act as to the ordinary residence of a person shall be determined by the Minister. [3655]

General note.—Sub-s. (1) of this section, which should be read in conjunction with s. 24, *ante*, enables a local authority to recover expenditure incurred in providing: (1) accommodation for a person ordinarily resident in the area of another local authority when that accommodation is provided either by agreement between the two authorities or in a case of urgent need; (2) welfare services for such a person; and (3) the conveyance of that person to his home area.

Sub-s. (2) lays down the rate at which expenditure in providing accommodation is deemed to have been incurred.

Local authority.—The council of a county or county borough in England and Wales (s. 33 (1), *post*).

The Minister.—The Minister of Health in England and Wales (s. 35 (1)).

Local and Central Authorities

33. Local authorities for purposes of Part III.—(1) In this Part of this Act the expression "local authority" means the council of a county or county borough in England or Wales, and the council of a county or of a large burgh in Scotland:

Provided that in section thirty-one of this Act the said expression means as respects England and Wales any such council as is specified in the definition of the said expression in section sixty-four of this Act, and as respects Scotland a county, town or district council. [3656]

(2) The provisions of the Third Schedule to this Act shall have effect with respect to the establishment of committees and joint boards for the purposes of this Part of this Act. [3657]

34. Provisions as to local authority schemes.—(1) The following provisions of this section shall have effect as to schemes made under section twenty-one or twenty-nine of this Act. [3658]

(2) Subject to the provisions of this section, any such scheme shall be made by the local authority and submitted to the Minister, and shall come into force when approved by him. [3659]

(3) Not later than the date on which any such scheme is submitted to the Minister by the council of a county, that council shall send a copy of the scheme—

(*a*) in the case of London to the Common Council of the City of London and to the council of each metropolitan borough;

(*b*) in the case of any other county, to the council of each county district in the county;

and the Minister before approving the scheme shall take into consideration any representations by any such council as is referred to in paragraph (*a*) or (*b*) of this subsection made with respect to the scheme within one month from the date on which it was submitted to the Minister. [3660]

(4) The Minister may approve any such scheme submitted to him either in the form in which it is submitted or with such modifications as he thinks fit. [3661]

(5) Any scheme under either of the said sections may be varied or revoked by a subsequent scheme thereunder, and the provisions of the three last foregoing subsections shall apply to such a varying or revoking scheme. [3662]

(6) Where in the case of any local authority no scheme is for the time being in force for the exercise of their functions under section twenty-one of this Act, or for the exercise of any powers under section twenty-nine of this Act which the authority are under a duty to exercise, the Minister may require the authority, within such time as he may specify, to submit such a scheme to him for his approval, and if the authority—

(*a*) fail to comply with the requirement, or

(*b*) submit a scheme which appears to the Minister not proper to be approved by him either as submitted or with modifications,

the Minister may himself make a scheme for the exercise of the said functions or powers by the local authority. [3663]

(7) Where it appears to the Minister that by reason of a change of circumstances it is expedient that any scheme for the exercise by a local authority of their functions under section twenty-one or twenty-nine of this Act should be varied, the Minister may require the authority, within such time as he may specify, to submit to him for his approval a scheme for varying the first-mentioned scheme in such respects as may be specified in the requirement, and if the local authority fail to comply with the requirement the Minister may himself make the varying scheme. [3664]

(8) This section shall have effect in its application to Scotland as if for subsection (3) the following subsection were substituted:—

> "(3) Not later than the date on which any scheme made under section twenty-one of this Act is submitted to the Minister by the council of a county, the council shall send a copy of the scheme to the town council of each small burgh in the county and the Minister before approving the scheme shall take into consideration any representations by any such town council made with respect to the scheme within one month from the date on which it was submitted to the Minister." [3665]

General note.—Schemes must be made to come into force within six months from the appointed day or such longer period not exceeding twelve months as the Minister may allow (Sched. VI, para. 5 (1), *post*).

Local authority.—The council of a county or county borough in England and Wales (s. 33 (1), *ante*).

The Minister.—The Minister of Health in England and Wales (s. 35 (1), *post*).

Representations by other local authorities.—The local authorities referred to in sub-s. (3) (*a*) and (*b*) are the local housing authorities (see the Housing Act, 1936, s. 1; 29 Halsbury's Statutes 565), who will thus be in a position to assist county councils by furnishing information as to the need for residential accommodation for old people and other persons in need of care and attention.

Functions.—"Functions" includes powers and duties (s. 64 (1), *post*).

35. Central Authority for purposes of Part III.—(1) For the purposes of this Part of this Act the expression "the Minister" means the Minister of Health as respects England and Wales, and the Secretary of State as respects Scotland. [3666]

(2) Subject to the provisions of schemes under this Part of this Act, local authorities shall exercise their functions under this Part of this Act (including any discretion conferred on them thereunder) under the general guidance of the Minister, and in accordance with the provisions of any regulations of the Minister made for the purposes of this subsection. [3667]

(3) Without prejudice to the generality of the last foregoing subsection, regulations thereunder—

(*a*) may provide for conferring on officers of the Minister authorised under the regulations such powers of inspection as may be prescribed in relation to the exercise of functions under this Part of this Act by or by arrangement with or on behalf of local authorities;

(*b*) may prescribe requirements as to the provision to be made in rules for the conduct of, and preservation of order in, premises in which accommodation is provided under this Part of this Act by local authorities;

(*c*) may make provision with respect to the qualifications of officers employed by local authorities for the purposes of this Part of this Act or by voluntary organisations acting under arrangements with or on behalf of local authorities for those purposes. [3668]

General note.—The Minister of Health in England and Wales was the Central Authority under the Poor Law Act, 1930 (see s. 1 thereof; 12 Halsbury's Statutes 968).

Local authority.—The council of a county or county borough in England and Wales (s. 33 (1), *ante*).

Regulations.—See the National Assistance (Powers of Inspection) Regulations, 1948 (S.I. 1948 No. 1445), *post*.

Qualifications of officers of local authorities.—It is not at present intended to make regulations under sub-s. (3) (*c*); if subsequently it is decided to make such regulations there will be prior consultations with the local authorities concerned (see H. of C. Official Report, S.C.C., January 28, 1948, col. 269). Ministry of Health Circular 70/48, however, contains observations dealing with staffing problems. As to the qualifications of poor law officers, see the Poor Law Act, 1930, s. 10, and the Public Assistance Order, 1930, Part IX (12 Halsbury's Statutes 974, 1075).

Definitions.—For definitions of "functions", "prescribed" and "voluntary organisation", see s. 64 (1), *post*.

36. Default powers of Minister.—(1) Where the Minister is of opinion, whether on representations made to him or otherwise, that a local authority have failed to discharge any of their functions under this Part of this Act, or have in the discharge thereof failed to comply with any regulations relating thereto, he may after such inquiry as he may think fit make an order declaring the authority to be in default. [3669]

(2) An order under the last foregoing subsection shall direct the authority, for the purpose of remedying the default, to discharge such of their functions, in such manner and within such time or times, as may be specified in the order; and if the authority fail to comply with any direction given under this subsection within the time specified in the order, then without prejudice to any other means of enforcing the order the Minister may make an order transferring to himself such of the functions of the authority as he thinks fit. [3670]

(3) Any expenses certified by the Minister to have been incurred by him in discharging functions transferred to him under this section shall on demand be paid to him by the authority from which the functions were transferred. [3671]

(4) An authority shall have the like power of raising money required for paying expenses certified by the Minister as aforesaid as they have of raising money for paying expenses incurred directly by them, and the payment of any expenses certified as aforesaid shall, to such extent as may be

sanctioned by the Minister, be a purpose for which the authority may borrow money in accordance with the statutory provisions relating to borrowing by that authority. [3672]

(5) An order under this section may contain such incidental or supplemental provisions as appear to the Minister to be necessary or expedient, including provision for the transfer to the Minister of property and liabilities of the authority in default. [3673]

(6) Where any such order is varied or revoked by a subsequent order, the revoking order or a subsequent order may make provision for the re-transfer to the authority in default of any property or liabilities transferred from that authority to the Minister under the first-mentioned order and for the transfer to that authority of any property or liabilities acquired or incurred by the Minister in discharging any of the functions transferred to him. [3674]

The Minister.—The Minister of Health in England and Wales (s. 35 (1), *ante*).
Local authority.—The council of a county or county borough in England and Wales (s. 33 (1)).
Functions.—" Functions " includes powers and duties (s. 64 (1), *post*).
Regulations.—As to regulations generally, see s. 63, *post*.

PART IV

GENERAL AND SUPPLEMENTARY

Registration, etc.; of homes for disabled persons and the aged and charities for disabled persons

37. Registration of disabled persons' or old persons' homes.—(1) If any person carries on a disabled persons' or old persons' home without being registered under this section in respect thereof, he shall be liable on summary conviction to a fine not exceeding fifty pounds or, in the case of a second or subsequent offence, to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds or to both such imprisonment and such fine. [3675]

(2) An application for registration under this section shall be made to the registration authority, that is to say the council of the county, county borough or large burgh in the area of which the home is situated, and shall be accompanied by a fee of five shillings. [3676]

(3) Subject to the provisions of this section the registration authority shall, on receipt of an application under the last foregoing subsection, register the applicant in respect of the home named in the application and issue to him a certificate of registration :

Provided that the authority may by order refuse to register the applicant if they are satisfied—

(*a*) that he or any person employed or proposed to be employed by him in the management of the home or any part thereof is not a fit person, whether by reason of age or otherwise, to carry on or to be so employed at a home of such a description as the home named in the application ; or

(*b*) that for reasons connected with situation, construction, state of repair, accommodation, staffing or equipment, the home or any premises used in connection therewith are not fit to be used for a home of such a description as aforesaid ; or

(*c*) that the way in which it is proposed to conduct the home is such as not to provide services or facilities reasonably required by persons resorting to such a home. [3677]

(4) The registration authority may by order at any time cancel the registration of a person in respect of a home on any ground which would

entitle them to refuse an application for the registration of that person in respect of that home or on the ground that that person has been convicted of an offence against this section or against regulations under this Part of this Act relating to the conduct of disabled persons' or old persons' homes, or on the ground that any other person has been convicted of such an offence in respect of that home. [3678]

(5) The certificate of registration under this section issued in respect of any home shall be kept affixed in a conspicuous place in the home; and if default is made in complying with this subsection the person carrying on the home shall be liable on summary conviction to a fine not exceeding five pounds and to a further fine not exceeding forty shillings for each day on which the offence continues after conviction therefor. [3679]

(6) Notwithstanding anything in subsection (1) of this section, where the person registered under this section in respect of a home dies his executor or his widow or any other member of his family may for a period not exceeding four weeks from his death, or such longer period as the registration authority may sanction, carry on the home without being registered in respect thereof. [3680]

(7) Where an offence against this section or any regulations under this Part of this Act relating to disabled persons' or old persons' homes has been committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances. [3681]

(8) The registers kept for the purposes of this section shall be available for inspection at all reasonable times, and a person inspecting any such register shall be entitled to make copies of entries therein on payment of such fee (if any), not exceeding one shilling for each entry, as the registration authority may determine. [3682]

(9) In this Act the expression "disabled persons' or old persons' home" means any establishment the sole or main object of which is, or is held out to be, the provision of accommodation, whether for reward or not, for persons to whom section twenty-nine of this Act applies or for the aged or for both:

Provided that the said expression does not include—

(*a*) any hospital maintained in pursuance of an Act of Parliament,

(*b*) any institution for persons of unsound mind within the meaning of the Lunacy and Mental Treatment Acts, 1890 to 1930 or any mental hospital within the meaning of the Lunacy (Scotland) Acts, 1857 to 1913,

(*c*) any institution, house or home certified or approved under the Mental Deficiency Acts, 1913 to 1927 or the Mental Deficiency (Scotland) Acts, 1913 and 1940,

(*d*) any nursing home as defined in Part VI of the Public Health Act, 1936, or the Nursing Homes Registration (Scotland) Act, 1938,

(*e*) any voluntary home as defined in Part V of the Children and Young Persons Act, 1933, or Part VI of the Children and Young Persons (Scotland) Act, 1937,

(*f*) any other premises being premises managed by a Government department or local authority, the Scottish Special Housing Association, or any other authority or body constituted by special Act of Parliament or incorporated by Royal Charter, or

(*g*) any existing establishment exempted from the operation of this

section by or under regulations of the Minister of Health made after consultation with the Charity Commissioners, or as respects Scotland by or under regulations made by the Secretary of State.

In the last foregoing paragraph the expression " existing establishment " means an establishment which was being carried on immediately before the coming into operation of this section, but no establishment so carried on shall be exempted under that paragraph as respects any premises in which it was not being carried on immediately before the coming into operation of this section. [3683]

Disabled persons' or old persons' home.—For definition of this term, see sub-s. (9), *supra.*

Registration authority.—Registration authorities are the local authorities providing accommodation and services under Part III of the Act, namely county councils and county borough councils in England and Wales (see sub-s. (2), *supra* and s. 33 (1), *ante*).

Regulations relating to the conduct of homes.—As to such regulations, see s. 40, *post.* As to regulations generally, see s. 63, *post.*

Offences against regulations.—See s. 40 (3), *post.*

Registers.—The form of registers and the particulars to be contained therein will be laid down by regulations (s. 40 (2), *post*).

Hospital.—For definition, see s. 64 (1), *post.*

Lunacy and Mental Treatment Acts, 1890 to 1930.—These Acts comprise the Lunacy Acts, 1890, 1891, 1908 and 1922 (11 Halsbury's Statutes 17, 144, 151, 199); and the Mental Treatment Act, 1930 (23 Halsbury's Statutes 154). They were extensively amended by the National Health Service Act, 1946, s. 50 and Sched. IX (39 Halsbury's Statutes 557, 580) with effect from July 1, 1947 (see S. R. & O., 1947, No. 983).

Mental Deficiency Acts, 1913 to 1927.—These Acts comprise the Mental Deficiency Act, 1913 (11 Halsbury's Statutes 160); the Mental Deficiency and Lunacy (Amendment) Act, 1919, s. 1 (9 & 10 Geo. 5, c. 85); the Mental Deficiency (Amendment) Act, 1925 (11 Halsbury's Statutes 199); and the Mental Deficiency Act, 1927 (11 Halsbury's Statutes 200). These Acts were extensively amended by the National Health Service Act, 1946, s. 50, Sched. IX (39 Halsbury's Statutes 557, 580), with effect from July 1, 1947 (see S. R. & O., 1947, No. 983).

Nursing home.—For the definition of nursing home in the Public Health Act, 1936, Part VI, see s. 199 (1) thereof (29 Halsbury's Statutes 458).

Voluntary home.—For the definition of voluntary home in the Children and Young Persons Act, 1933, Part V, see s. 92 thereof (26 Halsbury's Statutes 230).

Local authority.—For definition, see s. 64 (1), *post.*

38. Procedure and right of appeal where registration refused or cancelled.—(1) Not less than fourteen days before making under the last foregoing section an order refusing an application for registration or an order cancelling any registration, the registration authority shall send by post to the applicant or to the person registered, as the case may be, notice of their intention to make such an order. [3684]

(2) Every such notice shall state the grounds on which the authority intend to make the order and shall contain an intimation that if within fourteen days after the receipt of the notice the applicant or person registered, as the case may be, informs the authority in writing of his desire to show cause, in person or by a representative, why the order should not be made, the authority will before making the order afford him an opportunity so to do. [3685]

(3) If the registration authority, after giving the applicant or person registered, as the case may be, an opportunity of being heard by them, decide to refuse the application for registration, or to cancel the registration, they shall make an order to that effect and shall send a copy of the order by post to the applicant or person registered, as the case may be. [3686]

(4) A person aggrieved by an order refusing an application for registration under the last foregoing section or cancelling any registration thereunder may appeal to a court of summary jurisdiction having jurisdiction in the place where the home in question is situated; and the cancellation under the last foregoing section of any registration shall not take effect until the expiration of the time within which an appeal may be brought under this subsection or, where such an appeal is brought, before the determination of the appeal. [3687]

(5) Sections three hundred to three hundred and two of the Public Health Act, 1936 (which relate to appeals) shall apply for the purposes of

this section as if this and the last foregoing section were contained in that Act and that Act extended to London. [3688]

(6) In the application of this section to Scotland, subsection (5) shall be omitted, and any appeal against an order under subsection (4) shall be brought within twenty-one days from the date of the order. [3689]

Registration authority.—The council of the county or county borough in which the home is situated (s. 37 (2), *ante*).

Public Health Act, 1936, ss. 300–302.—29 Halsbury's Statutes 515 *et seq.*

39. Inspection of disabled persons' and old persons' homes.—(1) Any person authorised in that behalf by the Minister of Health, or as respects Scotland by the Secretary of State, may at all reasonable times enter and inspect any premises which are used, or which that person has reasonable cause to believe to be used, for the purposes of a disabled persons' or old persons' home. [3690]

(2) Any person authorised in that behalf by the registration authority may at all reasonable times enter and inspect any premises in the area of the authority which are used, or which that person has reasonable cause to believe to be used, as aforesaid. [3691]

Disabled persons' or old persons' home.—For definition of this expression, see s. 37 (9), *ante*.

Registration authority.—The council of the county or county borough in which the home is situated (s. 37 (2), *ante*).

Entry and inspection.—For provisions as to entry and inspection, see s. 55, *post*.

40. Supplementary provisions as to regulation of disabled persons' or old persons' homes.—(1) The Minister of Health, or as respects Scotland the Secretary of State, may make regulations as to the conduct of disabled persons' or old persons' homes, and in particular—

(*a*) for empowering the registration authority to limit the number of persons or persons of any description who may be received into any such home and for enabling registration of any such home to be made subject to the condition that persons shall not be received therein in excess of the number fixed for the home in accordance with the regulations;

(*b*) as to the facilities and services to be provided in such homes. [3692]

(2) The registers to be kept by registration authorities for the purposes of section thirty-seven of this Act shall be in such form, and contain such particulars, as may be provided by regulations under this section, and such regulations may make provision as to the information to be supplied on any application for registration under the said section thirty-seven. [3693]

(3) Regulations under this section may provide that a contravention of or failure to comply with any specified provision of the regulations shall be an offence against the regulations; and any person guilty of an offence against regulations under this section shall be liable on summary conviction to a fine not exceeding five pounds or, in the case of a second or subsequent offence, to a fine not exceeding twenty pounds. [3694]

Regulations.—As to regulations generally, see s. 63, *post*. No regulations under this section had been made at the time of going to press.

Disabled persons' and old persons' home.—For definition of this expression, see s. 37 (9), *ante*.

Registration authority.—The council of the county or county borough in which the home is situated (s. 37 (2), *ante*).

Offence against regulations.—Conviction for an offence against regulations relating to the conduct of a home may involve removal from the register (s. 37 (4), *ante*).

41. Registration of charities for disabled persons.—(1) The War Charities Act, 1940, shall, subject to the provisions of this section, have effect as if throughout that Act references to a war charity included references to any charity for disabled persons, that is to say, any fund, institution, association or undertaking, whether established before or after the passing of this Act, having for its sole or principal object or among its principal objects the

promotion of the welfare of persons to whom section twenty-nine of this Act applies. [3695]

(2) In the application of the said Act of 1940 to charities for disabled persons, the provisions of that Act shall have effect subject to the following provisions of this subsection :—

(*a*) the registration authorities shall be the councils of counties, county boroughs and large burghs ;

(*b*) in relation to charities not being war charities as defined in the said Act of 1940 as originally enacted, subsection (3) of section one of that Act shall be amended by the substitution for the reference to the passing of that Act of a reference to the coming into operation of this section ;

(*c*) notwithstanding anything in subsection (1) of section two of the said Act of 1940, the registration authority may refuse to register a charity if they are satisfied that its objects are adequately attained by a charity registered in accordance with this section ;

(*d*) regulations made by the Charity Commissioners under section four of the said Act of 1940 shall be subject to the approval of the Minister of Health instead of the Secretary of State ;

(*e*) paragraph (*e*) of subsection (1) of the said section four (under which regulations may require appeals and advertisements to state that a charity is registered under the said Act of 1940) shall have effect as if for the words " under this Act " there were substituted the words " in accordance with the National Assistance Act, 1948 ". [3696]

(3) Regulations made under section four of the said Act of 1940 shall provide, in the case of a charity for disabled persons which immediately before the coming into operation of this section was registered under the Blind Persons Act, 1920, or the War Charities Act, 1940, for the registration to have effect as registration in accordance with this section, and shall make such consequential provision as may be necessary for that purpose. [3697]

(4) In section two of the Finance (No. 2) Act, 1945 (which provides for exemption from purchase tax on wireless receivers belonging to charities registered under section three of the Blind Persons Act, 1920) for the words " under section three of the Blind Persons Act, 1920 " there shall be substituted the words " in accordance with section forty-one of the National Assistance Act, 1948, or any corresponding enactment of the Parliament of Northern Ireland." [3698]

War Charities Act, 1940.—33 Halsbury's Statutes 47.

Registration authorities.—The registration authorities for the purposes of the War Charities Act, 1940, include the Common Council of the City of London and the larger non-county borough and urban district councils (see s. 10 of that Act ; 33 Halsbury's Statutes 54). Sub-s. (2) (*a*), *supra*, in the application of the Act of 1940 to charities for disabled persons, reduces the registration authorities for that Act to the same authorities as are the registration authorities for the present Act, namely, the councils of counties and county boroughs.

Regulations made by the Charity Commissioners.—See the Charities for Disabled Persons Regulations, 1948 (S.I. 1948 No. 1455), *post*, which gave effect to, and make provisions consequential upon, the provisions of this section.

Coming into operation of section.—This section came into operation on July 5, 1948 (see S.I. 1948 No. 1218).

Blind Persons Act, 1920.—20 Halsbury's Statutes 593. As to the registration of charities for blind persons under that Act, see s. 3 thereof. The Act is repealed by s. 62 (3) and Sched. VII, Part III, *post*.

Finance (No. 2) Act, 1945, *s.* 2.—38 Halsbury's Statutes 412.

Recovery of Expenses

42. Liability to maintain wife or husband, and children.—(1) For the purposes of this Act—

(*a*) a man shall be liable to maintain his wife and his children, and

(*b*) a woman shall be liable to maintain her husband and her children. [3699]

(2) The reference in paragraph (*a*) of the last foregoing subsection to a man's children includes a reference to children of whom he has been adjudged to be the putative father, and the reference in paragraph (*b*) of that subsection to a woman's children includes a reference to her illegitimate children. [3700]

(3) In the application of subsection (2) of this section to Scotland, for the reference to children of whom a man has been adjudged to be the putative father there shall be substituted a reference to children his paternity of whom has been admitted or otherwise established. [3701]

General note.—As to liability for maintenance under the poor law, see the Poor Law Act, 1930, s. 14 (12 Halsbury's Statutes 976), which Act is repealed by s. 62 (3) and Sched. VII, Part I, *post*. The field of liability under that Act was wider than under the present section and included grandparents and stepchildren.

As to the recovery of the cost of assistance from a person liable to maintain the person assisted, see ss. 43, 44, *post*.

For the purposes of this Act.—These words make it clear that the obligations imposed by the section are for the purpose only of delimiting the persons from whom assistance given under this Act may be recovered, and that a liability for maintenance arising under any other enactment or at common law remains unaffected.

Child.—This means a person under the age of sixteen (s. 64 (1), *post*).

43. Recovery of cost of assistance from persons liable for maintenance.—(1) Where assistance is given or applied for by reference to the requirements of any person (in this section referred to as a person assisted), the Board or the local authority concerned may make a complaint to the court against any other person who for the purposes of this Act is liable to maintain the person assisted. [3702]

(2) On a complaint under this section the court shall have regard to all the circumstances and in particular to the resources of the defendant, and may order the defendant to pay such sum, weekly or otherwise, as the court may consider appropriate. [3703]

(3) For the purposes of the application of the last foregoing subsection to payments in respect of assistance given before the complaint was made, a person shall not be treated as having at the time when the complaint is heard any greater resources than he had at the time when the assistance was given. [3704]

(4) In this section the expression "assistance" means an assistance grant, assistance in kind or assistance given under section ten of this Act (hereinafter referred to as "assistance under Part II of this Act"), or the provision of accommodation under Part III of this Act (hereinafter referred to as "assistance under Part III of this Act"); and the expression "the court" means a court of summary jurisdiction having jurisdiction in the place where the assistance was given or applied for. [3705]

(5) Payments under subsection (2) of this section shall be made—

(*a*) to the Board or the local authority concerned, in respect of the cost of assistance, whether given before or after the making of the order, or

(*b*) to the applicant for assistance or any other person being a person assisted, or

(*c*) to such other person as appears to the court expedient in the interests of the person assisted,

or as to part in one such manner and as to part in another, as may be provided by the order. [3706]

(6) The payments to be made to the Board or a local authority under this section shall (irrespective of the recipient thereof) be applied as follows, that is to say—

(*a*) payments in respect of any period during which the person assisted was in receipt of assistance both under Part II of this Act and also under Part III thereof shall inure for the benefit of the Board up

to an amount equal to the cost of the assistance under Part II of this Act, and the balance, if any, shall inure for the benefit of the local authority giving the assistance under Part III of this Act,

(*b*) payments in respect of any other period shall inure for the benefit of the Board or local authority giving assistance,

and such adjustments shall be made between the Board and local authorities as may be requisite for giving effect to the foregoing provisions of this subsection. [3707]

General note.—As to the making of maintenance orders against relatives liable for maintenance under the poor law, see the Poor Law Act, 1930, s. 19 (12 Halsbury's Statutes 979) and the Pensions and Determination of Needs Act, 1943, s. 3 (2) (36 Halsbury's Statutes 326), which enactments are repealed by s. 62 (3) and Sched. VII, *post.*

Local authority.—A council of a county or county borough in England and Wales (s. 33 (1), *ante*).

Persons liable.—As to the persons liable for maintenance for the purposes of this Act, see s. 42, *ante.*

Definition.—For the definition of " requirements", see s. 64 (1), *post.*

44. Affiliation orders.—(1) The following provisions of this section shall have effect where—

(*a*) assistance is given under Part II of this Act by reference to the requirements of an illegitimate child, or

(*b*) accommodation is provided for an illegitimate child by, or by arrangement with, a local authority under Part III of this Act,

and the provisions of the last foregoing section shall not apply in relation to the father of the child. [3708]

(2) If no affiliation order is in force, the Board or local authority may within three years from the time when the assistance was given or accommodation provided make application to a court of summary jurisdiction having jurisdiction in the place where the mother of the child resides for a summons to be served under section three of the Bastardy Laws Amendment Act, 1872. [3709]

(3) In any proceedings on an application under the last foregoing subsection the court shall hear such evidence as the Board or local authority may produce, in addition to the evidence required to be heard by section four of the said Act of 1872, and shall in all other respects, but subject to the provisions of the next following subsection, proceed as on an application made by the mother under the said section three. [3710]

(4) An order under section four of the said Act of 1872 made on an application under subsection (2) of this section may be made so as to provide that the payments, or a part of the payments, to be made thereunder shall, in lieu of being made to the mother or a person appointed to have the custody of the child, be made to the Board or local authority or to such other person as the court may direct. [3711]

(5) On an application by the Board or local authority in any proceedings under the said section three brought by the mother of the child an order under the said section four may be made so as to provide as aforesaid. [3712]

(6) Any order under the said section four, whether made before or after the commencement of this Act, may on the application of the Board or local authority be varied so as to provide as aforesaid ; and any order under the said section four which provides as aforesaid may on the application of the mother of the child be varied so as to provide that the payments thereunder shall be made to the mother or a person appointed to have the custody of the child. [3713]

(7) In the application of this section to Scotland, subsection (1) shall have effect as if all the words after " Part III of this Act " were omitted

and the following provisions shall have effect in substitution for the five last foregoing subsections :—

(*a*) the Board or the local authority shall have the like right as the mother to raise an action of affiliation and aliment concluding for payment of aliment for the child ;

(*b*) where in any action of affiliation and aliment in respect of the child, whether at the instance of the Board or the local authority under the last foregoing paragraph or at the instance of the mother, the court grants or has granted decree against any person for payment of aliment for the child, the court may, at the time of granting the decree or at any subsequent time, on the application of the Board or the local authority, order that the sums due under the decree or any part thereof shall in lieu of being paid to the mother of the child be paid to the Board or the local authority or such other person as the court may direct ;

(*c*) the Board, or local authority or other person in whose favour any such order as aforesaid is made shall have the like right to enforce the decree (so far as relating to the said sums) by diligence, including the right to take proceedings under the Civil Imprisonment (Scotland) Act, 1882, as if the decree were a decree in favour of the Board or authority or person. [3714]

(8) Subsection (6) of the last foregoing section shall apply to payments recovered by the Board or local authority under an order made in pursuance of subsections (4) to (7) of this section as it applies to payments recovered by the Board or local authority under that section. [3715]

(9) The Secretary of State may issue such new or altered forms of proceedings as he may deem necessary or expedient for giving effect to the foregoing provisions of this section, so far as they apply to England and Wales. [3716]

General note.—The provisions of this section may be compared with (*a*) the Bastardy Laws Amendment Act, 1873, s. 5, as amended by the Affiliation Orders Act, 1914, s. 5 (2 Halsbury's Statutes 19), under which a local authority as successor to the Board of Guardians might obtain an affiliation order against the putative father of a bastard child who had become chargeable to the authority ; and (*b*) the Bastardy Laws Amendment Act, 1872, s. 7 (2 Halsbury's Statutes 17), under which payments due under an affiliation order might become recoverable by a local authority during any period when the bastard child was chargeable to the authority.

The two sections of the Bastardy Laws Amendments Acts above mentioned are repealed by s. 62 (3) and Sched. VII, Part III, *post*.

By arrangement with.—These words cover the case of accommodation provided by a voluntary organisation on behalf of a local authority (see s. 26, *ante*).

Local authority.—A council of a county or county borough in England and Wales (s. 33 (1), *ante*).

Child.—This means a person under the age of sixteen (s. 64 (1), *post*).

Bastardy Laws Amendment Act, 1872, *ss.* 3, 4.—2 Halsbury's Statutes 14, 15. As to proceedings in an application under s. 3, see, generally, Stone's Justices' Manual (80th Edn.) 458 *et seq.*

45. Recovery in cases of misrepresentation or non-disclosure.—(1) If, whether fraudulently or otherwise, any person misrepresents or fails to disclose any material fact, and in consequence of the misrepresentaton or failure—

(*a*) the Board or a local authority incur any expenditure under Part II or Part III of this Act, or

(*b*) any sum recoverable under this Act by the Board or a local authority is not recovered,

the Board or authority shall be entitled to recover the amount thereof from the said person. [3717]

(2) If any question arises, whether in or in connection with any legal proceedings or otherwise, as to the amount which the Board are entitled

in any case to recover under the last foregoing subsection, the question shall be referred to the Appeal Tribunal. [3718]

(3) On any reference under the last foregoing subsection a certificate signed by the clerk of the Appeal Tribunal setting forth the decision of the Tribunal upon the question referred shall be conclusive evidence of the amount recoverable under subsection (1) of this section. [3719]

(4) For the purposes of this section, any certificate purporting to be signed by the clerk of the Appeal Tribunal shall be deemed to be so signed unless the contrary is proved. [3720]

General note.—This section provides simply for the recovery of expenditure incurred in the provision of assistance or of accommodation under the Act in cases of misrepresentation or non-disclosure of a material fact. It is in no way concerned with criminal proceedings arising in such circumstances, as to which see s. 52, *post.*

Appeal Tribunal.—As to the Appeal Tribunal, see s. 53 and Sched. V, *post.*

Miscellaneous

46. Amendments of Old Age Pensions Act, 1936.—(1) In calculating the means of a person for the purposes of the Old Age Pensions Act, 1936, no account shall be taken—

(*a*) of any assistance grant, or

(*b*) of the value to that person of accommodation provided by, or by arrangement with, a local authority under Part III of this Act. [3721]

(2) Regulations under section twelve of the said Act of 1936 may provide that where a person is undergoing medical or other treatment as an in-patient in a hospital or similar institution no account shall be taken, in calculating his means for the purposes of the First Schedule to that Act, of the value to him of the accommodation, maintenance and services provided in the hospital or institution, but that his pension under that Act shall be adjusted to such extent as may be specified in the regulations. [3722]

(3) All such claims for old age pensions and questions relating thereto as are mentioned in subsection (1) of section eight of the said Act of 1936 shall be decided by the Board, subject however to the right of a person aggrieved by a decision of the Board to refer the decision to the Appeal Tribunal; and accordingly for the words in the said subsection (1) from "shall be considered and determined as follows" to the end of the subsection there shall be substituted—

"shall be decided by the National Assistance Board.

(1A) Any person aggrieved by a decision of the Board under the last foregoing subsection may refer the claim or question to which the decision relates for decision by the Appeal Tribunal constituted under the National Assistance Act, 1948." [3723]

(4) The said Act of 1936 shall have effect subject to the amendments specified in the Fourth Schedule to this Act, being minor amendments and amendments consequential on the foregoing provisions of this section. [3724]

General note.—This section assimilates the machinery for determining claims to pensions under the Old Age Pensions Act, 1936 (29 Halsbury's Statutes 1051), with that laid down for dealing with applications for assistance under the present Act. The local pensions committees appointed under s. 10 of that Act which determined any claim or question in the first instance are abolished and replaced by the National Assistance Board, and for the right of appeal to the central pension authority (the Minister of National Insurance) there is substituted a right of appeal to the Appeal Tribunal constituted under the present Act.

In addition, the section provides, in calculating means under the 1936 Act, for disregarding the value of (*a*) assistance grants; (*b*) local authority accommodation; and (*c*) hospital accommodation, maintenance and services.

Under the 1936 Act as amended, there have been made the Non-Contributory Old Age Pensions Regulations, 1948 (S.I. 1948 No. 1564).

As to compensation for members of pension committees established under the 1936 Act who suffer loss of employment attributable to the passing of this Act, see s. 60 (2), *post.*

Old Age Pensions Act, 1936, *ss.* 8 (1), 12.—29 Halsbury's Statutes 1055, 1059.
Assistance grant.—This includes the value of any assistance given in kind (s. 12 (4), *ante*).
By arrangement with.—Local authorities are empowered to make arrangements with voluntary organisations for the provision of accommodation under Part III of the Act (see s. 26, *ante*), and these words make it clear that, in calculating means for the purposes of the Old Age Pensions Act, 1936, *supra*, the value of any such accommodation is to be disregarded.
Local authority.—The council of a county or county borough in England or Wales (s. 33 (1), *ante*).
Regulations.—See the Non-Contributory Old Age Pensions Regulations, 1948 (S.I. 1948 No. 1564). As to regulations generally, see s. 63, *post*.
Hospital.—For definition, see s. 64 (1), *post*.
Appeal Tribunal.—As to the Appeal Tribunal, see s. 53 and Sched. V, *post*.

47. Removal to suitable premises of persons in need of care and attention.—(1) The following provisions of this section shall have effect for the purposes of securing the necessary care and attention for persons who—

(*a*) are suffering from grave chronic disease or, being aged, infirm or physically incapacitated, are living in insanitary conditions, and

(*b*) are unable to devote to themselves, and are not receiving from other persons, proper care and attention. [3725]

(2) If the medical officer of health certifies in writing to the appropriate authority that he is satisfied after thorough inquiry and consideration that in the interests of any such person as aforesaid residing in the area of the authority, or for preventing injury to the health of, or serious nuisance to, other persons, it is necessary to remove any such person as aforesaid from the premises in which he is residing, the appropriate authority may apply to a court of summary jurisdiction having jurisdiction in the place where the premises are situated for an order under the next following subsection. [3726]

(3) On any such application the court may, if satisfied on oral evidence of the allegations in the certificate, and that it is expedient so to do, order the removal of the person to whom the application relates, by such officer of the appropriate authority as may be specified in the order, to a suitable hospital or other place in, or within convenient distance of, the area of the appropriate authority, and his detention and maintenance therein:

Provided that the court shall not order the removal of a person to any premises, unless either the person managing the premises has been heard in the proceedings or seven clear days' notice has been given to him of the intended application and of the time and place at which it is proposed to be made. [3727]

(4) An order under the last foregoing subsection may be made so as to authorise a person's detention for any period not exceeding three months, and the court may from time to time by order extend that period for such further period, not exceeding three months, as the court may determine. [3728]

(5) An order under subsection (3) of this section may be varied by an order of the court so as to substitute for the place referred to in that subsection such other suitable place in, or within convenient distance of, the area of the appropriate authority as the court may determine, so however that the proviso to the said subsection (3) shall with the necessary modification apply to any proceedings under this subsection. [3729]

(6) At any time after the expiration of six clear weeks from the making of an order under subsection (3) or (4) of this section an application may be made to the court by or on behalf of the person in respect of whom the order was made, and on any such application the court may, if in the circumstances it appears expedient so to do, revoke the order. [3730]

(7) No application under this section shall be entertained by the court unless, seven clear days before the making of the application, notice has been

given of the intended application and of the time and place at which it is proposed to be made—

(*a*) where the application is for an order under subsection (3) or (4) of this section, to the person in respect of whom the application is made or to some person in charge of him;

(*b*) where the application is for the revocation of such an order, to the medical officer of health. [3731]

(8) Where in pursuance of an order under this section a person is maintained neither in hospital accommodation provided by the Minister of Health under the National Health Service Act, 1946, or by the Secretary of State under the National Health Service (Scotland) Act, 1947, nor in premises where accommodation is provided by, or by arrangement with, a local authority under Part III of this Act, the cost of his maintenance shall be borne by the appropriate authority. [3732]

(9) Any expenditure incurred under the last foregoing subsection shall be recoverable from the person maintained or from any person who for the purposes of this Act is liable to maintain that person; and any expenditure incurred by virtue of this section in connection with the maintenance of a person in premises where accommodation is provided under Part III of this Act shall be recoverable in like manner as expenditure incurred in providing accommodation under the said Part III. [3733]

(10) The provisions of section twenty-seven of the National Health Service Act, 1946, and of section sixteen of the National Health Service (Scotland) Act, 1947 (which respectively require local health authorities and the Secretary of State to secure that ambulances and other means of transport are available for the conveyance of certain persons) shall apply to the conveyance of persons in respect of whom an order is made under this section as they apply to the conveyance of the persons specified in the said sections twenty-seven and sixteen. [3734]

(11) Any person who wilfully disobeys, or obstructs the execution of, an order under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding ten pounds. [3735]

(12) For the purposes of this section, the appropriate authorities shall be the councils of county boroughs and county districts and the authorities which are sanitary authorities for the purposes of the Public Health (London) Act, 1936, and in Scotland the councils of counties and large burghs. [3736]

(13) The foregoing provisions of this section shall have effect in substitution for any provisions for the like purposes contained in, or having effect under, any public general or local Act passed before the passing of this Act:

Provided that nothing in this subsection shall be construed as affecting any enactment providing for the removal to, or detention in, hospital of persons suffering from notifiable or infectious diseases. [3737]

(14) Any notice under this section may be served by post. [3738]

General note.—This section, which is modelled on local Act sections: see clause 72 in the Standard Clauses published in 1937 by H.M. Stationery Office, and the Public Health (London) Act, 1936, s. 224 (30 Halsbury's Statutes 566), makes provision of general application empowering the removal to suitable premises of diseased and infirm persons in need of care and attention. See sub-s. (13), *supra*; the Public Health (London) Act, 1936, s. 224, is consequentially repealed by s. 62 (3) and Sched. VII, Part III, *post*.

Medical Officer of Health.—Medical officers of health are appointed by county borough and district councils under ss. 106 and 107, respectively of the Local Government Act, 1933 (26 Halsbury's Statutes 361, 362), and by the sanitary authorities for the purposes of the Public Health (London) Act, 1936, under s. 8 of the Act of 1936 (30 Halsbury's Statutes 449).

Appropriate authority.—See sub-s. (12), *supra*.

Hospital.—For definition, see s. 64 (1), *post*.

National Health Service Act, 1946, s. 27.—39 Halsbury's Statutes 541. As to hospital accommodation provided by the Minister of Health under that Act, see ss. 3–5 thereof.

By arrangement with.—These words refer to accommodation provided by voluntary organisations under arrangements made by local authorities (see s. 26, *ante*).

Public Health (London) Act, 1936.—30 Halsbury's Statutes 437. By s. 1 (2) thereof the sanitary authorities for the purposes of that Act are: (*a*) as respects the City of London, the Common Council, (*b*) as respects the Inner Temple and the Middle Temple, the respective overseers thereof, and (*c*) as respects a metropolitan borough, the council of the borough.

48. Duty of councils to provide temporary protection for property of persons admitted to hospitals, etc.—(1) Where a person—

(*a*) is admitted as a patient to any hospital, or

(*b*) is admitted to accommodation provided under Part III of this Act, or

(*c*) is removed to any other place under an order made under subsection (3) of the last foregoing section,

and it appears to the council that there is danger of loss of, or damage to, any movable property of his by reason of his temporary or permanent inability to protect or deal with the property, and that no other suitable arrangements have been or are being made for the purposes of this subsection, it shall be the duty of the council to take reasonable steps to prevent or mitigate the loss or damage. [3739]

(2) For the purpose of discharging the said duty, the council shall have power at all reasonable times to enter any premises which immediately before the person was admitted or removed as aforesaid were his place of residence or usual place of residence, and to deal with any movable property of his in any way which is reasonably necessary to prevent or mitigate loss thereof or damage thereto. [3740]

(3) A council may recover from a person admitted or removed as aforesaid, or from any person who for the purposes of this Act is liable to maintain him, any reasonable expenses incurred by the council in relation to him under the foregoing provisions of this section. [3741]

(4) In this section the expression "council" means in relation to any property the council of the county, county borough or large burgh in the area of which the property is for the time being situated. [3742]

General note.—Under the Poor Law Act, 1930, s. 20 (12 Halsbury's Statutes 980), a local authority could recover the cost of relief from any property of the person relieved, and the practice accordingly grew up for local authorities to provide protection for the property of persons admitted to poor law institutes. The present section makes the giving of such protection obligatory in certain comparable circumstances under the new system of assistance set up under the Act.

The section relates only to moveable property. Any steps which the Government consider it desirable a local authority should take with regard to immoveable property will be notified by Ministry of Health circular.

Hospital.—For definition, see s. 64 (1), *post*.

Recovery of expenses.—As to recovery of expenses, see s. 56, *post*.

Persons liable for maintenance.—As to persons liable for maintenance, see s. 42, *ante*.

Power of entry.—For provisions as to entry, see s. 55, *post*.

49. Expenses of council officers acting as Receivers.—Where an officer of the council of a county or county borough with the permission of the council applies for appointment under section one of the Lunacy Act, 1908, to exercise the powers of management of property referred to in that section, the council may defray any expenses incurred by him in connection with the application or the exercise of the said powers, in so far as those expenses are not recoverable by him from any other source. [3743]

Lunacy Act, 1908, *s.* 1.—11 Halsbury's Statutes 151.

50. Burial or cremation of the dead.—(1) It shall be the duty of every authority to which this subsection applies to cause to be buried or cremated the body of any person who has died or been found dead in their area, in any case where it appears to the authority that no suitable arrangements for the disposal of the body have been or are being made otherwise than by the authority. [3744]

(2) The authorities to which the last foregoing subsection applies are the councils of county boroughs and county districts and the authorities which

are sanitary authorities for the purposes of the Public Health (London) Act, 1936, and in Scotland county and town councils. [3745]

(3) The council of a county, county borough or large burgh may cause to be buried or cremated the body of any deceased person who immediately before his death was being provided with accommodation under Part III of this Act by, or by arrangement with, the council or was living in a hostel provided by the council under section twenty-nine of this Act. [3746]

(4) An authority may recover from the estate of the deceased person or from any person who for the purposes of this Act was liable to maintain the deceased person immediately before his death expenses incurred under subsection (1) or subsection (3) of this section and not reimbursed under the next following subsection. [3747]

(5) The provisions of subsection (5) of section twenty-two of the National Insurance Act, 1946 (which enable the Minister of National Insurance to make payments to certain authorities out of the National Insurance Fund in respect of the cost of burial or cremation of certain persons) shall apply to all authorities to which subsection (1) of this section applies. [3748]

(6) Nothing in the foregoing provisions of this section shall affect any enactment regulating or authorising the burial, cremation or anatomical examination of the body of a deceased person; and an authority shall not cause a body to be cremated under this section where they have reason to believe that cremation would be contrary to the wishes of the deceased. [3749]

(7) The Burial of Drowned Persons Act, 1808, and the Burial of Drowned Persons Act, 1886, shall cease to have effect. [3750]

General note.—Under this section it becomes the duty of a local authority, in the absence of any other suitable arrangements, to see to the disposal of any dead body within their area.

The section may be compared, first, with s. 75 of the Poor Law Act, 1930 (12 Halsbury's Statutes 1005), which empowered local authorities to bury poor persons, and secondly, with s. 76 thereof providing for the recovery of the cost of such burials.

The duty of disposal of a dead body rests largely on Common Law (see, generally, 3 Halsbury's Laws (2nd Edn.) 456 *et seq.*). In the case of persons found drowned, however, the Burial of Drowned Persons Acts, 1808 and 1886 (2 Halsbury's Statutes 273, 279), imposed a duty of burial on police constables within the parish in which the body was found. As a consequence of the wider provision made by the present Act these Acts are repealed by sub-s. (7), *supra*, and by s. 62 (3) and Sched. VII, Part III, *post*.

Public Health (London) Act, 1936.—30 Halsbury's Statutes 437. By s. 1 (2) thereof, the sanitary authorities for the purposes of that Act are: (*a*) as respects the City of London, the Common Council, (*b*) as respects the Inner Temple and the Middle Temple, the respective overseers thereof, and (*c*) as respects a metropolitan borough, the council of the borough.

Recovery of expenses.—As to the recovery of expenses, see s. 56, *post*.

Persons liable for maintenance.—As to persons liable for maintenance, see s. 42, *ante*.

National Insurance Act, 1946, s. 22 (5).—39 Halsbury's Statutes 443.

Enactments regulating burials, etc.—As to enactments dealing with burial, see the Burial Acts, 1852 to 1906 (2 Halsbury's Statutes (2nd Edn.) 697–764); as to cremation, see the Cremation Act, 1902 (2 Halsbury's Statutes (2nd Edn.) 795); and as to anatomical examination, see the Anatomy Acts, 1832 and 1871 (11 Halsbury's Statutes 658, 694).

51. Failure to maintain.—(1) Where a person persistently refuses or neglects to maintain himself or any person whom he is liable to maintain for the purposes of this Act, and in consequence of his refusal or neglect assistance under Part II of this Act is given to, or accommodation under Part III thereof is provided for, himself or any other person, he shall be guilty of an offence. [3751]

(2) For the purposes of this section, a person shall not be deemed to refuse or neglect to maintain himself or any other person by reason only of anything done or omitted in furtherance of a trade dispute. [3752]

(3) A person guilty of an offence under this section shall be liable on summary conviction—

(*a*) where the assistance was given to him, or the accommodation provided for him, to imprisonment for a term not exceeding three months;

(*b*) in any other case, to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months or to both such imprisonment and such fine. [3753]

General note.—The Minister of National Insurance has stated that the powers provided by this section will only be invoked in very bad cases (see H. of C. Official Report, S.C.C., February 4, 1948, col. 366).

Persons liable for maintenance.—As to the persons liable for maintenance, see s. 42, *ante*.

Trade dispute.—For definition of this term, see s. 64 (1), *post*. Sub-s. (2), *supra*, was inserted by amendment made on the report stage of the Bill in order to over-rule the law laid down in *A.-G.* v. *Merthyr Tydfil Union*, [1900] 1 Ch. 516, in which it was held that able-bodied men able to obtain work which would enable them to maintain themselves and their family who, by reason of a strike, refused that work, were not entitled to relief.

52. False statements.—(1) If any person—

(*a*) for the purpose of obtaining, either for himself or for another person, any benefit under Part II or Part III of this Act; or

(*b*) for the purpose of avoiding or reducing any liability under this Act,

makes any statement or representation which he knows to be false, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months or to both such imprisonment and such fine. [3754]

(2) Notwithstanding anything in any enactment, proceedings for an offence under this section may be begun at any time within three months from the date on which evidence sufficient in the opinion of the Board or the local authority concerned to justify a prosecution for the offence comes to the knowledge of the Board or local authority, or within twelve months from the commission of the offence, whichever period is the longer. [3755]

(3) For the purposes of the last foregoing subsection, a certificate of the Board or of the local authority as to the date on which such evidence as aforesaid came to the knowledge of the Board or the local authority, as the case may be, shall be conclusive proof thereof. [3756]

(4) In the application of this section to Scotland, for the references to evidence sufficient to justify a prosecution there shall be substituted references to evidence sufficient to justify a report to the Lord Advocate with a view to consideration of the question of prosecution. [3757]

General note.—A person who obtained relief by means of a false statement was, under the Poor Law Act, 1930, s. 150 (12 Halsbury's Statutes 1042), deemed an idle and disorderly person within the meaning of the Vagrancy Act, 1824, s. 3 (12 Halsbury's Statutes 913). As such, he became liable on conviction before one justice or at an occasional court-house to imprisonment with hard labour for fourteen days, or before two justices at a petty sessional court for one month; with the alternative of a fine not exceeding £5 (see the Summary Jurisdiction Act, 1879, ss. 4, 20 (7); 11 Halsbury's Statutes 323, 331).

As to the recovery of expenditure incurred as a result of misrepresentation, see s. 45, *ante*.

Liability.—Liabilities under this Act include: (*a*) liability to maintain husband or wife and children (s. 42, *ante*); and (*b*) liability to pay for local authority accommodation (s. 22, *ante*).

Definition.—For definition of "local authority", see s. 64 (1), *post*.

Supplementary

53. The Appeal Tribunal.—For the purposes of this Act, the Appeal Tribunal shall be such of the tribunals constituted in accordance with the provisions of the Fifth Schedule to this Act as under that Schedule has jurisdiction in the case in question. [3758]

54. Inquiries.—The Minister of Health, or as respects Scotland the Secretary of State, may cause such inquiries to be held as he may deem necessary or desirable for the purposes of this Act. [3759]

General note.—This section reproduces s. 160 (1) of the Poor Law Act, 1930 (12 Halsbury's Statutes 1045), which is repealed by s. 62 (3) and Sched. VII, Part I, *post*. The remaining subsections of s. 160 dealing with the power of summoning witnesses and paying their expenses, etc., is not reproduced, since these matters are covered by the Local Government Act, 1933, s. 290 (26 Halsbury's Statutes 459).

55. Provisions as to entry and inspection.—(1) A person who proposes to exercise any power of entry or inspection conferred by this Act shall if so required produce some duly authenticated document showing his authority to exercise the power. [3760]

(2) Any person who obstructs the exercise of any such power as aforesaid shall be guilty of an offence and liable on summary conviction to a fine not exceeding five pounds in the case of a first offence or twenty pounds in the case of a second or any subsequent offence. [3761]

Entry and inspection.—Powers of entry or inspection under this Act are conferred by s. 39 (2), *ante* (disabled persons' or old persons' homes) and by s. 48 (2), *ante* (protection of the moveable property of persons admitted to hospital, etc.). See also s. 35 (3) (*a*), *ante*.

56. Legal proceedings.—(1) Without prejudice to any other method of recovery, any sum due under this Act to the Board or to a local authority shall be recoverable summarily as a civil debt. [3762]

(2) Notwithstanding anything in any Act, proceedings for the recovery of any sum in the manner provided by the last foregoing subsection may be brought at any time within three years after the sum became due. [3763]

(3) The council of a county or county borough may prosecute for any offence under this Act. [3764]

(4) Where the Board are a party to any proceedings under this Act before a court of summary jurisdiction, any officer of the Board authorised in that behalf by a general or special direction of the Board may appear on behalf of the Board notwithstanding that he is not of counsel or a solicitor. [3765]

(5) This section shall apply to Scotland with the omission in subsection (1) thereof of the word "summarily", with the substitution for subsection (2) thereof of the following subsection—

> "(2) Proceedings for the recovery of any such sum as aforesaid shall not be competent after the expiry of three years after the date when the sum became due."

and with the omission of subsection (3) thereof. [3766]

Definition.—For definition of "local authority", see s. 64 (1), *post*.

57. Ascertainment of war savings.—(1) The Treasury may make regulations authorising or requiring the Postmaster-General and his officers and any officers of a savings bank to make such disclosure of holdings of Government stock on the Post Office Register and National Savings Certificates and of deposits in the bank as may appear necessary for the purpose of ascertaining the war savings of a person under the provisions of the Second Schedule to this Act or any corresponding enactment of the Parliament of Northern Ireland, notwithstanding that such disclosure is prohibited by or under any Act or by the rules of the bank in question. [3767]

(2) This section shall extend to Northern Ireland. [3768]

General note.—The Determination of Needs Act, 1941, s. 3 (4) (34 Halsbury's Statutes 436), which is repealed by s. 62 (3) and Sched. VII, Part III, *post*, similarly authorised the making of regulations for the ascertainment of war savings. No such regulations were ever made, and it is not intended to make any under the present section so long as sufficient information can be obtained from applicants for assistance. It was thought desirable, however, to have the power in reserve (see H. of C. Official Report, S.C.C., February 5, 1948, col. 379).

War savings.—For definition of "war savings", see Sched. II, para. (7), *post*.

58. Acquisition of land.—(1) The council of a county borough may be authorised by the Minister of Health to purchase compulsorily any land, whether situate within or without the area of the council, for the purpose of any of their functions under Part III of this Act, and the council of a county or large burgh in Scotland may be authorised by the Secretary of State to purchase compulsorily any land, whether situated within or outside

the county or burgh, for the purpose of any of their functions under the said Part III. [3769]

(2) The Acquisition of Land (Authorisation Procedure) Act, 1946, shall apply in relation to the compulsory purchase of land by the council of a county borough under this section as, by virtue of subsection (1) of section one hundred and fifty-nine of the Local Government Act, 1933, it applies to the compulsory purchase of land by a county council for the purpose of their functions under Part III of this Act; and accordingly for the purposes of the said Act of 1946 subsection (1) of this section shall be deemed to have been in force immediately before the commencement of that Act. [3770]

(3) Section two of the said Act of 1946 (which confers temporary powers for the speedy acquisition of land in urgent cases) shall not apply to the acquisition of land for the purposes of this Act, whether by a county council or by a county borough council. [3771]

(4) The provisions of the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947 (other than section two thereof) shall apply in relation to the compulsory purchase of land under this section as if subsection (1) thereof had been in force immediately before the commencement of the said Act. [3772]

General note.—This section, in effect, reproduces the Poor Law Act, 1930, s. 110 (12 Halsbury's Statutes 1028). As to land held on the appointed day for the purpose of a repealed Act, see Sched. VI, para. 6, *post*.

Sub-s. (1).—The Local Government Act, 1933, s. 159, *infra*, which deals with the power of local authorities to purchase land compulsorily, draws a distinction between county councils and the councils of other authorities. Whereas by sub-s. (1) of that section a compulsory purchase by a county council may be authorised for the purpose of any of their functions under any public general Act, in the case of other councils, such authorisation is, by sub-s. (2) thereof, confined to certain purposes of the Public Health Acts before 1936. Accordingly, while s. 159 (1) authorises county councils to make compulsory purchases of land for the purpose of any of their functions under Part III of the present Act, the provision made by sub-s. (1), *supra*, is necessary to put borough councils on a like footing.

Other local authorities are not concerned, since county councils and county borough councils are the only authorities in England and Wales exercising functions under Part III.

Acquisition of Land (Authorisation Procedure) Act, 1946.—39 Halsbury's Statutes 52. The effect of sub-s. (2), *supra*, is to make the uniform procedure for authorising the compulsory purchase of land by local authorities provided by s. 1 (1) of, and Sched. I to, the Act of 1946, applicable to purchases by county boroughs under sub-s. (1), *supra*.

It should be noted that sub-s. (3), *supra*, specifically excludes the temporary power for speedy acquisition provided by s. 2 of the Act of 1946 from applying to any purchase of land under the present Act.

Local Government Act, 1933, s. 159.—26 Halsbury's Statutes 562. That section has been amended by the Public Health Act, 1936, s. 346, Sched. V (29 Halsbury's Statutes 541, 550), and the Acquisition of Land (Authorisation Procedure) Act, 1946, s. 6, Sched. IV (39 Halsbury's Statutes 60, 73).

59. Accounts of councils of county boroughs.—(1) The council of every county borough shall keep accounts of the sums received and expended by them in the exercise of their functions under this Act, and those accounts shall be made up and audited in like manner as the accounts of a county council and shall be kept separately from their other accounts. [3773]

(2) The enactments relating to the audit of accounts by a district auditor and to the matters incidental to such audit and consequential thereon shall have effect in relation to the accounts which the council of a county borough are required to keep under this section as they have effect in relation to the accounts of a county council. [3774]

General note.—The accounts of county councils are subject to district audit, while borough councils may adopt either that system, an elective audit or a professional audit (see the Local Government Act, 1933, ss. 219, 237, 239; 26 Halsbury's Statutes 424, 433, 434). In the case of a county borough's accounts under the present Act, however, this section makes a district audit obligatory.

As to district audit generally, see Part X of the Act of 1933, *supra*.

Functions.—For definition, see s. 64 (1), *post*.

60. Compensation of displaced officers.—(1) The Minister of Health, or as respects Scotland the Secretary of State, may by regulations provide for

the payment by councils of counties, county boroughs and large burghs, subject to any prescribed exceptions or conditions, of compensation—

(*a*) to persons of such descriptions as may be prescribed who immediately before such date as may be prescribed in relation to the description of persons in question were employed or engaged in such full-time work as may be prescribed and who suffer loss of employment or loss or diminution of emoluments which is attributable to the passing of the National Insurance Acts, 1946, the National Health Service Act, 1946, the National Health Service (Scotland) Act, 1947, or this Act ; and

(*b*) to persons of such descriptions as may be prescribed who, having before such date as aforesaid been employed or engaged in such full-time work as may be prescribed and being persons who would have been so employed or engaged immediately before that date but for any national service (as defined in the regulations) in which they have been engaged, lose the prospect of their re-employment or re-engagement in any such work in consequence of the passing of any of the said Acts,

in so far as provision is not made in that behalf by or under any other enactment. [3775]

(2) The Treasury may by regulations provide for the payment out of moneys provided by Parliament of compensation, subject to any prescribed exceptions or conditions, to persons employed for the purposes of pension committees established under the Old Age Pensions Act, 1936, who suffer loss of employment attributable to the passing of this Act, being persons who are in full-time employment in service which is either wholly for the said purposes or mainly for those purposes and as to the remainder for the purposes of the council of any county, borough or urban district or of any county or town council in Scotland. [3776]

(3) Regulations under either of the two last foregoing subsections may provide for the determination of questions arising under the regulations. [3777]

General note.—The number of displaced officers to be compensated under this section is likely to be small. There were approximately 7,500 full-time officers employed by local authorities under the poor law. Their staff requirements under this Act are estimated at between 2,000 and 2,500, while the National Assistance Board is prepared to engage between 1,000 and 1,500 and the Ministry of National Insurance to engage the remainder (see 445 H. of C. Official Report 841). As to former members of pension committees under the Old Age Pensions Act, 1936, *infra*, it is hoped to include a number of them on the advisory committees to be established under s. 3, *ante*, and, possibly, on the Appeal Tribunals (see H. of C. Official Report, S.C.C., January 9, 1948, col. 323).

As to the safeguarding of pension rights on a transfer of employment, see the Superannuation (Miscellaneous Provisions) Act, 1948, s. 2.

Regulations.—Under sub-s. (1), *supra*, the Minister of Health has made the National Assistance (Compensation) Regulations, 1948 (S.I. 1948 No. 1457), *post*, as amended by S.I. 1949 No. 490. No regulations under sub-s. (2) had been made at the time of going to press.

As to regulations generally, see s. 63, *post*.

Prescribed.—"Prescribed" means prescribed by regulations under this Act (s. 64 (1), *post*).

Full-time.—It is a matter of general Government policy that displaced officers who were engaged only in part-time service shall not be entitled to compensation for loss of employment (see H. of C. Official Report, S.C.C., February 5, 1948, col. 386).

National Insurance Acts, 1946.—These are the National Insurance (Industrial Injuries) Act, 1946 (39 Halsbury's Statutes 322), and the National Insurance Act, 1946 (39 Halsbury's Statutes 412). Provisions for the compensation of displaced employees are contained in s. 67 of the latter Act.

National Health Service Act, 1946.—39 Halsbury's Statutes 515. Provisions for the compensation of officers are contained in s. 68 of that Act (39 Halsbury's Statutes 567).

Old Age Pensions Act, 1936.—29 Halsbury's Statutes 1051. Pension committees were established under s. 10 thereof which is repealed by s. 62 (3) and Sched. VII, Part III, *post*.

61. Expenses and receipts.—(1) There shall be defrayed out of moneys provided by Parliament—

(*a*) the expenses of the Board incurred in giving assistance under this Act (including the defraying of travelling expenses of persons

applying for or receiving assistance and other expenses of the Board incurred for purposes incidental to the giving of assistance), in the provision and management of re-establishment centres and reception centres, and in making contributions to voluntary organisations maintaining centres for purposes similar to the purposes of re-establishment centres and reception centres, and any other expenses of the Board being administrative expenses incurred under or by virtue of this Act;

(*b*) the salaries and allowances of the secretary, other officers and servants of the Board and any expenses incurred under the provisions of this Act relating to payments to members of advisory committees and of the Appeal Tribunal and to persons attending proceedings before the Appeal Tribunal;

(*c*) any expenses of the Minister of Health or the Secretary of State incurred under section twenty-eight or thirty-six of this Act;

(*d*) any increase attributable to this Act in the sums payable out of moneys provided by Parliament under the Old Age Pensions Act, 1936, the National Health Service Act, 1946, or the National Health Service (Scotland) Act, 1947;

(*e*) the administrative expenses incurred under this Act of any Government department. [3778]

(2) All receipts under this Act of the Minister of Health, the Secretary of State or the Board shall be paid into the Exchequer. [3779]

General note.—The Financial Memorandum annexed to the Bill stated that the total cost to the Exchequer of national assistance, including the cost of re-establishment centres and reception centres could not be estimated with any precision, but might well exceed the sum of £29,650,000, which was the figure for the combined cost of domiciliary assistance administered before this Act by local authorities and the State. The additional cost to the Exchequer for the administration of national assistance was estimated to be of the order of £750,000.

Old Age Pensions Act, 1936.—20 Halsbury's Statutes 1051. The Act is amended by s. 62 (3) and Sched. VII, Part III, *post*.

National Health Service Act, 1946.—39 Halsbury's Statutes 515. The Act is amended both by s. 46, *ante*, and Sched. IV, *post*, and by s. 62 (3) and Sched. VII, Part III, *post*.

Re-establishment centres.—As to re-establishment centres, see s. 16, *ante*.

Reception centres.—As to reception centres, see s. 17, *ante*.

Voluntary organisation.—For definition, see s. 64 (1), *post*.

62. Transitional provisions, consequential adaptation of enactments and repeals.—(1) The transitional provisions set out in the Sixth Schedule to this Act shall have effect for the purposes of this Act. [3780]

(2) Any enactment passed before the passing of this Act which refers to or is dependent on any provision of the existing poor law or the Unemployment Assistance Act, 1934, shall have effect subject to such adaptations as may be provided by regulations of the Minister of Health, or as respects Scotland the Secretary of State, made not later than the expiration of five years from the coming into operation of this section, being adaptations appearing to him consequential on the cesser of the existing poor law or of the provisions of the said Act of 1934 and the replacement thereof by provisions of this Act or of any other Act of the present Session. [3781]

(3) The enactments specified in the Seventh Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule. [3782]

(4) Regulations made under subsection (2) of this section shall be of no effect unless approved by resolution of each House of Parliament. [3783]

Existing poor law.—For definition of this expression, see s. 64 (1), *post*.

Unemployment Assistance Act, 1934.—For that Act, which consisted of Part II of, and Scheds. VI–VIII to, the Unemployment Act, 1934, see 27 Halsbury's Statutes 786 *et seq.* The Act is repealed by sub-s. (3), *supra*, and Sched. VII, Part III, *post*.

Regulations.—As to regulations generally, see s. 63, *post*. No regulations under this section had been made up to the time of going to press.

63. Regulations, rules and orders.—(1) No regulations or rules of the Board under this Act shall take effect unless confirmed by the Minister of National Insurance. [3784]

(2) Any power conferred by this Act on a Minister of the Crown or the Treasury to make or confirm regulations or rules, and the powers conferred by the following provisions of this Act on the Minister of Health and the Secretary of State to make orders, shall be exercisable by statutory instrument. [3785]

(3) Any statutory instrument for exercising a power to make or confirm regulations or rules under this Act, other than an instrument for exercising the power to make regulations under section five of this Act or under the last foregoing section, shall be subject to annulment in pursuance of resolution of either House of Parliament. [3786]

(4) Any power conferred by this Act to make an order shall, save where the context otherwise requires, be construed as including a power, exercisable in the like manner and subject to the like conditions, to vary or revoke the order. [3787]

Statutory instrument.—As to statutory instruments generally, see the Statutory Instruments Act, 1946 (39 Halsbury's Statutes 783), which came into full operation on January 1, 1948 (see S.I. 1948 No. 3).

Rules or regulations.—Rules made by the Board required the same authorisation under the Unemployment Assistance Act, 1934, s. 52 (27 Halsbury's Statutes 800), as is laid down in this section, except that the confirming Minister was originally the Minister of Labour.

Under this section the Minister of National Insurance has confirmed the following rules and regulations made by the Board: (1) the National Assistance (Appeal Tribunal) Rules, 1948, made under Sched. V, para. 6, *post* (see S.I. 1948 No. 1454); (2) the National Assistance (Reception Centres) Regulations, 1948, made under s. 16, *ante* (see S.I. 1948 No. 1481); and (3) the National Assistance (Administration of Assistance) Regulations, 1948, made under ss. 2 (3), 8 (3), 9 (1) and 15, *ante* (see S.I. 1948 No. 1482).

64. Interpretation.—(1) In this Act, except where the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

"blind person" means a person so blind as to be unable to perform any work for which eyesight is essential;

"child" means a person under the age of sixteen;

"dependant" has the meaning assigned to it by section seven of this Act;

"disability" includes mental as well as physical disability;

"disabled persons' or old persons' home" has the meaning assigned to it by section thirty-seven of this Act;

"existing poor law" means the enactments specified in Part I of the Seventh Schedule to this Act or, as respects Scotland, such of those enactments as apply to Scotland together with the enactments specified in Part II of that Schedule;

"functions" includes powers and duties;

"hospital" has the meaning assigned to it by section seventy-nine of the National Health Service Act, 1946, or as respects Scotland by section eighty of the National Health Service (Scotland) Act, 1947;

"large burgh" has the same meaning as in the Local Government (Scotland) Act, 1947;

"local authority", save as provided in Part III of this Act, means the council of a county, county borough, county district or metropolitan borough or the Common Council of the City of London;

"place of employment" has the same meaning as in section thirteen of the National Insurance Act, 1946;

"prescribed" means prescribed by regulations under this Act;

" requirements " does not include any medical, surgical, optical, aural or dental requirements ;

" trade dispute " has the same meaning as in section thirteen of the National Insurance Act, 1946 ;

" voluntary organisation " means a body the activities of which are carried on otherwise than for profit, but does not include any public or local authority. [3788]

(2) References in this Act to any enactment shall, except where the context otherwise requires, be construed as references to that enactment as amended by or under any enactment, including this Act. [3789]

(3) For the purposes of this Act, a person shall be deemed, according to the law in England and Wales as well as according to the law in Scotland, not to have attained the age of sixteen years until the commencement of the sixteenth anniversary of the day of his birth. [3790]

" *Blind person.*"—The definition here given is that in the Blind Persons Acts, 1920 and 1938, see s. 5 of the latter Act (31 Halsbury's Statutes 814).

" *Child.*"—This term is diversely defined in the social security Acts. In the Family Allowances Act, 1945, s. 2 (1) (38 Halsbury's Statutes 342), its meaning is related to the upper limit of the compulsory school age, which is at present fifteen (see the Education Act, 1944, s. 35 ; 37 Halsbury's Statutes 165). The National Insurance (Industrial Injuries) Act, 1946, s. 88 (2) (39 Halsbury's Statutes 399), and the National Insurance Act, 1946, s. 78 (2) (39 Halsbury's Statutes 489), adopt a similar definition. While the Children Act, 1948, s. 58 (1) title INFANTS, CHILDREN AND YOUNG PERSONS, *ante*, defines " child " to mean a person under the age of eighteen, and the present section to mean a person under the age of sixteen.

" *Hospital.*"—" Hospital " is defined by the National Health Service Act, 1946, s. 79 (39 Halsbury's Statutes 572), to mean any institution for the reception and treatment of persons suffering from illness or mental defectiveness, any maternity home, and any institution for the reception and treatment of persons during convalescence or persons requiring medical rehabilitation, and to include clinics, dispensaries and out-patient departments maintained in connection with any such institution or home as aforesaid.

" *Place of employment.*"—" Place of employment " is defined by the National Insurance Act, 1946, s. 13 (6) (*a*) (39 Halsbury's Statutes 433), to mean, in relation to any person, the factory, workshop, farm or other premises or place at which he is employed, so, however, that, where separate branches of work which are commonly carried on as separate businesses in separate premises or at separate places are in any case carried on in separate departments on the same premises or at the same place, each of those departments is for the purposes of that paragraph to be deemed to be a separate factory or workshop or farm or separate premises or a separate place, as the case may be.

" *Requirements.*"—Medical, etc., requirements are excluded, since they are provided free of charge under the National Health Service Act, 1946 (39 Halsbury's Statutes 515).

" *Trade dispute.*"—" Trade dispute " is defined by the National Insurance Act, 1946, s. 13 (6) (*b*) (39 Halsbury's Statutes 433), to mean any dispute between employers and employees or between employees and employees which is connected with the employment or non-employment or the terms of employment or the conditions of employment of any persons, whether employees in the employment of the employer with whom the dispute arises or not.

65. General provisions as to application to Scotland. [3791]

66. Application to Isles of Scilly.—This Act shall, in its application to the Isles of Scilly, have effect subject to such exceptions, adaptations and modifications as the Minister of Health may by order direct. [3792]

Order.—See the Isles of Scilly (National Assistance) Order, 1948 (S.I. 1948 No. 1589).

67. Provisions as to Northern Ireland. [3793]

68. Short title and commencement.—(1) This Act may be cited as the National Assistance Act, 1948. [3794]

(2) This Act shall come into operation on such day as the Minister of Health, or as respects Scotland the Secretary of State, may by order appoint, and different days may be appointed in relation to different provisions of this Act. [3795]

Commencement.—Under sub-s. (2), the Minister of Health has made the National Assistance Act (Appointed Day) Order, 1948 (S.I. 1948 No. 1218), *post*, bringing the Act (except for ss. 37–40, *ante*) into operation as respects England and Wales on July 5, 1948.

SCHEDULES

Section 2

FIRST SCHEDULE

CONSTITUTION AND PROCEEDINGS OF NATIONAL ASSISTANCE BOARD

1.—(1) The Board shall be a body corporate by the name of the National Assistance Board with a common seal and shall consist of a chairman, a deputy chairman, and not less than one nor more than four other members appointed by His Majesty by warrant under the Sign Manual.

(2) At least one member of the Board shall be a woman.

2. Every member of the Board shall hold and vacate office in accordance with the terms of his warrant of appointment.

3. No member of the Board shall be capable of being elected to or of sitting in the House of Commons.

4. Any person who has ceased to be a member of the Board shall be eligible for reappointment.

5. The Board may act notwithstanding any vacancy in the number of the Board.

6. There shall be paid to the several members of the Board out of the Consolidated Fund or the growing produce thereof such salaries as may be determined by the Treasury at the time of their appointment respectively, so, however, that the aggregate amount of the salaries of the members of the Board shall not exceed the sum of twelve thousand pounds per annum.

7. The procedure and quorum of the Board shall be such as the Board may from time to time determine.

8. The Board shall appoint a secretary and may appoint such other officers and such servants, and there shall be paid to them such salaries and allowances, as the Board may after consultation with the Minister of National Insurance and with the consent of the Treasury determine.

9. The functions of the Board, and of the officers and servants appointed by the Board, shall be exercised on behalf of the Crown.

10. The Board shall have power to acquire land for the purposes of their functions under this Act, and to dispose of any land held by them which is no longer required for those purposes.

11. Every document purporting to be an instrument issued by the Board and to be sealed with the seal of the Board or to be signed by the secretary of the Board or any person authorised to act in that behalf, shall be received in evidence and be deemed to be such an instrument without further proof, unless the contrary is shown. [3796]

General note.—This Schedule re-enacts Sched. VI to the Unemployment Assistance Act, 1934 (27 Halsbury's Statutes 820), which is repealed by s. 62 (3), *ante*, and Sched. VII, Part III, *post*.

Section 5

SECOND SCHEDULE

RESOURCES TO BE DISREGARDED

1. In taking into account the value to any person of an interest in the dwelling-house in which he resides, any sum which might be obtained by him by selling that interest or borrowing money upon the security thereof shall be disregarded.

2.—(1) Subject to the provisions of this Schedule, any capital resources of a person not disregarded by virtue of the foregoing paragraph shall be disregarded up to the smaller of the following amounts, that is to say—

(*a*) the aggregate amount of any war savings of the person in question;

(*b*) three hundred and seventy-five pounds.

(2) There shall be wholly disregarded any income from capital resources which fall to be disregarded under the last foregoing sub-paragraph.

(3) The amount of the war savings of any person shall be ascertained for the purposes of this paragraph in accordance with the provisions in that behalf of this Schedule.

3. Any capital resources not disregarded by virtue of either of the foregoing paragraphs shall—

(*a*) so far as their aggregate value does not exceed fifty pounds, be disregarded together with all income therefrom ;

(*b*) so far as their aggregate value exceeds fifty pounds but does not exceed four hundred pounds, be treated as equivalent to a weekly income of sixpence for each complete twenty-five pounds.

4. There shall be wholly disregarded—

(*a*) any death grant paid to a person under the provisions of section twenty-two of the National Insurance Act, 1946 ;

(*b*) any maternity grant to which a woman is entitled under section fourteen of the National Insurance Act, 1946.

5.—(1) Any such payment or part of a payment as is specified in the following provisions of this paragraph shall be disregarded up to the amount of one pound a week or, if the person in question is in receipt of more than one payment so specified, up to the said amount in the aggregate.

(2) The payments and parts of payments hereinbefore referred to are :—

(*a*) the first ten shillings and sixpence a week of any payment of sick pay received from a friendly society or trade union ;

(*b*) the first ten shillings and sixpence a week of any superannuation payment or superannuation payments in respect of previous service or employment from which the recipient has retired or resigned (whether payable by a former employer or not), not being a payment or payments—

(i) on account of a pension under the Old Age Pensions Act, 1936 or under or by virtue of the Widows', Orphans' and Old Age Contributory Pensions Acts, 1936 to 1941, or under any enactment repealed by any of those Acts, or

(ii) on account of a retirement pension under the National Insurance Act, 1946 ;

(*c*) any payment by way of attendance allowance under section fourteen of the National Insurance Act, 1946, and any payment by way of maternity allowance under section fifteen of that Act ;

(*d*) any of the following payments, that is to say—

(i) any payment in respect of retired pay or pension to which section sixteen of the Finance Act, 1919, applies, including any payment in respect of a dependants' allowance attached to such a pension,

(ii) any payment in respect of a disablement pension awarded under the Personal Injuries (Emergency Provisions) Act, 1939, including an increase in such a pension in respect of dependants,

(iii) any weekly payment by way of compensation under any enactment relating to workmen's compensation,

(iv) any payment by way of disablement benefit under section twelve of the National Insurance (Industrial Injuries) Act, 1946.

6. Where under section seven of this Act the resources of two or more persons are to be aggregated, paragraph 2 of this Schedule shall apply to the resources of each of the said persons severally and paragraphs 3 and 5 thereof shall apply to the aggregate of the resources of both or all the said persons.

7.—(1) For the purposes of this Schedule the amount of the war savings of a person shall subject to the provisions of this paragraph be taken to be the aggregate amount of assets of any description specified in the next following sub-paragraph owned by him at the relevant date, reduced by the aggregate amount of any such assets owned by him immediately before the third day of September, nineteen hundred and thirty-nine.

(2) The assets referred to in the last foregoing sub-paragraph are—

(*a*) Government stock held on the Post Office register issued after the second day of September, nineteen hundred and thirty-nine and acquired by

the person in question by subscription at the time of issue or by inheritance ;

(*b*) National Savings Certificates and Ulster Savings Certificates ;

(*c*) money on loan to the Treasury without interest ;

(*d*) amounts standing to the credit of any account in the Post Office Savings Bank or a Trustee Savings Bank or any other savings bank prescribed for the purposes of this Schedule.

(3) In this paragraph the expression " the relevant date " means the earlier of the following dates, that is to say—

(*a*) the date at which the resources of the person in question are being computed ;

(*b*) such date as His Majesty may by Order in Council determine (hereinafter in this paragraph referred to as " the determined date ").

(4) Where at any time after the determined date a person receives payment in respect of an income-tax credit, then, subject to the condition specified in sub-paragraph (6) of this paragraph, in computing his resources at any time after the making of the payment the amount of his war savings shall be taken to include, or if apart from this sub-paragraph he would not be treated as having any war savings shall be taken to be, the amount of the payment.

(5) In computing the resources of a person after the expiration of the prescribed period beginning with the determined date, the provisions of paragraph 2 of this Schedule shall have effect in relation to any assets referred to in sub-paragraph (1) of this paragraph subject to the condition specified in the next following sub-paragraph.

(6) The condition hereinbefore referred to is that either—

(*a*) there is produced to the authority computing resources a certificate in the prescribed form certifying that within the prescribed period application was made in the prescribed manner claiming that the provisions of paragraph 2 of this Schedule should apply to the payment or assets in question, or

(*b*) the said authority are satisfied that within the said period application was made for such a certificate.

(7) Where assets referred to in sub-paragraph (1) of this paragraph owned by a person at the relevant date were acquired with the proceeds of the realisation after the fourteenth day of August, nineteen hundred and forty, of any investments of that person, not being investments acquired by him by inheritance after the said fourteenth day of August, then in ascertaining the amount of his war savings there shall be deducted the sum applied out of the said proceeds of realisation in acquiring the said assets :

Provided that in so far as the investments realised consisted of assets of any description specified in sub-paragraph (2) of this paragraph, a deduction shall only be made under this paragraph in so far as a deduction would have been required to be made thereunder if the person in question had not realised the said assets but had continued to retain them.

8.—(1) In this Schedule—

(*a*) the expression " by inheritance " means as a beneficiary under a will or intestacy or under the nomination of a deceased person ;

(*b*) the expression " Government stock " has the same meaning as in the Savings Bank Act, 1893 ;

(*c*) the expression " income-tax credit " means a payment or credit received by a person by virtue of section seven of the Finance Act, 1941 (which provides for the crediting of certain amounts of income tax), or of that section as applied or extended by any subsequent enactment ;

(*d*) the expression " investment " includes any deposit or loan, being a deposit or loan bearing interest ;

(*e*) the expression " Trustee Savings Bank " means a bank in the United Kingdom or the Channel Islands certified under the Trustee Savings Bank Act, 1863 ;

(*f*) references to the amounts standing to the credit of an account in a Trustee Savings Bank include any sums received in respect of special investments ;

(*g*) references to the amount at any date of any Government stock or National or Ulster Savings Certificates shall be treated as references, in the case of any such stock to the amount originally subscribed therefor, and in the case of any such certificates to the amount for which those certificates could be encashed on that date.

(2) For the purposes of this Schedule a person shall be deemed, subject to the next following sub-paragraph, to own any asset if he is absolutely entitled in possession to the whole beneficial interest therein, and not otherwise.

(3) Where two or more persons are beneficially entitled in possession to any asset they shall be treated for the purposes of this Schedule as if they were each entitled in possession to the whole beneficial interest in an equal share in the asset:

Provided that if it appears to the authority computing resources that their respective beneficial interests in the asset are not equal the said persons shall be treated for the purposes of this Schedule as if they were respectively entitled in possession to the whole beneficial interest in such share in the asset as appears to the said authority to be just.

(4) References in this Schedule to the acquisition of an asset shall be construed in accordance with the two last foregoing sub-paragraphs.

(5) Sub-paragraphs (2) and (3) of this paragraph shall have effect in their application to Scotland as if the words "in possession" were omitted wherever they occur.

9. Anything to be prescribed for the purpose of this Schedule shall be prescribed by the Treasury. [3797]

General note.—This Schedule specifies the assets to be disregarded by the National Assistance Board (see s. 5 (4), *ante*) and local authorities (see s. 22 (5), *ante*) in the computation of an applicant's resources.

The Minister of National Insurance has stated that the Board will, in addition, exercise its discretion to disregard small lump sum payments from charitable sources *in toto*, and periodical payments up to at least 10*s.* 6*d.* a week (see H. of C. Official Report, S.C.C., February 11, 1948, cols. 425, 429).

Para. 1.—This paragraph re-enacts the Unemployment Assistance Act, 1934, s. 38 (3) (*e*) (27 Halsbury's Statutes 790), which Act is repealed by s. 62 (3), *ante*, and Sched. VII, Part III, *post*.

War savings.—The provisions of the Schedule for disregarding war savings (see paras. 2, 6, 7, 8) reproduce in slightly different form the Determination of Needs Act, 1941, s. 3 (1)–(3) and Sched. II (34 Halsbury's Statutes 435, 439), which Act is repealed by s. 62 (3), *ante*, and Sched. VII, Part III, *post*. The provision made by para. 7 (4), *supra*, whereby payments of income tax credits received after "the determined date" will be treated as war savings is, however, new. The determined date will be fixed by Order in Council (see para. 7 (3), *supra*), which will, in effect, delimit the period, beginning on September 3, 1939, within which savings will be deemed war savings for the purpose of the Schedule. No such Order in Council had been made at the date of going to press.

Regulations may authorise the Postmaster-General to disclose holdings in the Post Office Savings Bank, etc., for the purpose of ascertaining a person's war savings (see s. 57, *ante*).

Para. 3.—This paragraph corresponds to the Unemployment Assistance Act, 1934, s. 38 (3) (*d*) (27 Halsbury's Statutes 790). That paragraph originally provided for a total disregard of capital assets up to £25 and for treating the value of any excess up to £300 as equivalent to a weekly income of one shilling for each complete £25. The Pensions and Determination of Needs Act, 1943, s. 1 (1) (36 Halsbury's Statutes 326) amended the paragraph by substituting £400 for £300 and sixpence for one shilling.

The effect of para. 3, *supra*, is, accordingly, to retain the previous provision for calculating the income equivalent of capital assets, while raising the amount of the total disregard to £50.

National Insurance Act, 1946, *ss.* 14, 15, 22.—39 Halsbury's Statutes 434, 435, 442. It will be noted that while a maternity grant (£4) is wholly disregarded (para. 4 (*b*)), attendance allowance (£1 a week for four weeks) and maternity allowance (£1 16*s.* a week for thirteen weeks) are disregarded only up to a maximum disregard of £1 a week (para. 5 (2) (*c*)). Maternity grant under the 1946 Act is similar to the maternity benefit formerly payable under the National Health Insurance Act, 1936, s. 57 (29 Halsbury's Statutes 1099), which (exclusive of increases) was wholly disregarded under the Unemployment Assistance Act, 1934, s. 38 (3) (*a*) (27 Halsbury's Statutes 790). No corresponding provision was made in the case of attendance allowance and maternity allowance, which are alternatives, since these are both new benefits introduced by the 1946 Act.

As to retirement pensions, see the National Insurance Act, 1946, ss. 20, 21 (39 Halsbury's Statutes 439, 441).

Sick pay.—The Unemployment Assistance Act, 1934, s. 38 (3) (*a*) (27 Halsbury's Statutes 790), provided for a disregard of 5*s.* a week of any sick pay from a friendly society. The original Bill enlarged this disregard to include payments from trade unions and raised the amount to 7*s.* 6*d.* By an amendment made in committee the amount was further raised to 10*s.* 6*d.* (para. 5 (2) (*a*)).

In addition, by s. 38 (3) (*g*) of the Act of 1934, which was added by the Old Age and Widows' Pensions Act, 1940, s. 10, Sched. II (33 Halsbury's Statutes 517, 525), the first 7*s.* 6*d.* a week

of any sickness payment under the 1940 Act, Part I was to be disregarded. No corresponding disregard of sickness benefit under the National Insurance Act, 1946 (39 Statutes 412) is laid down by the present Act.

Superannuation payments.—Provision for disregarding 7*s.* 6*d.* a week of superannuation payments was made by the Unemployment Assistance Act, 1934, s. 38 (3) (*f*), which was added by the Old Age and Widows' Pensions Act, 1940, s. 10, Sched. II (33 Halsbury's Statutes 517, 525). The amount was raised to 10*s.* 6*d.* a week by the Pensions and Determination of Needs Act, 1943, s. 1 (2) (36 Halsbury's Statutes 324) subject to the proviso thereto.

The effect of para. 5 (2) (*b*), *supra*, is substantially to continue the previous provisions.

Old Age Pensions Act, 1936.—29 Halsbury's Statutes 1051.

Widows', Orphans' and Old Age Contributory Pensions Acts, 1936 *to* 1941.—The Widows', Orphans' and Old Age Contributory Pensions Act, 1936 (29 Halsbury's Statutes 1198); the Widows', Orphans' and Old Age Contributory Pensions (Voluntary Contributors) Act, 1937 (30 Halsbury's Statutes 997); the National Health Insurance and Contributory Pensions (Emergency Provisions) Act, 1939, Part III and the applicable provisions of Part I (32 Statutes 1076); the Old Age and Widows' Pension Act, 1940, Part I (33 Halsbury's Statutes 512); the National Health Insurance, Contributory Pensions and Workmen's Compensation Act, 1941, the applicable provisions of Part I (34 Halsbury's Statutes 440).

Finance Act, 1919, *s.* 16.—9 Halsbury's Statutes 612. That section exempts wounds and disability pensions from income tax.

Para. 5 (2) (*d*) (i), *supra*, corresponds with the Unemployment Assistance Act, 1934 s. 38 (3) (*b*) (27 Halsbury's Statutes 790).

Personal Injuries (Emergency Provisions) Act, 1939.—32 Halsbury's Statutes 1061.

Workmen's compensation.—Under the Unemployment Assistance Act, 1934, s. 38 (3) (*c*) there was a disregard of one half of any weekly payment of workmen's compensation. Now the disregard, both of workmen's compensation and of its modern counterpart, disablement benefit (see para. 5 (2) (*d*) (iv), *supra*), will be £1. In the case of persons entitled to more than £2 a week workmen's compensation, the amount of the disregard will, thus, be reduced. The Minister of National Insurance, however, on the Committee Stage of the Bill gave an assurance that the power conferred on the Board by Sched. VI, para. 3 (2), to increase the amounts of assistance grants in respect of persons in receipt of assistance before the appointed day, will be invoked to prevent such persons suffering any loss.

National Insurance (Industrial Injuries) Act, 1946.—39 Halsbury's Statutes 322. As to disablement benefit, see s. 12 thereof.

Savings Bank Act, 1893.—17 Halsbury's Statutes 756. Sched. I to that Act, which defines Government Stock, has been enlarged by the Finance Act, 1935, s. 30 (6) (28 Halsbury's Statutes 322) and the Tithe Act, 1936, s. 24 (8) (29 Halsbury's Statutes 949).

Finance Act, 1941, *s.* 7.—34 Halsbury's Statutes 105.

Trustee Savings Bank Act, 1863.—17 Halsbury's Statutes 711.

Section 33

THIRD SCHEDULE

ADMINISTRATIVE PROVISIONS AS TO LOCAL AUTHORITIES

PART I

Committees

1.—(1) For the purposes of their functions under Part III of this Act every local authority shall establish a committee, and all matters relating to the discharge of any of the said functions shall stand referred to that committee.

(2) Before exercising any such functions a local authority shall, unless the matter is urgent, consider a report of the committee with respect thereto.

2. A local authority may authorise a committee established in pursuance of this Schedule (hereinafter referred to as "the committee") to exercise on their behalf any of their functions under Part III of this Act except the power to borrow money or to levy or to issue a precept for a rate.

3.—(1) The committee shall be so constituted as to include persons having special experience of the matters to which the functions discharged by the committee relate, and to consist of women as well as men.

(2) At least a majority of the committee shall be members of the local authority.

4. The minutes of proceedings of the committee shall be open to the inspection of any local government elector for the area on payment of a fee not exceeding one shilling, and any such local government elector may make a copy thereof or extracts therefrom.

5.—(1) The committee may, subject to any restrictions imposed by the local authority, establish such sub-committees as the committee may determine, and any sub-committee established under this paragraph shall be constituted in such manner as the committee establishing it may, subject to any restrictions imposed by the local authority, determine:

Provided that—

(i) in the case of a sub-committee established only for one or more of the following purposes, that is to say, the managing, visiting or inspecting of particular premises used for the purposes of the provision of accommodation under Part III of this Act, at least one of the members shall be a member of the local authority or of the committee ;

(ii) in the case of any other sub-committee at least a majority of the members shall be members of the local authority or of the council of a county district forming part of the area of the local authority.

(2) The committee may, subject to any restrictions imposed by the local authority, authorise any sub-committee to exercise on their behalf any functions of the committee.

6. Every person appointed to be a member of the committee or a sub-committee thereof who at the time of his appointment was a member of the local authority appointing the committee, and every person appointed to be a member of such a sub-committee who at the time of his appointment was a member of the council of a county district in the area of the said local authority, shall, upon ceasing to be a member of the local authority or council, also cease to be a member of the committee or sub-committee, unless he has been re-elected to be a member of the authority or council not later than the date of his retirement.

7.—(1) If it appears to the Minister, on the representation of a local authority, that in the interests of the efficient discharge of all or any of the authority's functions under Part III of this Act it is expedient so to do, the Minister may direct that all matters relating to the discharge thereof shall, instead of being referred to a committee established in pursuance of this Schedule, stand referred to some other committee established by the local authority.

(2) Where such a direction has effect paragraphs 2 and 5 of this Schedule, and paragraph 6 thereof so far as it relates to sub-committees, shall apply with respect to the functions in question with the substitution for references to the committee established in pursuance of this Schedule of references to the said other committee.

8. The foregoing provisions of this Schedule shall not prevent a local authority from referring to any committee appointed by them any matter arising out of, and incidental to, their functions under Part III of this Act which, by reason that it relates also to a general service of the authority, ought in the opinion of the authority to be so referred, and the foregoing provisions of this Schedule shall not apply to any matter which is so referred. [3798]

PART II

Joint Boards

9.—(1) Where it appears to the Minister to be expedient in the interests of the efficiency of any services provided under Part III of this Act that a joint board should be established for the purpose of performing all or any of the functions under the said Part III of two or more local authorities, the Minister may by order constitute a joint board consisting of members appointed by those authorities and provide for the exercise by the board in lieu of the authorities of such of the said functions as may be specified in the order.

(2) An order under this paragraph shall not be made except after a local inquiry, unless all the authorities concerned have consented to the making of the order.

(3) Part I of this Schedule shall not have effect in relation to any functions of a local authority under Part III of this Act as respects any period during which those functions are being exercised by a joint board.

10. A joint board constituted for the purposes of Part III of this Act shall be a body corporate with a common seal and power to hold land without licence in mortmain.

11. An order constituting such a joint board—

(*a*) may, without prejudice to the provisions of section two hundred and ninety-three of the Local Government Act, 1933, and section one hundred and ninety-six of the London Government Act, 1939 (which

authorise the application of the provisions of those Acts to joint boards), provide for regulating the appointment, tenure of office and vacation of office of members of the board, for regulating the meetings and proceedings of the board, and for the payment of the expenses of the board by the constituent local authorities ;

(*b*) may provide for the transfer and compensation of officers, the transfer of property and liabilities, and the adjustment of accounts and the apportionment of liabilities ;

(*c*) may confer on the board the like powers for the compulsory purchase of land as are exercisable by local authorities ;

(*d*) may provide for the application, with such adaptations as may be specified, of any enactments relating to functions transferred to the board ;

(*e*) may contain such other provisions as appear to the Minister to be expedient for enabling the board to exercise their functions ;

(*f*) may apply to the board, with any necessary modifications and adaptations, any of the provisions of Part I of this Schedule. [3799]

PART III

Application to Scotland [3800]

* * * * *

General note.—Guidance as to the administrative arrangements to be made by local authorities is contained in Ministry of Health Circular 70/48.

Local authority.—The council of a county or county borough in England and Wales (s. 33 (1), *ante*).

Functions.—" Functions " includes powers and duties (s. 64 (1), *ante*).

The Minister.—The Minister of Health in England and Wales (s. 35 (1), *ante*).

Inquiries.—As to inquiries, see s. 54, *ante*.

Local Government Act, 1933, *s.* 293.—26 Halsbury's Statutes 461.

London Government Act, 1939, *s.* 196.—32 Halsbury's Statutes 348.

Section 46 FOURTH SCHEDULE

AMENDMENTS OF 26 GEO. 5 & 1 EDW. 8, C. 31

1.—(1) For references to the Treasury, the local pension committee, and the pension officer there shall be substituted references to the Board.

(2) For references to the central pension authority there shall be substituted references to the Appeal Tribunal.

(3) References to pension authorities shall be construed as references to the Board or the Appeal Tribunal, as the case requires.

(4) Section ten (which relates to local pension committees, the central pension authority and pension officers) shall cease to have effect.

2.—(1) In section three, in subsection (1), paragraphs (*a*) and (*c*) (which disqualify persons who are inmates of poor law institutions, criminal lunatics, and persons who are being maintained as persons of unsound mind) shall cease to have effect, and for paragraph (*b*) (which disqualifies persons detained in prison on conviction) there shall be substituted—

" (*b*) is, except in such circumstances as may be prescribed by regulations under section twelve of this Act, undergoing penal servitude, imprisonment or detention in legal custody "

(2) Subsections (2) and (3) of section three, and in subsection (1) the words " subject to the provisions of this section ", shall cease to have effect.

3. Notwithstanding anything in section six, where a woman who is entitled to an old age pension becomes, in consequence of the death of her husband, entitled to an increase in the rate thereof, pension at the increased rate shall be payable as from the date of the death or from the beginning of the period of three months ending with the date on which notice of the death is given to the Board, whichever is the later :

Provided that the Board shall not by virtue of this paragraph be required to make any payment in respect of part of a week.

4. In section nine, subsections (3) and (4) (which provide for the suspension of payments where a question of disqualification arises, and render a further claim necessary for the resumption of payments which have been discontinued or for the increase, on a change of circumstances, of a pension which has been reduced) shall cease to have effect.

5. Regulations under section twelve shall be made by the Board and confirmed by the Minister of National Insurance and, so far as they relate to the Post Office, by the Postmaster-General.

6. In section twelve paragraph (*d*) of subsection (1) (which relates to the constitution and proceedings of local pension committees, the use by such committees of offices of a local authority and the payment of the expenses of such committees), and in subsection (2) the words from " and for notice " to " registered by them ", shall cease to have effect.

7. Subsection (4) of section twelve (which provides for defraying expenses of the Treasury, the Minister of Health, and local pension committees) shall cease to have effect. [3801]

General note.—This Schedule amends the Old Age Pensions Act, 1936 (29 Halsbury's Statutes 1051), consequent upon the provisions of s. 46, *ante*, and makes certain other minor amendments thereto.

The Non-Contributory Old Age Pensions Regulations, 1948 (S.I. 1948 No. 1564), have been made under section 12 of the Act as amended.

Section 53

FIFTH SCHEDULE

CONSTITUTION AND PROCEEDINGS OF APPEAL TRIBUNALS

1. Each of the Tribunals referred to in section fifty-three of this Act shall consist of a chairman and two other members.

2. Each Tribunal shall have jurisdiction in respect of such district as may be assigned to them by the Board.

3.—(1) The chairman and one of the other members of every Tribunal shall be appointed by the Minister, and the other member shall be appointed by the Board from a panel of persons nominated by the Minister to represent work-people.

(2) The Minister may appoint persons to act, in the event of absence or incapacity, in the place of members of a Tribunal appointed by him.

4. The Board shall pay to the chairman or acting chairman of a Tribunal such remuneration, and to any member thereof such travelling and other allowances (including compensation for loss of remunerative time) as the Board may after consultation with the Minister and with the consent of the Treasury determine.

5. The Board shall assign to each Tribunal a clerk and such other officers and servants, and shall pay to them such salaries or fees and such allowances, as the Board may after consultation with the Minister and with the consent of the Treasury determine.

6.—(1) The Board may make rules—

(*a*) as to the tenure of office of members of Tribunals ;

(*b*) as to the procedure of Tribunals and the procedure in connection with the bringing of matters before a Tribunal, and as to the time within which matters may be brought before Tribunals ;

(*c*) as to the payment by the Board to persons attending proceedings before Tribunals of travelling and other allowances (including compensation for loss of remunerative time) ;

(*d*) for authorising proceedings notwithstanding that the members of the Tribunal are not all present ;

and in any case where proceedings take place in accordance with rules made in accordance with sub-paragraph (*d*) of this paragraph, the Tribunal shall, notwithstanding anything in this Act, be deemed to be properly constituted, and the chairman or acting chairman shall have a second or casting vote.

(2) It is hereby declared that the power under the last foregoing sub-paragraph to make rules as to procedure includes power to make provision as to the representation of one person in any proceedings by another person.

7. In this Schedule " the Minister " means the Minister of National Insurance. [3802]

General note.—This Schedule is similar to Sched. VII to the Unemployment Assistance Act, 1934 (27 Halsbury's Statutes 820), which applied to the Appeal Tribunals constituted under s. 39 (4) of that Act, and which is repealed by s. 62 (3) and Sched. VII, Part III, *post.*

Until new appointments are made under this Schedule, members of the old appeal tribunals may continue to act for the purposes of the present Act (Sched. VI, para. 2 (2), *post*).

Rules.—Under para. 6, the Board have made the National Assistance (Appeal Tribunals) Rules, 1948, which are set out in the Schedule to the confirmatory order made by the Minister under s. 63, *ante*, namely, the National Assistance (Appeal Tribunals) Rules Confirmation Instrument, 1948 (S.I. 1948 No. 1454).

Section 62

SIXTH SCHEDULE

TRANSITIONAL PROVISIONS

1. The first report of the Board under subsection (4) of section two of this Act shall include a report on the activities of the Board between the end of the period covered by the last report under subsection (4) of section thirty-five of the Unemployment Assistance Act, 1934 and the appointed day.

2.—(1) Advisory committees under subsection (3) of section thirty-five of the Unemployment Assistance Act, 1934, established immediately before the appointed day shall, unless and until the Board otherwise determine, be deemed to be advisory committees established under section three of this Act.

(2) A person holding office as chairman or other appointed member of an appeal tribunal under the said Act of 1934 immediately before the appointed day shall, until some other person is appointed in his place, be qualified without further appointment to act as chairman or other appointed member of an appeal tribunal for the purposes of this Act, and the panel of persons nominated to represent work-people under paragraph 3 of the Seventh Schedule to the said Act of 1934 shall, until a new panel is nominated, be deemed to be the panel nominated under paragraph 3 of the Fifth Schedule to this Act.

(3) Without prejudice to the provisions of section thirty-eight of the Interpretation Act, 1889 (which relates to the effect of repeals), the coming into operation of this Act shall not, save as hereinafter provided, affect—

(*a*) any appeal under subsection (3) of section thirty-six of the Unemployment Assistance Act, 1934, against a decision made before the appointed day as to the applicability of that Act to any person ;

(*b*) any appeal under section thirty-nine of that Act or that section as applied by any subsequent enactment, against a determination made before the appointed day ;

(*c*) any reference under section forty-eight of that Act of a question as to the amount of any excess payment made before the appointed day ; or

(*d*) any reference under the Eighth Schedule to that Act, or that Schedule as applied by any subsequent enactment, of a dispute between the Board and any authority :

Provided that

(i) in relation to any appeal under the said subsection (3) pending at the appointed day the said subsection (3) shall have effect subject to such modifications as may be prescribed by the Minister of National Insurance ;

(ii) any such appeal or reference brought after the appointed day shall be brought and determined in accordance with the provisions of this Act and rules thereunder as to appeals and references brought by virtue of this Act.

3.—(1) Where immediately before the appointed day a person was in receipt of sums—

(*a*) payable in respect of outdoor relief under the Poor Law Act, 1930, or

(*b*) payable under the Blind Persons Acts, 1920 and 1938, or

(*c*) receivable by him as a person undergoing treatment for pulmonary tuberculosis, or

(*d*) payable by the Assistance Board under any enactment repealed by this Act,

the Board may continue payment thereof for any period not exceeding two months from the appointed day during which the said person is in need thereof, and for the purposes of this Act any payments made by virtue of this sub-paragraph shall be deemed to be assistance grants.

(2) Where assistance grants are made in respect of a person who at any time during the month ending with the appointed day was in receipt of any such sums as are mentioned in the last foregoing sub-paragraph, the Board may take into consideration the rate at which any such sums were paid to him at any time during the period of six months ending with the appointed day, and may increase the amount of the grants accordingly notwithstanding anything in Part II of this Act or regulations made thereunder.

(3) Any authority responsible for the making of payments falling within heads (*a*) to (*c*) of sub-paragraph (1) of this paragraph shall on a requisition in that behalf made by the Board not later than six months after the appointed day transfer to the Board any documents specified in the requisition which are under the control of the authority and relate to the payments.

4.—(1) Where immediately before the appointed day any premises vested in a local authority were being used for the reception or relief of casual poor persons under the provisions of the Poor Law Act, 1930, then if on the appointed day the premises remain so vested the local authority shall maintain therein, until such time as the Board may determine, a centre for the like purposes as a reception centre maintained by the Board.

(2) For the purposes of sections seventeen and eighteen of this Act, any centre maintained by a local authority under this paragraph shall be deemed to be a reception centre maintained on behalf of the Board.

5.—(1) Notwithstanding anything in Part III of this Act, a local authority may, for a period of six months from the appointed day or such longer period not exceeding twelve months therefrom as the Minister of Health may allow, exercise otherwise than in accordance with a scheme under the said Part III any functions conferred on them by the said Part III or which could be conferred on them by a scheme thereunder :

Provided that the local authority shall not exercise any function under the said Part III otherwise than in accordance with a scheme thereunder after a scheme relating to the exercise of that function has come into force.

(2) The references in subsection (6) of section twenty-nine of this Act to arrangements made by virtue of paragraph (*c*) or paragraph (*d*) of subsection (4) of that section, and to arrangements made under that section, shall be construed as including references to arrangements made under the corresponding provisions of the Blind Persons Acts, 1920 and 1938.

6.—(1) Any land which immediately before the appointed day was held by the council of a county or county borough for the purposes of any enactment repealed by this Act, or which on the appointed day vests in or thereafter is transferred to the council of a county or county borough by virtue of this Schedule, shall save as otherwise provided in this Schedule be deemed to have been appropriated for such of the purposes of this Act as the council may determine.

(2) Any right of a council of a county or county borough subsisting immediately before the appointed day to use land for the purposes of any enactment repealed by this Act shall on and after the appointed day continue to subsist as a right to use the land for such of the purposes of this Act as the council may determine, subject however to the cesser of the right in any event (other than the repeal of the said enactment) in which it would have ceased apart from this sub-paragraph.

(3) Nothing in this paragraph shall affect the provisions of the National Health Service Act, 1946, or the National Health Service (Scotland) Act, 1947, as to the transfer and vesting of hospitals.

(4) In this paragraph the expression " land " includes any interest in land and any easement, servitude or right in, to or over land.

7.—(1) Where immediately before the appointed day any premises being part of a workhouse were being used for hospital purposes but the workhouse as a whole was mainly being used for other purposes, subsection (2) of section six of the Act, of 1946 (which provides for the transfer to the Minister of Health of hospitals

and property and liabilities connected therewith) shall not apply in relation to the premises, but—

(*a*) the local authority by which the workhouse was provided shall to the satisfaction of the Minister of Health enter into arrangements with the Regional Hospital Board whereby, until the said Minister otherwise determines, the like accommodation shall be available for the provision of hospital and specialist services under the Act of 1946 as was available for hospital purposes immediately before the appointed day, and such facilities in relation to the accommodation made available shall be afforded by the local authority as may be necessary for the purposes of the Act of 1946 ;

(*b*) the Regional Hospital Board shall make to the local authority such payments in respect of accommodation and facilities as may be agreed between the authority and the Board, or in default of agreement as may be determined by the Minister of Health.

(2) Where immediately before the appointed day any person was by virtue of a lunacy order or a mental deficiency order detained in any such premises as are mentioned in the last foregoing sub-paragraph,—

(*a*) the premises shall be deemed, until the time determined under head (*a*) of that sub-paragraph, to be a mental hospital or institution for defectives, as the case may be ; and

(*b*) the lunacy order shall have effect as if it were an order made on the appointed day under section sixteen of the Lunacy Act, 1890, for the detention of the said person in the premises.

(3) Subsection (4) of section fifty of the Act of 1946 shall not have effect.

(4) Regulations as to the transfer of officers made under section sixty-eight of the Act of 1946 shall provide for the transfer of officers and servants of local authorities who immediately before the appointed day were employed solely or mainly at or for purposes of such premises as are mentioned in sub-paragraph (1) of this paragraph to the Regional Hospital Board for the area in which the premises are situated.

(5) Any expenditure of a Regional Hospital Board under head (*b*) of sub-paragraph (1) of this paragraph shall be deemed for the purposes of section fifty-four of the Act of 1946 to be expenditure of the Regional Hospital Board incurred under that Act and approved as mentioned in that section.

8.—(1) Where any premises being part of a workhouse were immediately before the appointed day being used otherwise than for hospital purposes, but the workhouse as a whole was mainly being used for hospital purposes, the entirety of the workhouse shall be treated as a hospital for the purposes of the Act of 1946, and shall be transferred to and vest in the Minister of Health under that Act accordingly, and no apportionment of interests shall be made under paragraph (*a*) of subsection (5) of section six of that Act :

Provided that nothing in this sub-paragraph shall extend the operation of the provisions of section sixty-eight of that Act or regulations made thereunder as to the transfer of officers.

(2) Where a workhouse is transferred to and vests in the Minister under the Act of 1946, and immediately before it so vested accommodation was being used therein for the relief under the Poor Law Act, 1930, of persons not in need of reception into hospital,—

(*a*) the Regional Hospital Board shall to the satisfaction of the Minister of Health enter into arrangements with the local authority by which the workhouse was provided whereby, until the Minister otherwise determines, the like accommodation shall be available for the purposes of section twenty-one of this Act as was immediately before the appointed day available for the relief of persons not in need of reception into hospital, and such facilities in relation to the accommodation shall be afforded as may be requisite for those purposes, and

(*b*) the local authority shall make to the Regional Hospital Board such payments in respect of the accommodation and facilities as may be agreed between the authority and the Board or, in default of agreement, as may be determined by the Minister of Health.

(3) Where any part of the accommodation first referred to in the last foregoing sub-paragraph was being used immediately before the appointed day for the reception or relief of casual poor persons, then, if the Minister of Health after consultation with the National Assistance Board so directs, that sub-paragraph shall apply separately in relation to that part of the accommodation, and shall so apply with the substitution for the reference to section twenty-one of this Act of a reference to section seventeen thereof; and where the Minister gives a direction under this sub-paragraph—

(*a*) he shall not determine the arrangements made in pursuance of the direction except after consultation with the National Assistance Board;

(*b*) so long as those arrangements continue in force the local authority shall maintain in the accommodation provided in pursuance of the arrangements a centre for the like purposes as a reception centre maintained by the National Assistance Board, and the centre shall be deemed to be provided by the local authority in pursuance of a requirement under subsection (2) of section seventeen of this Act;

(*c*) expenditure incurred by the local authority in making payments in accordance with head (*b*) of sub-paragraph (2) of this paragraph shall be deemed for the purposes of subsection (3) of the said section seventeen to have been incurred with the approval of the National Assistance Board.

(4) Accommodation provided under section twenty-one of this Act in pursuance of arrangements under this paragraph shall be deemed to be provided by the local authority in premises managed by them.

9.—(1) In this and the two last foregoing paragraphs the following expressions have the meanings hereby assigned to them respectively:—

"hospital purposes", in relation to any premises, means purposes such that if the premises were a separate institution they would be a hospital as defined by section seventy-nine of the Act of 1946;

"lunacy order" and "mental hospital" mean respectively an order under the Lunacy and Mental Treatment Acts, 1890 to 1930, and a mental hospital for the purposes of those Acts;

"mental deficiency order" and "institution for defectives" mean respectively an order under the Mental Deficiency Acts, 1913 to 1938, and an institution for defectives for the purposes of those Acts;

"the Act of 1946" means the National Health Service Act, 1946;

"workhouse" means a workhouse, as defined in the Poor Law Act, 1930, provided by a local authority.

(2) The question whether any premises fall within sub-paragraph (1) of paragraph 7 or sub-paragraph (1) of paragraph 8 of this Schedule shall be determined by agreement between the local authority and the Regional Hospital Board, or in default of agreement by the Minister of Health.

(3) Application to Scotland.

10.—(1) Where immediately before the appointed day a person was receiving relief in a workhouse within the meaning of the Poor Law Act, 1930, then, if he is in need of accommodation under Part III of this Act, the authority liable to provide the accommodation shall, so long as the need continues, be the authority by which the relief was given.

(2) If immediately before the appointed day the cost of the relief referred to in the last foregoing sub-paragraph was recoverable from another authority, the authority giving relief shall have the like right to recover from the other authority the cost of any accommodation provided by virtue only of the last foregoing sub-paragraph.

(3) In respect of accommodation provided as aforesaid an authority shall be entitled to recover cost from another authority in accordance with the last foregoing sub-paragraph and not otherwise, but nothing in this paragraph shall affect any right of recovery from any other person.

(4) References in the foregoing provisions of this paragraph to the authority giving relief shall be construed, where the authority to whom application for relief was made and the authority managing the workhouse were not the same, as references to the authority to whom the application was made.

11. Where immediately before the appointed day a person was being maintained, in pursuance of an arrangement made by an authority in the exercise of functions under the Poor Law Act, 1930, in premises not managed by a local authority, that arrangement shall for the purposes of section twenty-six of this Act be deemed, so far as it relates to the said person and until he ceases to be maintained in the premises, to be an arrangement under subsection (1) thereof, notwithstanding that the premises are not managed by a voluntary organisation.

12. Any property, right or liability which immediately before the appointed day was vested in a joint committee established by an order under section three of the Poor Law Act, 1930 (which provides for the combination by an order of the Minister of Health, for the purposes named in the order, of the areas of councils of counties or county boroughs) shall on the appointed day vest jointly in the councils the areas of which were combined by virtue and for the purposes of the order.

13. Section one hundred and fifty-one of the Local Government Act, 1933 (which provides for the adjustment, by agreement or otherwise, of certain matters between public bodies affected by an alteration of areas or authorities made by an order under Part VI of that Act) shall apply to councils of counties or county boroughs affected by the provisions of this Schedule as to the vesting on the appointed day of any property, right or liability as it applies to public bodies affected by such an alteration as aforesaid, with the substitution for the reference to the alteration made by an order under Part VI of that Act of a reference to the said provisions of this Schedule.

14. Where immediately before the appointed day the fact that a person was living in any place was to be disregarded in determining, for the purposes of any enactment repealed by this Act, his residence or ordinary residence, that fact shall be disregarded in determining his ordinary residence for the purposes of this Act.

15. Where any right of a local authority to recover any sum from another local authority depends upon the determination under the Poor Law Act, 1930, of any question as to settlement, removal or chargeability of any person pending at the appointed day, section one hundred and five of the said Act of 1930 (which provides for the recovery of the cost of relief by one council from another) shall continue to apply, but as if for proviso (*b*) to subsection (1) thereof (which excludes the provisions of that section where a removal order is refused on grounds of irremovability) there were substituted—

> "(*b*) this section shall not apply where the person whose settlement is in question has acquired a status of irremovability in the area of the local authority seeking to recover the cost of his relief."

16. Where on the appointed day a local authority in Scotland hold as trustees any property wholly or mainly for the use or benefit of the poor (within the meaning of section fifty-two of the Poor Law (Scotland) Act, 1845) of the whole or any part of their area, they shall hold and apply the property or the income thereof to such charitable purposes for the use and benefit of the persons for whom it is the duty of the local authority to make provision or arrangements under Part III of this Act as the authority may think fit.

17.—(1) Where under section three of the Blind Persons Act, 1938, a council has recovered from another council (being a local authority within the meaning of Part III of this Act) expenditure in respect of assistance for any person provided during an appropriate quinquennial period as defined in the said section three, being a period current at the appointed day, subsection (5) of section twenty-nine and subsection (1) of section thirty-two of this Act shall not apply in relation to any expenditure which is specifically attributable to the provision, before the expiration of the said quinquennial period, of services provided under the said section twenty-nine for the said person as a blind person, but the local authority by which those services are so provided shall be entitled to recover the amount of any such expenditure from the council from which the expenditure under the said section three was recovered as aforesaid.

(2) Notwithstanding the repeal of the said Act of 1938 effected by this Act,

subsection (2) of the said section three (which relates to the determination of disputes) shall apply in relation to this paragraph as it applies in relation to the said section three.

18. Any appeal against a decision of a local pension committee under the Old Age Pensions Act, 1936, given before the appointed day shall be decided, and the decision shall have effect, as if this Act had not been passed.

19.—(1) Notwithstanding anything in subsection (2) of section thirty-eight of the Interpretation Act, 1889 (which contains savings for vested rights and liabilities on the repeal of enactments), a person shall not by virtue of any enactment repealed by this Act be under any liability (whether under an order of the court or otherwise) as respects any period after the appointed day to maintain any person whom he is not liable to maintain for the purposes of this Act.

(2) Except as otherwise provided by the last foregoing sub-paragraph, any order of court or agreement made before the appointed day by virtue of which payments are required to be made to a local authority in respect of the relief or maintenance of any person while he remains chargeable to that authority under the existing poor law shall have effect, so long as accommodation is provided for him under Part III of this Act by that authority or he is in receipt of assistance under Part II of this Act, as if he were so chargeable.

(3) Where a local authority recover payments from any person under any such order or agreement as is mentioned in the last foregoing sub-paragraph, subsection (6) of section forty-three of this Act shall apply to payments recovered in respect of any period after the appointed day as it applies to payments recovered by the local authority under the said section forty-three.

20.—(1) For the purposes of any provision of this Schedule the expression " the appointed day " means such day appointed by the order under subsection (2) of section sixty-eight of this Act as may be specified in the order in relation to the provision in question.

(2) References in this Schedule to a workhouse within the meaning of the Poor Law Act, 1930, include, in relation to London, references to an asylum provided under section one hundred and twenty-three of that Act.

21. Application to Scotland. [3803]

Unemployment Assistance Act, 1934.—This Act, in accordance with s. 57 (2) thereof, consists of the Unemployment Act, 1934, Part II, Scheds. VI–VIII (27 Halsbury's Statutes 786–804, 820–823).

Appointed day.—See para. 20 (1), *supra*.

Interpretation Act, 1889, *s.* 38.—18 Halsbury's Statutes 1005.

Poor Law Act, 1930.—12 Halsbury's Statutes 968.

Blind Persons Acts, 1920 *and* 1938.—20 Halsbury's Statutes 593; 31 Halsbury's Statutes 812.

Tuberculosis.—As to assistance provided under this Act for persons undergoing treatment for tuberculosis, see s. 5 (3), *ante*.

Assistance grants.—See s. 8, *ante*.

Functions.—" Functions " includes powers and duties (s. 64 (1), *ante*).

Scheme.—As to local authority schemes, see s. 34, *ante*.

National Health Service Act, 1946.—39 Halsbury's Statutes 515.

Lunacy Act, 1890, *s.* 16.—11 Halsbury's Statutes 25.

Regulations.—Under the National Health Service Act, 1946, s. 68 (39 Halsbury's Statutes 567) as amended by para. 7 (4), *supra*, the Minister of Health has made the National Health Service (Transfer of Officers and Compensation) Regulations, 1948 (S.I. 1948 No. 1475), title NATIONAL HEALTH SERVICE, *ante*.

Para. 8.—Under the National Health Service Act, 1946, s. 11 (39 Halsbury's Statutes 532) and this paragraph, the Minister of Health has made the National Health Service (Designation of Teaching Hospitals—Cambridge Hospitals) Order, 1948 (S.I. 1948 No. 1579).

Lunacy and Mental Treatment Acts, 1890 *to* 1930.—These Acts comprise the Lunacy Acts, 1890, 1891, 1908, 1922 (11 Halsbury's Statutes 17, 144, 151, 199), and the Mental Treatment Act, 1930 (23 Halsbury's Statutes 154).

Mental Deficiency Acts, 1913 *to* 1938.—These Acts comprise the Mental Deficiency Act, 1913 (11 Halsbury's Statutes 160); the Mental Deficiency and Lunacy (Amendment) Act, 1919, s. 1 (9 & 10 Geo. 5, c. 85); the Mental Deficiency (Amendment) Act, 1925 (11 Halsbury's Statutes 199); the Mental Deficiency Act, 1927 (11 Halsbury's Statutes 200), and the Mental Deficiency Act, 1938 (31 Halsbury's Statutes 421).

Local Government Act, 1933, *s.* 151.—26 Halsbury's Statutes 389.

Old Age Pensions Act, 1936.—29 Halsbury's Statutes 1051.

Section 62

SEVENTH SCHEDULE

ENACTMENTS REPEALED

PART I

The existing poor law

Session and Chapter	Short Title	Extent of Repeal
5 Geo. 1, c. 8.	The Poor Relief (Deserted Wives and Children) Act, 1718.	The whole Act.
5 Geo. 4, c. 83.	The Vagrancy Act, 1824.	In section three, the words from the beginning to "settled in such other parish, township, or place"; in section four, the words "every person running away and leaving his wife, or his or her child or children, chargeable, or whereby she or they or any of them shall become chargeable, to any parish, township, or place".
5 & 6 Vict. c. 57.	The Poor Law Amendment Act, 1842.	The whole Act.
7 & 8 Vict. c. 101.	The Poor Law Amendment Act, 1844.	Sections six and seven; in section eight the words from the beginning to "misdemeanour"; section sixty-three.
8 & 9 Vict. c. 117.	The Poor Removal Act, 1845.	The whole Act.
10 & 11 Vict. c. 33.	The Poor Removal Act, 1847.	The whole Act.
12 & 13 Vict. c. 103.	The Poor Law Amendment Act, 1849.	The whole Act.
20 & 21 Vict. c. 13.	The Workhouse Sites Act, 1857.	The whole Act.
20 & 21 Vict. c. 81.	The Burial Act, 1857 ..	Section six, so far as it authorises the consecration and use of new burial grounds.
24 & 25 Vict. c. 76.	The Poor Removal (No. 2) Act, 1861.	The whole Act.
25 & 26 Vict. c. 113.	The Poor Removal Act, 1862.	The whole Act.
26 & 27 Vict. c. 89.	The Poor Removal Act, 1863.	The whole Act.
39 & 40 Vict. c. 61.	The Divided Parishes and Poor Law Amendment Act, 1876.	Sections nineteen, twenty-four and forty-two.
63 & 64 Vict. c. 23.	The Poor Removal Act, 1900.	The whole Act.
20 & 21 Geo. 5, c. 17.	The Poor Law Act, 1930 ..	The whole Act.
24 & 25 Geo. 5, c. 59.	The Poor Law Act, 1934 ..	The whole Act.
1 & 2 Geo. 6, c. 23.	The Poor Law (Amendment) Act, 1938.	The whole Act.

[3804]

Poor Relief (Deserted Wives and Children) Act, 1718.—12 Halsbury's Statutes 911.
Vagrancy Act, 1824, ss. 3, 4.—12 Halsbury's Statutes 913.
Poor Law Amendment Act, 1842.—12 Halsbury's Statutes 926.

Poor Law Amendment Act, 1844, ss. 6, 7, 8, 63.—2 Halsbury's Statutes (2nd Edn.) 471, 472; 14 Halsbury's Statutes 511.
Poor Removal Act, 1845.—12 Halsbury's Statutes 926.
Poor Removal Act, 1847.—12 Halsbury's Statutes 929.
Poor Law Amendment Act, 1849.—12 Halsbury's Statutes 930.
Workhouse Sites Act, 1857.—12 Halsbury's Statutes 933.
Burial Act, 1857, s. 6.—2 Halsbury's Statutes (2nd Edn.) 741.
Poor Removal (No. 2) Act, 1861.—12 Halsbury's Statutes 938.
Poor Removal Act, 1862.—12 Halsbury's Statutes 940.
Poor Removal Act, 1863.—12 Halsbury's Statutes 943.
Divided Parishes and Poor Law Amendment Act, 1876, ss. 19, 24, 42.—12 Halsbury's Statutes 947–8; 2 Halsbury's Statutes 21.
Poor Removal Act, 1900.—12 Halsbury's Statutes 956.
Poor Law Act, 1930.—12 Halsbury's Statutes 968.
Poor Law Act, 1934.—27 Halsbury's Statutes 457.
Poor Law (Amendment) Act, 1938.—31 Halsbury's Statutes 553.

PART II

The existing poor law in Scotland [3805]

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PART III

Other enactments repealed

Session and Chapter	Short Title	Extent of Repeal
24 Geo. 2, c. 40.	The Sale of Spirits Act, 1750.	Sections thirteen to sixteen, so far as they relate to workhouses and houses of entertainment for any parish poor.
48 Geo. 3, c. 75.	The Burial of Drowned Persons Act, 1808.	The whole Act.
1 & 2 Will. 4, c. 37.	The Truck Act, 1831 ..	Section seven.
1 & 2 Will. 4, c. 41.	The Special Constables Act, 1831.	Section twelve.
2 & 3 Vict. c. 51.	The Pensions Act, 1839 ..	Sections two to four; in section seven the words "the minute of any board of guardians and"; in section eight from "except to the guardians" to "in such parish", from "other than the guardians" to "Scotland as aforesaid", and from "which shall not be given" to "advancing the same"; section ten; the Schedules.
8 & 9 Vict. c. 19.	The Lands Clauses Consolidation (Scotland) Act, 1845.	In section one hundred and twenty-seven, the words "poor's rate or" and "and poor's rate".
11 & 12 Vict. c. 43.	The Summary Jurisdiction Act, 1848.	In section thirty-five, the words "to any warrant or order for the removal of any poor person who is or shall become chargeable to any parish, township, or place; nor".
15 & 16 Vict. c. 85.	The Burial Act, 1852 ..	Section forty-nine.
16 & 17 Vict. c. 134.	The Burial Act, 1853 ..	In section seven, the words from "and section forty-nine" to "parish".

Session and Chapter	Short Title	Extent of Repeal
24 & 25 Vict. c. 100.	The Offences Against the Person Act, 1861.	Section seventy-three.
29 & 30 Vict. c. 109.	The Naval Discipline Act.	In section ninety-eight A, in subsection (1), the words from " or of leaving " to the end of the subsection.
35 & 36 Vict. c. 65.	The Bastardy Laws Amendment Act, 1872.	Section seven.
36 & 37 Vict. c. 9.	The Bastardy Laws Amendment Act, 1873.	Section five.
42 & 43 Vict. c. 49.	The Summary Jurisdiction Act, 1879.	In section thirty-one, subsection (2).
49 & 50 Vict. c. 15.	The Sporting Lands Rating (Scotland) Act, 1886.	In section two, the definition of of " The Poor Law Act " ; in section three, the words " and The Poor Law Act ", section five, in section seven the words from " or upon " where those words first occur to " The Poor Law Act ", and the words from " or upon " in the second place where those words occur to the end of the section.
49 & 50 Vict. c. 20.	The Burial of Drowned Persons Act, 1886.	The whole Act.
57 & 58 Vict. c. 58.	The Local Government (Scotland) Act, 1894.	In section thirty, in subsection (6) the words from " Provided that " to " poor rate " ; in section fifty-four, in the definition of " parish ", the words from " for the purposes of " to the end of the definition.
57 & 58 Vict. c. 60.	The Merchant Shipping Act, 1894.	In section one hundred and five, the words from " with the concurrence " to the end ; sections one hundred and six, one hundred and seven ; section one hundred and eighty-five ; in section three hundred and ninety-three, subsection (3).
60 & 61 Vict. c. 31.	The Cleansing of Persons Act, 1897.	In section one, the words from " the use of such apparatus " to " disability " and the words " or for the relief of the poor ".
60 & 61 Vict. c. 38.	The Public Health (Scotland) Act, 1897.	In section sixty-nine in subsection (1) the words from " or (*d*) any dead body " to " bury it " ; in section seventy, the words " (otherwise than at a poor house ".
61 & 62 Vict. c. 60.	The Inebriates Act, 1898 . .	In section twenty-five, paragraph (*f*).
8 Edw. 7, c. 65.	The Summary Jurisdiction (Scotland) Act, 1908.	In section four, in the last paragraph, the words from " to any warrant " to " district nor ".
3 & 4 Geo. 5, c. 28.	The Mental Deficiency Act, 1913.	In section two, in subsection (1), paragraph (*b*) (vi) ; in section thirty, proviso (ii).

Session and Chapter	Short Title	Extent of Repeal
3 & 4 Geo. 5, c. 38.	The Mental Deficiency and Lunacy (Scotland) Act, 1913.	In section three, in subsection (1) paragraph (*c*) (vi) and (vii); in section fifteen, subsection (3).
9 & 10 Geo. 5, c. 20.	The Scottish Board of Health Act, 1919.	In section four, in subsection (3), the words from "and it is hereby declared" to the end of the subsection.
10 & 11 Geo. 5, c. 49.	The Blind Persons Act, 1920.	The whole Act.
11 & 12 Geo. 5, c. 31.	The Police Pensions Act, 1921.	In section fourteen, paragraph (2).
13 & 14 Geo. 5, c. 23.	The Bastardy Act, 1923 ..	Section three.
19 & 20 Geo. 5, c. 17.	The Local Government Act, 1929.	Part I, except section fifteen and paragraphs (*f*) and (*h*) of section eighteen; section one hundred and two.
19 & 20 Geo. 5, c. 25.	The Local Government (Scotland) Act, 1929.	Sections thirty-two and sixty-four.
20 & 21 Geo. 5, c. 33.	The Illegitimate Children (Scotland) Act, 1930.	Section four.
23 & 24 Geo. 5, c. 12.	The Children and Young Persons Act, 1933.	In section thirty-five, in the proviso to subsection (1) and in subsection (2) the words "or poor law"; in section seventy-two, in subsection (3), the words "or poor law" in each place where they occur; in section eighty-nine, subsection (4), in section ninety-six, in subsection (4), the words from "(*a*) in the case" to "other case"; in section ninety-eight, in subsection (1), the words "or a poor law authority"; in section one hundred and seven, in the definition of "place of safety", the word "workhouse", and the definition of "poor law authority".
23 & 24 Geo. 5, c. 38.	The Summary Jurisdiction (Appeals) Act, 1933.	In section nine, subsection (2).
23 & 24 Geo. 5, c. 51.	The Local Government Act, 1933.	In section fifty-nine, in subsection (1), paragraphs (*c*) and (*h*) and proviso (iv); in section one hundred and eighteen the words "of officers appointed under the Poor Law Act, 1930 or".
24 & 25 Geo. 5, c. 29.	The Unemployment Act, 1934.	The whole Act.
26 Geo. 5 & 1 Edw. 8, c. 31.	The Old Age Pensions Act, 1936.	In section three, in subsection (1), paragraphs (*a*) and (*c*), and the words "subject to the provisions of this section", and subsections (2) and (3); in section nine, subsections (3) and (4); section ten; in section twelve, in subsection (1), paragraph (*d*),

Session and Chapter	Short Title	Extent of Repeal
26 Geo. 5 & 1 Edw. 8, c. 31.	The Old Age Pensions Act, 1936—*continued.*	in subsection (2) the words from "and for notice" to "registered by them", and subsection (4); in section thirteen, subsection (1).
26 Geo. 5 & 1 Edw. 8, c. 49.	The Public Health Act, 1936.	In section two hundred and twenty, in the definition of "place of safety", the words "public assistance institution".
26 Geo. 5 & 1 Edw. 8, c. 50.	The Public Health (London) Act, 1936.	Section two hundred and twenty-four; in section three hundred and four, in the definition of "place of safety" the word "workhouse".
1 Edw. 8 & 1 Geo. 6, c. 37.	The Children and Young Persons (Scotland) Act, 1937.	In section eleven, in subsection (1) the words from "or to any person" to "relief of the poor"; in section forty-three, in the proviso to subsection (1) and in subsection (2) the words "or poor law"; in section seventy-six, in subsection (3), the words "or poor law" in each place where they occur; in section ninety-three, subsection (4); section one hundred; in section one hundred and one, subsection (1); in subsection (2) from the words "and expenses" to the end of the subsection; in subsection (7) the words "a poor law authority"; in section one hundred and two, the words "or a poor law authority"; in section one hundred and six, subsection (2); in section one hundred and ten, in the definition of "place of safety" the word "poorhouse", and the definition of "poor law authority".
1 & 2 Geo. 6, c. 11.	The Blind Persons Act, 1938.	Sections two to four; in section five the definition of "medical assistance".
2 & 3 Geo. 6, c. 40.	The London Government Act, 1939.	In section thirty-three, in subsection (1) paragraph (*c*) and in subsection (2) paragraph (*e*); in section thirty-four, in subsection (1), paragraph (*a*); in section eighty-five the words "or officers appointed under the Poor Law Act, 1930 or"; in section one hundred and sixty-six, the proviso to subsection (1).
2 & 3 Geo. 6, c. 93.	The Unemployment Assistance (Emergency Powers) Act, 1939.	The whole Act.

Session and Chapter	Short Title	Extent of Repeal
3 & 4 Geo. 6, c. 13.	The Old Age and Widows' Pensions Act, 1940.	The whole Act, except sections eighteen and twenty-one.
3 & 4 Geo. 6, c. 31.	The War Charities Act, 1940.	In section fourteen, in subsection (3), paragraph (*a*) of the proviso.
3 & 4 Geo. 6, c. 44.	The Unemployment Insurance Act, 1940.	The whole Act.
4 & 5 Geo. 6, c. 11.	The Determination of Needs Act, 1941.	The whole Act.
6 & 7 Geo. 6, c. 27.	The Pensions and Determination of Needs Act, 1943.	The whole Act, except subsection (2) of section five, section nine and the Second Schedule.
9 & 10 Geo. 6, c. 62.	The National Insurance (Industrial Injuries) Act, 1946.	Section thirty-one.
9 & 10 Geo. 6, c. 67.	The National Insurance Act, 1946.	In section thirty, in subsection (1) paragraph (*c*) and in subsection (5) paragraph (*a*); in section sixty-eight, subsection (2) so far as it relates to Parts I or III of the Twelfth Schedule, subsection (3), in subsection (4) the words "and subsection (2) of section forty-two of the Unemployment Assistance Act, 1934", and subsection (6); in the Eleventh Schedule, Parts I and III; in the Twelfth Schedule, Parts I and III.
9 & 10 Geo. 6, c. 81.	The National Health Service Act, 1946.	In section fifty, subsection (4).
10 & 11 Geo. 6, c. 19.	The Polish Resettlement Act, 1947.	In section two, subsections (1), (3) and (4); in the Schedule, Part I.
10 & 11 Geo. 6, c. 27.	The National Health Service (Scotland) Act, 1947.	In section fifty, subsection (4).
10 & 11 Geo. 6, c. 43.	The Local Government (Scotland) Act, 1947.	In section seventy-three, subsection (3); in section one hundred and five, in subsection (3) the words "and the town council of every large burgh", the words "or schemes", and the words from "(*a*) poor law" to "county council"; in section one hundred and seven, subsection (2); in subsection (3) the words "poor law or", and subsection (4); in section one hundred and eleven, in subsection (2) the words from "or any committee" to "poor law"; in section one hundred and forty, in subsection (1), the words from "and in the case of" to the end of the subsection; in section three hundred and seventy-nine, in subsection (1), the definition of "Poor Law Acts". [3806]

Burial of Drowned Persons Act, 1808.—2 Halsbury's Statutes (2nd Edn.) 786.
Truck Act, 1831, s. 7.—8 Halsbury's Statutes 493.
Special Constables Act, 1831, s. 12.—12 Halsbury's Statutes 763.
Pensions Act, 1839, ss. 2–4, 7, 8, 10, *Scheds.*—17 Halsbury's Statutes 467–469, 471, 473.
Summary Jurisdiction Act, 1848, s. 35.—11 Halsbury's Statutes 290.
Burial Act, 1852, s. 49.—2 Halsbury's Statutes (2nd Edn.) 715.
Burial Act, 1853, s. 7.—2 Halsbury's Statutes (2nd Edn.) 723.
Offences Against the Person Act, 1861, s. 73.—4 Halsbury's Statutes 622.
Naval Discipline Act, s. 98A (1).—17 Halsbury's Statutes 84.
Bastardy Laws Amendment Act, 1872, s. 7.—2 Halsbury's Statutes (2nd Edn.) 483.
Bastardy Laws Amendment Act, 1873, s. 5.—2 Halsbury's Statutes (2nd Edn.) 484.
Summary Jurisdiction Act, 1879, s. 31.—11 Halsbury's Statutes 338.
Burial of Drowned Persons Act, 1886.—2 Halsbury's Statutes (2nd Edn.) 793.
Merchant Shipping Act, 1894, ss. 105–107, 185, 393.—18 Halsbury's Statutes 201–202, 230, 308.
Cleansing of Persons Act, 1897, s. 1.—13 Halsbury's Statutes 874.
Mental Deficiency Act, 1913, ss. 2, 30.—11 Halsbury's Statutes 161, 178.
Blind Persons Act, 1920.—20 Halsbury's Statutes 593.
Police Pensions Act, 1921, s. 14.—12 Halsbury's Statutes 880.
Bastardy Act, 1923, s. 3.—2 Halsbury's Statutes (2nd Edn.) 492.
Local Government Act, 1929, *Part I*, s. 102.—10 Halsbury's Statutes 883–898, 948.
Children and Young Persons Act, 1933.—26 Halsbury's Statutes 168.
Summary Jurisdiction (Appeals) Act, 1933, s. 9.—26 Halsbury's Statutes 555.
Local Government Act, 1933, ss. 59, 118.—26 Halsbury's Statutes 334, 369.
Unemployment Act, 1934.—27 Halsbury's Statutes 756.
Old Age Pensions Act, 1936, ss. 3, 9, 10, 12, 13.—29 Halsbury's Statutes 1053, 1056, 1057, 1059, 1060.
Public Health Act, 1936, s. 220.—29 Halsbury's Statutes 470.
Public Health (London) Act, 1936, ss. 224, 304.—30 Halsbury's Statutes 566, 602.
Blind Persons Act, 1938, ss. 2–4, 5.—31 Halsbury's Statutes 812–814.
London Government Act, 1939, ss. 33, 34, 85, 166.—32 Halsbury's Statutes 276, 278, 290, 335.
Unemployment Assistance (Emergency Powers) Act, 1939.—32 Halsbury's Statutes 1115.
Old Age and Widows' Pensions Act, 1940.—33 Halsbury's Statutes 511.
War Charities Act, 1940, s. 14.—2 Halsbury's Statutes (2nd Edn.) 948.
Unemployment Insurance Act, 1940.—33 Halsbury's Statutes 529.
Determination of Needs Act, 1941.—34 Halsbury's Statutes 433.
Pensions and Determination of Needs Act, 1943.—36 Halsbury's Statutes 323.
National Insurance (Industrial Injuries) Act, 1946, s. 31.—39 Halsbury's Statutes 353.
National Insurance Act 1946, ss. 30, 68, *Scheds. XI, XII.*—39 Halsbury's Statutes 450, 478, 501, 507.
National Health Service Act, 1946, s. 50.—39 Halsbury's Statutes 557.
Polish Resettlement Act, 1947, s. 2, *Sched.*—40 Halsbury's Statutes 671, 675

ORDERS, CIRCULARS AND MEMORANDA

NATIONAL ASSISTANCE ACT (APPOINTED DAY) ORDER, 1948

S.I. 1948 *No.* 1218

June 8, 1948

The Minister of Health, in exercise of the power conferred on him by subsection (2) of section sixty-eight of the National Assistance Act, 1948, hereby makes the following order:—

1. This order may be cited as the National Assistance Act (Appointed Day) Order, 1948, and shall come into operation on the tenth day of June, 1948. [3807]

2. The National Assistance Act, 1948, except sections thirty-seven to forty thereof, shall, as respects England and Wales, come into operation on the fifth day of July nineteen hundred and forty-eight. [3808]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order brings into operation on the 5th July, 1948, *as respects England and Wales, all the provisions of the National Assistance Act*, 1948, *with the exception of sections 37 to 40.*

NATIONAL ASSISTANCE (CHARGES FOR ACCOMMODATION) REGULATIONS, 1948

S.I. 1948 *No.* 1385

June 24, 1948

The Minister of Health, in exercise of the powers conferred on him by section twenty-two of the National Assistance Act, 1948, hereby makes the following regulations :—

1. These regulations may be cited as the National Assistance (Charges for Accommodation) Regulations, 1948, and shall come into operation on the fifth day of July, 1948. [3809]

2.—(1) In these regulations the expression " the Act " means the National Assistance Act, 1948.

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [3810]

3. For the purposes of subsection (3) of section twenty-two of the Act the liability of a person to pay for accommodation provided in premises managed by a local authority shall in no case be reduced below the sum of twenty-one shillings per week. [3811]

4. Where accommodation is provided for a child accompanied by a person over the age of sixteen, the liability of that person under subsection (7) of section twenty-two of the Act to pay for the accommodation of that child shall in no case be reduced below such one of the following sums as is appropriate, that is to say :—

(*a*) in respect of a child under five years of age, the sum of seven shillings and six pence per week ;

(*b*) in respect of a child aged five years or over but less than eleven years, the sum of nine shillings per week ;

(*c*) in respect of a child aged eleven years or over but less than sixteen years, the sum of ten shillings and six pence per week. [3812]

5. For the purposes of subsection (4) of section twenty-two of the Act a local authority shall assume that a person to whom subsection (3) of that section applies will need for his personal requirements the sum of five shillings per week. [3813]

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EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations, made under section 22 of the National Assistance Act, 1948, prescribe the minimum amounts which persons, including persons accompanied by children, are required to pay for accommodation provided in premises managed by local authorities under Part III of the Act.

NATIONAL ASSISTANCE (POWERS OF INSPECTION) REGULATIONS, 1948

S.I. 1948 *No.* 1445

June 28, 1948

The Minister of Health, in exercise of the powers conferred on him by subsections (2) and (3) of section 35 of the National Assistance Act, 1948, hereby makes the following regulations :—

1. These regulations may be cited as the National Assistance (Powers of Inspection) Regulations, 1948, and shall come into operation on the fifth day of July, 1948. [3814]

2.—(1) In these regulations " the Act " means the National Assistance Act, 1948.

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [3815]

3.—(1) Any officer of the Minister authorized to act for the purposes of these regulations shall have power at all reasonable times—

(*a*) to enter any premises, whether managed by a local authority or a voluntary organisation, in which accommodation is provided under Part III of the Act ;

(*b*) to enter any workshop or hostel provided, whether by a local authority or a voluntary organisation, under section 29 or 30 of the Act ;

and to make such examination into the state and management of the premises, workshop or hostel, and the arrangements made for the welfare of the persons being provided with accommodation in any premises or hostel, or of the persons employed in any workshop, as he thinks requisite.

(2) Any such officer as aforesaid shall also have power at all reasonable times to inspect any other arrangements made by a local authority, or by a voluntary organisation as agent of a local authority, under section 29 or 30 of the Act.

(3) Any such officer as aforesaid shall also have power at all reasonable times to inspect any arrangements for the provision of recreation or meals for old people made by a voluntary organisation to whose funds a local authority are making contributions under section 31 of the Act. [3816]

4. Any such officer as aforesaid exercising any power conferred on him by these regulations may call for and examine any documents in the possession of a local authority or voluntary organisation which he considers necessary to enable him properly to exercise that power. [3817]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations provide for the exercise by officers of the Minister of Health, authorised for the purpose, of powers of entry into and inspection of premises in which accommodation is provided under Part III of the National Assistance Act, 1948, *and powers of inspecting arrangements made by or on behalf of local authorities for the welfare of blind, deaf, dumb, crippled and other handicapped persons, or made by voluntary organisations for providing old people with recreation or meals.*

CHARITIES FOR DISABLED PERSONS REGULATIONS, 1948

S.I. 1948 *No.* 1455

June 22, 1948

General note.—The Minister of Health's approval of these regulations was subscribed thereto on June 29, 1948.

Whereas by section 29 (1) of the National Assistance Act, 1948, it is enacted that a local authority shall have power to make arrangements for promoting the welfare of persons to whom that section applies, that is to say persons who are blind, deaf or dumb, and other persons who are substantially and permanently handicapped by illness, injury, or congenital deformity or such other disabilities as may be prescribed by the Minister of Health.

And Whereas by section 41 of the said Act it is enacted :

(1) The War Charities Act, 1940, shall, subject to the provisions of this section, have effect as if throughout that Act references to a war charity included references to any charity for disabled persons, that is to say, any fund, institution, association or undertaking, whether established before or after the passing of this Act, having for its sole or principal object or among its principal objects the promotion of the welfare of persons to whom section 29 of this Act applies.

(2) In the application of the said Act of 1940 to charities for disabled persons, the provisions of that Act shall have effect subject to the following provisions of this subsection :—

(*a*) the registration authorities shall be the councils of counties, county boroughs and large burghs ;

(*b*) in relation to charities not being war charities as defined in the said Act of 1940 as originally enacted, subsection (3) of section one of that Act shall be amended by the substitution for the reference to the passing of that Act of a reference to the coming into operation of this section ;

(*c*) notwithstanding anything in subsection (1) of section two of the said Act of 1940, the registration authority may refuse to register a charity if they are satisfied that its objects are adequately attained by a charity registered in accordance with this section ;

(*d*) regulations made by the Charity Commissioners under section four of the said Act of 1940 shall be subject to the approval of the Minister of Health instead of the Secretary of State ;

(*e*) paragraph (*e*) of subsection (1) of the said section four shall have effect as if the words " under this Act " there were substituted the words " in accordance with the National Assistance Act, 1948 ".

(3) Regulations made under section four of the said Act of 1940 shall provide, in the case of a charity for disabled persons which immediately before the coming into operation of this section was registered under the Blind Persons Act, 1920, or the War Charities Act, 1940, for the registration to have effect as registration in accordance with this section, and shall make such consequential provision as may be necessary for that purpose.

Now therefore the Charity Commissioners for England and Wales, in exercise of their powers in this behalf and with the approval of the Minister of Health as hereinafter signified, do hereby make the following Regulations :—

1. Subject as hereinafter provided the War Charities Regulations, 1940 (which are hereinafter referred to as the 1940 Regulations) shall have effect

as if throughout those regulations references to a war charity included references to a charity for disabled persons as defined in section 41 (1) of the National Assistance Act, 1948, and as if in respect of a charity for disabled persons the expression "registration authority" meant the registration authority laid down in section 41 (2) (*a*) of the said Act of 1948 (who are hereinafter referred to as the appropriate authority). [3818]

2. Any charity for disabled persons registered at the passing of the said Act of 1948 under the Blind Persons Act, 1920, or the War Charities Act, 1940, shall be deemed to be registered in accordance with the said Act of 1948 by the appropriate authority and the arrangements set forth below shall be carried out:

(i) If the registration authority under the said Acts of 1920 or 1940 are the appropriate authority, they shall transcribe into the register kept by them under the said Act of 1940 the existing particulars of registration and mark the register sheet "Charity for Disabled Persons" or, if the said particulars are already entered in the said register, mark the existing register sheet "Charity for Disabled Persons". In either case the appropriate authority shall send to the Charity Commissioners a duplicate register sheet similarly marked.

(ii) If the registration authority under the said Acts of 1920 or 1940 are not the appropriate authority, they shall transmit to the appropriate authority the existing particulars of registration of the charity and shall enter a note accordingly in the register kept by them under the said Act of 1920 or the said Act of 1940 as the case may be. The appropriate authority shall enter the particulars in the register kept by them under the said Act of 1940, mark the register sheet "Charity for Disabled Persons" and send to the Charity Commissioners a duplicate register sheet similarly marked. The appropriate authority shall notify that the charity has been registered to the registration authority under the said Acts of 1920 or 1940 who shall then deliver to the appropriate authority all books, papers, accounts and other records in their possession relating exclusively to the charity.

(iii) The appropriate authority shall issue to the committee of the charity a fresh certificate of registration in the form prescribed in number 3 of these regulations for which no fee shall be payable. The committee shall surrender to the appropriate authority the original certificate of registration. [3819]

3. Certificates of registration of charities for disabled persons shall be in the form set forth in the fourth schedule to the 1940 Regulations, save that after the heading "War Charities Act, 1940" shall be added the heading "National Assistance Act, 1948" and save that for the words "Registered under the above-mentioned Act" shall be substituted the words "Registered in accordance with the National Assistance Act, 1948". [3820]

4. When application is made for the registration of a charity for disabled persons the statement of intention to apply for registration required to be inserted in newspapers shall be in the form set forth in the third schedule to the 1940 Regulations, save that after the heading "War Charities Act, 1940" shall be added the heading "National Assistance Act, 1948" and save that for the words "registration under the above-mentioned Act" shall be substituted the words "registration in accordance with the National Assistance Act, 1948". [3821]

5. When an appeal is made to the public or an attempt is made to raise money for a charity for the disabled number 27 of the 1940 Regulations

shall have effect, save that for the words " Registered under the War Charities Act, 1940 " shall be substituted the words " Registered in accordance with the National Assistance Act, 1948 ". [3822]

6. Application may be made to the Charity Commissioners to determine whether a fund, institution, association or undertaking is a charity for disabled persons by anyone mentioned in number 30 of the 1940 Regulations. [3823]

7. These regulations may be cited as the Charities for Disabled Persons Regulations, 1948, and shall come into force on the 5th July, 1948. [3824]

8. These regulations shall not extend to Scotland. [3825]

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NATIONAL ASSISTANCE (COMPENSATION) REGULATIONS, 1948

S.I. 1948 *No.* 1457

June 30, 1948

The Minister of Health in exercise of the powers conferred on him by section 60 of the National Assistance Act, 1948, hereby makes the following regulations :—

PART I

Citation and Interpretation

1. These regulations may be cited as the National Assistance (Compensation) Regulations, 1948, and shall come into operation on the fifth day of July, 1948. [3826]

2. In these regulations, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

" accrued pension ", in relation to a pensionable officer who has suffered loss of employment, means

(*a*) if the pension scheme to which the officer was last subject before losing his employment provided benefits in which he had no right to participate but had reasonable expectations of participating, such proportion of the benefit of which he had reasonable expectations as the compensating authority considers equitable, having regard to his age, the length of his employment at the date of loss and all the other circumstances of the case ; and

(*b*) in any other case the pension to which he would have become entitled in respect of his pensionable service according to the method of calculation, as modified by paragraph 17 of the schedule to these regulations, prescribed by the pension scheme to which he was last subject before losing his employment, if at the date on which he ceased to be subject thereto he had attained normal retiring age and complied with any requirement of the said scheme as to a minimum period of qualifying service or contribution,

and includes the annual value as ascertained by an actuary of any contingent right under the scheme in respect of widow's pension or any other benefit which might have become payable to his widow or to his legal personal representatives on his death had he not lost his employment, but does not include any part of such pension as aforesaid which

is attributable to any remuneration enjoyed, whether before or after the prescribed date, in consequence of an increase between the 30th day of October, 1947, and the prescribed date in the remuneration of any employment, if it can be shown that the increased remuneration was not granted in the ordinary course of that employment or in consideration of the person's assumption of increased responsibilities or new duties in connexion with the discharge of the existing functions of the body employing him ;

" accrued incapacity pension " has the same meaning as " accrued pension " except that the reference to a person's having attained normal retiring age shall be construed as a reference to his having become incapable of discharging efficiently the duties of his employment by reason of permanent ill-health or infirmity of mind or body ;

" accrued retiring allowance ", in relation to a pensionable officer who has suffered loss of employment, means any lump sum payment to which he would have become entitled in respect of his pensionable service according to the method of calculation, as modified by paragraph 17 of the schedule to these regulations, prescribed by the pension scheme to which he was last subject before losing his employment, if at the date on which he ceased to be subject thereto he had attained normal retiring age and complied with any requirement of the said scheme as to a minimum period of qualifying service ;

" the Act " means the National Assistance Act, 1948 ;

" the Acts " means the National Insurance Acts, 1946, the National Health Service Act, 1946, and the Act ;

" actuary " means a Fellow of the Institute of Actuaries or of the Faculty of Actuaries in Scotland ;

" compensating authority ", in relation to a person who has suffered loss of employment or diminution of the emoluments of his employment, means the county or county borough council by whom he was or is employed, as the case may be, or if he was or is not employed by such a council, the county or county borough council in whose area he was or is mainly employed or, if he was employed by a joint vagrancy committee, such one of its constituent authorities as may be agreed between them, or, in default of agreement, as may be determined by the Minister ;

" emoluments " means all salary, wages, fees and other payments paid or made to an officer as such for his own use, and includes the money value of any apartments, rations or other allowances in kind appertaining to his employment, but does not include payments for overtime or any allowances payable to him to cover the cost of providing office accommodation or clerical or other assistance, or any travelling or subsistence allowance or other moneys to be spent, or to cover expenses incurred by him, for the purposes of his employment, and also does not include any remuneration enjoyed, whether before or after the prescribed date, in consequence of an increase between the 30th day of October, 1947, and the prescribed date in the remuneration of any employment, if it can be shown that the increased remuneration was not granted in the ordinary course of that employment or in consideration of the person's assumption of increased responsibilities or new duties in connexion with the discharge of the existing functions of the body employing him ;

" existing officer " means a person who immediately before the prescribed date—

(*a*) devoted the whole of his time, and had so devoted it for a period of not less than eight years before the prescribed date after attaining the age of eighteen years without a break of more than

twelve months at any one time to employment under the Crown or in the local government service in Great Britain, or to employment by any authority or body functions of which cease or are transferred in consequence of any of the Acts or the National Health Service (Scotland) Act, 1947, or to employment under an officer engaged in any such employment as aforesaid for the purposes of the functions of the employing authority or body or to any combination of such employments, or partly to any such employment or combination of employments as aforesaid and partly to employment as a superintendent registrar or registrar of births and deaths, a registrar of marriages or a person designated by a local authority to act as a deputy superintendent registrar or registrar of births and deaths; and

(*b*) was employed for at least part of his time in England or Wales for the purposes of functions which cease, or are transferred from the employing authority or body, in consequence of any of the Acts, not being of person to whom section 60 (2) of the Act applies;

" national service " means war service within the meaning of the Local Government Staffs (War Service) Act, 1939, and employment for war purposes within the meaning of the Superannuation Schemes (War Service) Act, 1940;

" net emoluments ", in relation to an officer who suffers loss of employment or diminution of emoluments, means the annual rate of his emoluments immediately before such loss or diminution, after deducting therefrom the like percentage thereof as the percentage of his emoluments which he was then liable to contribute under any pension scheme associated with his employment:

Provided that—

(*a*) if, for the purposes of the foregoing definition, account is required to be taken of any fees payable to a person as part of his emoluments, the amount thereof shall be taken to be the annual average of the fees paid to him during the three years immediately preceding the loss of employment or diminution of emoluments, or, if the fees were payable in respect of a shorter period, such shorter period; and

(*b*) any amount by which the annual rate of his emoluments exceeds £4,000 shall be disregarded; and

(*c*) if the officer was not a pensionable officer, no deduction shall be made on account of pension contributions,

" normal retiring age " means, in relation to an officer in whose case an age of compulsory retirement applied by virtue of any pension scheme associated with the employment he has lost or the emoluments of which have been diminished or by virtue of the conditions of that employment, that age, and, in any other case, the age of sixty-five years if the officer is a male, or sixty years if the officer is a female;

" office " means any place, situation or employment, and the expression " officer " shall be construed accordingly;

" pensionable officer ", in relation to an officer who has suffered loss of employment, means an officer who immediately before the prescribed date was subject to a pension scheme;

" pension scheme " means a scheme for the payment of superannuation benefits to a person as part of the terms and conditions of any employment held by him;

" prescribed date " means the fifth day of July, 1948;

" service " in relation to a person means any period of whole-time or part-time employment in Great Britain, after attaining the age of

eighteen years, under the Crown or in the local government service, or under any authority or body functions of which cease or are transferred in consequence of any of the Acts or the National Health Service (Scotland) Act, 1947, or under an officer engaged in any such employment as aforesaid for the purposes of the functions of the employing authority or body, or as a superintendent registrar or registrar of births and deaths, a registrar of marriages, or a person designated by a local authority to act as a deputy superintendent registrar or deputy registrar of births and deaths, and includes any period of national service undertaken on the person's ceasing to hold any such employment as aforesaid, but does not include employment of which account has been taken, or is required to be taken, in calculating the amount of any superannuaton benefits to which the person has become entitled ;

" tribunal " means such referee or board of referees appointed by the Minister of Labour and National Service, after consultation with the Lord Chancellor, or has jurisdiction in respect of the district in which a claimant for compensation is or was last employed. [3827]

3. The Interpretation Act, 1889, shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [3828]

PART II

Compensation of Officers who suffer loss of Employment or Diminution of Emoluments which is attributable to the passing of any of the Acts

4. Subject to the provisions of the next succeeding regulation, every person who was an existing officer and who suffers loss of employment or diminution of emoluments which is attributable to the passing of any of the Acts shall, in so far as provision is not made in that behalf by or under any enactment other than the Act, be entitled to have his case considered for the receipt of compensation under these regulations, such compensation to be determined in accordance with the provisions of the schedule hereto :

Provided that a person shall not be entitled to compensation for loss of employment at or for the purposes of a medical or dental school for which a new governing body is constituted under Part II of the National Health Service Act, 1946, or for the diminution of the emoluments of any such employment. [3829]

5. Nothing in the last preceding regulation shall entitle a person to have his case considered for compensation unless—

(*a*) the cause of the claim to compensation arises not later than ten years after the prescribed date, and the claim is made not later than two years after the date on which the cause of claim arises ; and

(*b*) (i) his office is abolished and he is not offered a reasonably comparable office under the Crown or in the local government service or under any body constituted under any of the Acts ; or

(ii) his appointment is determined because his services are not required or because his duties are diminished (no misconduct being established) ; or

(iii) his emoluments are diminished :

Provided that for the purposes of this regulation a person shall not be deemed to have been offered an office which is not reasonably comparable with an office which is abolished by reason only of the fact that the duties of the office offered are duties in relation to the administration of a different service from that in connexion with which his office was held or are duties which involve a transfer of his employment from one place to another within England or Wales. [3830]

6. If a person who has claimed compensation under these regulations is aggrieved by the refusal of the compensating authority to accept his claim or by their failure to come to a decision on his claim within three months after the date on which it was received by them, or by a decision that no compensation should be paid to him or by the amount of compensation awarded, he may, within three months after the refusal or failure or after the date on which he received notice of the decision, as the case may be, refer the matter to the tribunal, and the tribunal shall consider any matter so referred in accordance with the provisions of these regulations and determine accordingly whether any, and if so what, compensation ought to be awarded to the claimant, and the compensating authority shall give effect to the decision of the tribunal. [3831]

7.—(1) Any compensation to which an officer becomes entitled under these regulations shall be paid by the compensating authority and shall be payable to, or in trust for, the person who is entitled to receive it, and shall not be assignable.

(2) Any sum payable as compensation to a person under these regulations shall be recoverable as a debt due from the compensating authority.

(3) Where the compensating authority is a constituent authority of a joint vagrancy committee, the other constituent authorities shall contribute towards the payment of any compensation payable by the first mentioned authority in such proportions as may be agreed between the constituent authorities or, in default of agreement, as may be determined by the Minister. [3832]

PART III

Officers on National Service on the Prescribed Date

8. Any person (hereinafter referred to as an "officer on national service") who is engaged in national service immediately before the prescribed date and who, if he had continued to be employed until the prescribed date in the capacity in which he was employed before becoming engaged in national service, would have been an existing officer, shall be deemed to be an existing officer within the meaning of these regulations, and if at the date on which he ceased to be so employed he was subject to a pension scheme, and his national service or any part thereof would be reckonable for the purposes of that scheme if he again became subject thereto on the termination of his national service, he shall also be deemed to be a pensionable officer within the meaning of these regulations. [3833]

9. Subject to the provisions of the next succeeding regulation, if an officer on national service ceases to be engaged in national service and in consequence of the passing of any of the Acts—

(*a*) is not given or offered by his former employer re-employment in his former office, or in any reasonably comparable office; or

(*b*) is so re-employed with reduced emoluments,

he shall be deemed for the purposes of these regulations, in the former case, to have suffered loss of employment which is attributable to the passing of that Act owing to the abolition of his office at the date of the refusal to re-employ him or employ him as aforesaid, and, in the latter case, to have suffered diminution of emoluments which is attributable to the passing of that Act. [3834]

10. No person shall, by virtue of the last preceding regulation, be entitled to have his case considered for compensation for any loss suffered by him by reason of his not being re-employed as therein mentioned unless within a period of two months after the date on which he ceased to be engaged in national service he gives notice in writing that he is available for employment

to the authority or body by whom he was employed before becoming engaged in national service or, if that authority or body ceases to exist by virtue of any of the Acts, to the compensating authority in relation to officers of the first mentioned authority or body :

Provided that if the person is prevented from giving notice within the said period by his sickness or other reasonable cause, the notice may be given as soon as reasonably may be after the expiration of that period. [3835]

11. For the purpose of ascertaining the net emoluments of a person to whom regulation 9 applies such person shall be deemed to have continued to follow his former employment until the cause of claim arose and to have been entitled to the emoluments thereof. [3836]

12. In relation to a pensionable officer to whom sub-paragraph (*a*) of regulation 9 applies, the expression " accrued pension " means the pension to which he would have become entitled according to the method of calculation, as modified by paragraph 17 of the schedule to these regulations, prescribed by the pension scheme to which he was subject before becoming engaged in national service, if at the date on which he ceased to be engaged in national service he had been serving in his civil capacity and had attained normal retiring age, having complied with any requirement of the said pension scheme as to a minimum period of qualifying service. [3837]

SCHEDULE

DETERMINATION OF COMPENSATION

I. *General*

1. A person desiring to make a claim for compensation under these regulations shall make his claim in a form approved by the Minister for the purpose, and shall deliver his claim to the compensating authority. The claim shall be accompanied by a statutory declaration as to the truth of the statements contained therein.

2.—(1) A claimant, if so required by the compensating authority, by notice sent through the clerk of the authority, shall attend at a meeting of the authority, or of any committee appointed by the authority for the purpose, and answer all questions asked by any member of the authority or committee touching the matters set forth in his claim, and shall further produce all books, papers and documents in his possession or under his control relating to the claim.

(2) A claimant required to attend at a meeting pursuant to the preceding sub-paragraph may further be required to make a statutory declaration as to the truth of any of the answers given by him to questions asked on the occasion of such attendance touching the matters set forth in his claim.

(3) Such a claimant as aforesaid may be accompanied by a representative who shall be entitled to address the authority or committee before whom the claimant is required to attend touching the matters set forth in his claim.

II. *Compensation for Loss of Employment*

3. On receipt of a claim for compensation in respect of loss of employment, the compensating authority shall consider forthwith whether the claimant satisfies the conditions of eligibility for the payment of compensation set out in regulations 4 and 5 and if they are satisfied that these conditions are not fulfilled, shall reject the claim and advise the claimant in writing accordingly within one month after the receipt of the claim.

A. *Interim payments of Compensation*

4. If the compensating authority accept the claim, then, unless they are satisfied that the claimant has substantially made good his loss by virtue of having obtained other employment, they shall forthwith commence to make interim payments of compensation to the claimant subject to and in accordance with the provisions of the next succeeding paragraph, and shall continue to make such payments until, in accordance with paragraph 6 of this schedule, they decide whether any further compensation is payable to him under these regulations.

5.—(1) Interim compensation shall be payable as from the date of claim, and shall be at a rate not exceeding two-thirds of the net emoluments of the employment which the claimant has lost, less two-thirds of any unemployment benefit to which the claimant may be entitled, and less any sum to which the claimant may be entitled by way of compensation under the Re-instatement in Civil Employment Act, 1944.

(2) In determining the amount of interim compensation, the compensating authority shall have regard to any payments to which the claimant becomes entitled in consequence of the loss of his employment under any contract or arrangement with the authority or body by whom he was employed (other than payments by way of a return of contributions under a pension scheme).

(3) The payments shall be made at intervals equivalent to those at which the said emoluments were previously payable, and the payments shall be reduced or terminated if the claimant obtains other employment or the compensating authority are satisfied that he is not actively seeking employment or has unreasonably refused suitable employment which has been offered to him.

(4) If the claimant obtains other employment, he shall immediately notify the compensating authority in writing accordingly.

(5) The compensating authority may require, as a condition of making or continuing to make interim payments, that the claimant should be registered for employment at an Employment Exchange or the Appointments Department of the Ministry of Labour and National Service, at the option of the claimant.

B. *Assessment of Compensation*

6. Having determined the amount of the interim payments (if any) to be made under the preceding provisions of this schedule to a claimant whose claim has been accepted, the compensating authority shall, within a period of three months after the date of receipt of the claim, assess the just amount (if any) of the compensation payable under the succeeding provisions of this schedule, and shall forthwith notify the claimant in writing of their decision.

7.—(1) The compensating authority shall, within a period of two years after the date on which any decision is notified to a claimant under paragraph 6 of this schedule, or if the claimant has referred any such decision to the tribunal under regulation 6, within a period of two years after the date of the decision of the tribunal, review their decision or the decision of the tribunal, as the case may be, at intervals of not more than six months, and on any review the compensating authority may, in the light of any material change in the circumstances of the case, award compensation or increase or reduce the amount of any compensation awarded.

(2) If the claimant obtains other employment within the said period of two years, he shall immediately notify the compensating authority in writing accordingly.

(3) A claimant to whom a decision under paragraph 6 of this schedule has been notified may, within the like period as is mentioned in sub-paragraph (1) of this paragraph, require the compensating authority to review their decision or the decision of the tribunal, as the case may be, if he considers that there has been a material change in the circumstances of his case.

(4) The compensating authority shall forthwith notify the claimant in writing of their decision on any review under the preceding provisions of this paragraph, and if the claimant is aggrieved by such decision he may refer the matter to the tribunal within three months after the date on which he receives notice of the decision, and the tribunal shall determine any matter so referred, and the compensating authority shall give effect to the determination of the tribunal.

Compensation payable, subject to earlier cesser in certain cases, until normal retiring age

8. For the purpose of determining whether any compensation, apart from any interim compensation paid under paragraphs 4 and 5 of this schedule, is payable to any person for loss of employment, and if so the amount of the compensation to be paid, subject to the provisions of paragraph 11 of this schedule, until normal retiring age, the compensating authority shall have regard to—

(*a*) the conditions upon which his appointment was made;

(*b*) the nature of his office ;
(*c*) the extent to which he has sought suitable alternative employment ; and
(*d*) all the other circumstances of his case :

Provided that no compensation shall be payable to such a claimant as is mentioned in proviso (i) to sub-paragraph (2) of the next succeeding paragraph if the security of tenure of the work or employment undertaken, obtained or offered as therein mentioned is substantially similar to that of the employment lost and the amount of the annual rate of the emoluments of the employment lost does not exceed the amount of the annual rate of the emoluments of the work or employment undertaken, obtained or offered as aforesaid by more than five per cent. of the first mentioned amount.

9.—(1) Compensation for loss of employment shall be an annual sum, calculated in accordance with the provisions of sub-paragraph (2) of this paragraph, and shall be payable, subject to the provisions of paragraph 11 of this schedule, until normal retiring age, as from the date of loss, if the claim was made within three months thereafter, and in any other case, as from the date on which the claim was made or from such earlier date not being more than three months before the date on which the claim was made, as the compensating authority may in their discretion allow.

(2) The said annual sum shall, subject as hereinafter provided, be the aggregate of the following sums, namely—

(*a*) for every completed year of the claimant's service, one-sixtieth of the net emoluments of the employment he has lost ; and
(*b*) in the case of a claimant over the age of forty-five years at the date of loss, a further one-sixtieth of the said net emoluments for every completed year of service since he attained the age of forty-five :

Provided that—

(i) where the claimant has undertaken or obtained other work or employment in place of the employment he has lost or has been offered other suitable employment, the said annual sum shall be calculated by reference only to the amount (if any) by which the annual rate of the emoluments of the employment he has lost exceeds the annual rate of the emoluments of the work or employment undertaken, obtained or offered to him as aforesaid ;
(ii) if the said annual sum is required to be calculated in accordance with proviso (i) to this sub-paragraph, it shall be reduced or increased by such amount (if any) as the compensating authority think fit, having regard to the relative security of tenure of the employment lost and the work or employment undertaken, obtained or offered as aforesaid, so however, that the said annual sum shall not by virtue of any such increase as aforesaid be greater than if it were calculated without reference to proviso (i) and this proviso ;
(iii) the said annual sum shall be reduced by such an amount (if any) as the compensating authority think fit having regard to the matters to which they are required to have regard by the last preceding paragraph and to any compensation payable to the claimant under the Re-instatement in Civil Employment Act, 1944, or under or in pursuance of any other enactment ; and
(iv) the said annual sum shall in no case exceed two-thirds of the net emoluments of the employment which the claimant has lost.

10. There shall be deducted from any payments made under paragraph 9 of this schedule in respect of any period in respect of which interim payments have been made under paragraphs 4 and 5 the amount of such payments, so far as they do not exceed the payments due under paragraph 9 in respect of that period.

Compensation payable to pensionable officer on his becoming incapacitated or reaching pensionable age

11.—(1) If the claimant was a pensionable officer, and before attaining normal retiring age—

(*a*) he becomes incapacitated in circumstances in which if he had continued in the employment he has lost he would have become entitled to a pension

under the pension scheme to which he was last subject before losing his employment ; or

(*b*) he attains an age at which had he continued to serve in the employment he has lost he would have become entitled to retire with a pension on the ground of having attained that age and completed a prescribed period of service,

and compensation is not then payable to him under these regulations, or compensation by way of annual sum equal to the amount of his accrued incapacity pension or his accrued pension, as the case may be, together with the annual value of his accrued retiring allowance (if any), would be greater than the annual amount of any compensation to which he may then be entitled under these regulations, he shall be entitled, if he so requests at any time thereafter by notice in writing to the compensating authority, as from the date on which the compensating authority receive such notice, in lieu of any compensation to which he would otherwise be entitled under these regulations—

(i) in the case mentioned in head (*a*) of this sub-paragraph, to an annual sum equal to the amount of his accrued incapacity pension, and a lump sum equal to the amount of his accrued retiring allowance (if any) ; and

(ii) in the case mentioned in head (*b*) of this sub-paragraph, to an annual sum equal to the amount of his accrued pension and a lump sum equal to the amount of his accrued retiring allowance (if any) :

Provided that if in calculating the amount of compensation payable to a person who has given such notice as aforesaid, the compensating authority, by virtue of paragraph 19 of this schedule, have credited him with additional years of service or contributions, no account shall be taken for the purpose of the foregoing provision of any number of such additional years beyond the number of years which he could have served, had he not lost his employment, before the date on which such notice as aforesaid was received by the compensating authority.

(2) On receipt of a notice under the last preceding sub-paragraph, the compensating authority shall consider forthwith whether the person giving the notice is a person to whom that sub-paragraph applies, and within three months after the date of the receipt of the notice—

(*a*) if they are satisfied that he is not such a person, they shall notify him in writing accordingly ; and

(*b*) if they accept the notice, they shall assess the amount of compensation payable to the person, and notify him in writing accordingly,

and any such notification shall, for the purposes of these regulations, be deemed to be a notification by the authority of a decision on a claim to compensation.

(3) A compensating authority may require any such person as is mentioned in head (*a*) of sub-paragraph (1) of this paragraph, who gives a notice under that sub-paragraph, to submit himself to a medical examination by a registered medical practitioner selected by that authority, and, if they do so, they shall also offer the person an opportunity of submitting a report from his own medical adviser as a result of an examination by him, and the authority shall take that report into consideration, together with the report of the medical practitioner selected by them.

Compensation payable to a pensionable officer on attainment of normal retiring age

12. Subject as hereinafter provided, the compensation payable to a claimant who was a pensionable officer (not being a person to whom paragraph 11 has been applied) on his attaining normal retiring age shall be—

(*a*) an annual sum equal to the amount of his accrued pension ; and

(*b*) a lump sum equal to the amount of his accrued retiring allowance (if any).

Supplementary provisions as to compensation payable to pensionable officer

13.—(1) Where a claimant, after suffering loss of employment, enters employment in which he participates in the benefits of the pension scheme associated with the employment he has lost, or becomes entitled to participate in any other pension scheme, in circumstances in which he is entitled to reckon for the purposes

thereof service which falls to be taken into account for the purpose of assessing compensation under paragraph 11 or 12 of this schedule, no compensation under either of those paragraphs shall be payable unless the amount of the annual rate of the emoluments of the employment he has lost exceeds the amount of the annual rate of the emoluments to which he becomes entitled on entering such employment as aforesaid by more than five per cent. of the first-mentioned amount, and any compensation payable thereunder shall be calculated by reference only to the amount of the difference.

(2) If a claimant has unreasonably refused a suitable offer of such employment as is mentioned in the preceding sub-paragraph, he shall be deemed for the purposes of that sub-paragraph to have entered the employment so offered to him.

14.—(1) If the claimant was a person in respect of whose service a widow's pension might have become payable under the pension scheme to which he was last subject before losing his employment, then, if he so desires and informs the compensating authority by notice in writing accordingly when making his claim, he may surrender so much of any annual sum which may become payable to him as compensation under paragraph 11 or 12 of this schedule as represents the annual value of the contingent right in respect of widow's pension, in consideration of the payment by the compensating authority to the person who as his widow might have become entitled to such widow's pension as aforesaid in the event of her surviving him—

(*a*) if he dies before attaining normal retiring age, and without having given a notice pursuant to the provisions of paragraph 11 of this schedule, of an annual sum equal to the amount of the pension to which she would have become entitled had he, immediately before he died, become entitled to a pension under the pension scheme on grounds of ill-health of an amount equal to the amount of his accrued incapacity pension, less the part thereof surrendered under the provisions of this paragraph and any part thereof surrendered under the provisions of paragraph 16; and

(*b*) if he dies on or after attaining normal retiring age, or after giving a notice pursuant to the provisions of paragraph 11 of this schedule, of an annual sum equal to the amount of the pension to which she would have become entitled in accordance with the method of calculation prescribed by the pension scheme had he, at the date on which he attained normal retiring age, or gave the said notice, become entitled to a pension under the pension scheme of an amount equal to the amount of his accrued pension or accrued incapacity pension, as the case may be, less the part thereof surrendered under the provisions of this paragraph and any part thereof surrendered under the provisions of paragraph 16.

(2) In the calculation of the amount of the annual sum payable to a widow under the preceding sub-paragraph, account shall be taken of any additional years of service or additional contributions credited to the claimant under paragraph 19 of this schedule:

Provided that no account shall be taken of any number of such additional years of service or contributions beyond the number of years which the claimant could have served before his death had he not lost his employment.

(3) Any sum payable to a widow under this paragraph shall cease to be payable or shall be suspended in any circumstances in which a widow's pension under the aforesaid pension scheme would have ceased to be payable or would have been suspended.

15. If under the pension scheme to which he was last subject before losing his employment, the claimant would have been entitled to surrender a proportion of any pension which might have become payable to him in favour of his spouse or any dependent, then, if he so desires and informs the compensating authority by notice in writing accordingly within one month after becoming entitled to compensation under paragraph 11 or 12 of this schedule, he may surrender a proportion of so much of the said compensation as is payable by way of an annual sum on the like terms and conditions and in consideration of the like payments by the compensating authority as if the said annual sum were a pension to which he had become entitled under the said pension scheme.

16.—(1) If the claimant was a person in respect of whose service a death benefit might have become payable to his legal personal representatives under the pension

scheme to which he was last subject before losing his employment, then, if he so desires, and informs the compensating authority by notice in writing accordingly when making his claim, he may surrender so much of any annual sum which may become payable to him as compensation under paragraph 11 or 12 of this schedule as represents the annual value of the contingent right in respect of the said benefit, in consideration of the payment by the compensating authority to his legal personal representatives—

(*a*) if he dies before attaining normal retiring age, and without having given a notice pursuant to the provisions of paragraph 11 of this schedule, of a sum equal to the amount of any death benefit which would have become payable in accordance with the method of calculation, as modified by the next succeeding paragraph, prescribed by the pensions scheme to which he was last subject before losing his employment, and he died immediately before the date on which he lost his employment and complied with any requirement of the said scheme as to a minimum period of qualifying service ; or

(*b*) if he dies on or after attaining normal retiring age or after giving a notice pursuant to the provisions of paragraph 11 of this schedule, of a sum equal to the amount of any such death benefit as aforesaid, less a sum equal to the aggregate amount of any payments made to him by way of compensation under paragraph 11 or 12 of this schedule.

(2) In the calculation of the amount of the sum payable under the preceding sub-paragraph, account shall be taken of any additional years of service or additional contributions credited to the claimant under paragraph 19 of this schedule :

Provided that no account shall be taken of any number of such additional years of service or contributions beyond the number of years which the claimant could have served before his death had he not lost his employment.

17. For the purposes of these regulations—

(*a*) the amount of any accrued pension or accrued incapacity pension, if the number of years of service by reference to which the pension is to be calculated is less than any minimum number of years of qualifying service prescribed by the pension scheme, shall, notwithstanding any minimum benefit prescribed by the pension scheme, not exceed such proportion of such minimum benefit as the number of years of pensionable service bears to the minimum number of years of qualifying service ; and

(*b*) if the amount of any death benefit falls to be ascertained, by virtue of any pension scheme, wholly or partly by reference to the emoluments or average emoluments of a pensionable officer, and the number of years of his pensionable service is less than any minimum number of years of qualifying service prescribed by the pension scheme for the receipt of a death benefit, the said amount shall not exceed such proportion of the emoluments or average emoluments of the officer as the number of years of pensionable service bears to the minimum number of years of qualifying service.

18. If under the pension scheme to which the claimant was last subject before suffering loss of employment the amount of any pension to which he might have become entitled might have been increased at the discretion of the authority administering the pension scheme or of any other body, the compensating authority may increase the compensation payable under paragraph 11 or 12 of this schedule by an annual sum not exceeding the amount by which his accrued incapacity pension or accrued pension might have been increased or the annual value of the payments which might have been made to him by way of addition to or supplementation of his accrued pension.

19. If the claimant had attained the age of forty years at the date on which he lost his employment, the compensating authority in calculating the amount of the compensation payable to him under paragraph 11 or 12 of this schedule may credit him with additional years of service or additional contributions not exceeding one year of service or one year's contributions for each completed year

between the date on which he attained the age of forty years and the date on which he lost his employment, but not in any case exceeding ten years or such number of years as the claimant could have served had he continued in his employment until attaining normal retiring age, whichever is the less.

20. In deciding whether to add any number of years under the last preceding paragraph, the compensating authority shall have regard to the considerations set out in paragraph 8 of this schedule, and also to the claimant's rights under any pension scheme associated with any employment which he may have obtained in place of the employment he has lost.

21.—(1) Compensation shall not be payable or shall cease to be payable under paragraph 11 or 12 of this schedule to a person who has received any sum by way of a return of contributions under the pension scheme to which he was last subject on his ceasing to be subject thereto, unless forthwith on receiving such sum he pays to the compensating authority an amount equivalent thereto, such amount to be held by the compensating authority subject to the condition that if the pension scheme made no provision for death benefit and he dies before he has received in the aggregate by way of compensation under paragraph 11 or 12 of this schedule a sum equal to the amount so paid as aforesaid to the compensating authority, together with compound interest thereon, calculated at the rate of 2½ per cent. per annum, with half-yearly rests, up to the date of his death, as from the first day of April or the first day of October following the half year in which the amount was paid, there shall be paid to his legal personal representatives the difference between the aggregate amount received by way of compensation and the said sum :

Provided that—

(*a*) if a sum becomes payable to his widow on his death under paragraph 14 of this schedule and on her death or re-marriage the sum ceases to be payable, and the aggregate amount of the payments which were made to her or her husband under these regulations is less than a sum equal to the amount so paid to the compensating authority by her husband as aforesaid on account of contributions, after the addition thereto of interest thereon as aforesaid, there shall be paid to her or her legal personal representatives the difference between the aggregate amount of the payments made to her or her husband as aforesaid and the said sum ;

(*b*) this paragraph shall not apply to a person to whom paragraph 13 of this schedule applies, and in the event of a claimant becoming such a person after having made a payment under this paragraph, the amount of the sum so paid shall be returned to him by the compensating authority ; and

(*c*) this paragraph shall not apply to a person who has been an officer on national service to whom regulation 9 applies, and who received a return of contributions before ceasing to be engaged in national service.

(2) A person to whom paragraph 11 or 12 of this schedule may become applicable shall on or before the date on which compensation may become payable to him thereunder be entitled, if he so desires and informs the compensating authority in writing accordingly, to receive from the compensating authority in lieu of any such compensation—

(*a*) if the person has paid any sum to the compensating authority under sub-paragraph (1) of this paragraph, an amount equivalent thereto, together with interest thereon, calculated in the manner provided by the pension scheme as from the date of payment of the said sum ; and

(*b*) if the person has not received a return of contributions under the pension scheme, and if, being entitled to such a return he has relinquished that right, an amount equivalent to the amount of such contributions together with interest thereon, calculated in the manner provided by the pension scheme ;

and any liability of the compensating authority under paragraph 14 or 16 of this schedule shall cease in the event of his giving such notice as aforesaid.

Compensation payable to non-pensionable officer after attainment of normal retiring age

22.—(1) If the claimant was not a pensionable officer, the compensating authority may, on his attaining normal retiring age, if they are satisfied that he would in the normal course have continued in the employment he has lost for a substantial period beyond that age, continue to pay compensation to him for the remainder of his life at half its former rate.

(2) If the claimant was not a pensionable officer and suffers loss of employment on or after attaining normal retiring age, the compensating authority may, if they are satisfied that he would in the normal course have continued in the employment he has lost for a further substantial period, pay compensation to him for the remainder of his life at half the rate to which he would have been entitled under paragraph 9 of this schedule had he not attained normal retiring age at the date on which he lost his employment.

III. *Compensation for diminution of emoluments*

23. On receipt of a claim for compensation for diminution of the emoluments of any employment the compensating authority shall within a period of three months after the date of receipt of the claim decide whether any compensation is payable and, if so, the amount of that compensation, and shall forthwith notify the claimant in writing of their decision.

24. A decision under the last preceding paragraph shall be subject to review in like manner as a decision under paragraph 6 of this schedule :

Provided that—

(*a*) no review shall take place after the date on which the claimant loses that employment, except a review as at that date ; and

(*b*) while the claimant continues to hold that employment, there shall be no limit to the period within which a review may take place.

25. In determining whether compensation is payable and, if so, the amount of that compensation, the compensating authority shall have regard to the conditions upon which the claimant's appointment was made, the nature of his office, and all the other circumstances of the case. No compensation shall be payable where the diminution is less than five per cent. of the net emoluments of the claimant.

26. Compensation for diminution of emoluments shall be an annual sum payable as from the date of loss, if the claim was made within three months thereafter, and in any other case as from the date on which the claim was made, or from such earlier date, not being more than three months before the date on which the claim was made, as the compensating authority may in their discretion allow.

27. Compensation to a person for diminution of the emoluments of any employment shall be payable for the same period or periods as compensation for loss of employment and shall not during any period exceed a sum bearing the same proportion to the maximum amount of compensation which could have been awarded in respect of that period had he lost his employment as the amount by which his net emoluments are diminished bears to their amount before diminution :

Provided that the compensation shall cease if the person voluntarily relinquishes his employment without the consent of his employer otherwise than on reaching pensionable age.

28. A person entitled to compensation for diminution of emoluments shall have the like rights in relation to such compensation as are conferred by paragraphs 14, 15 and 16 upon a person entitled to compensation for loss of employment.

IV. *Miscellaneous*

29. Any dispute as to who are the compensating authority for the purposes of these regulations shall, in default of agreement, be determined by the Minister.

30.—(1) A notification of a decision by a compensating authority to a claimant for compensation under these regulations shall contain a statement directing the attention of the claimant to his right, if he is aggrieved by the decision, to refer

the matter to the tribunal, and giving him the address of the office to which the reference should be sent.

(2) The proceedings on any reference under these regulations to the tribunal shall not be deemed to be an arbitration to which anything in the Arbitration Acts, 1889 to 1934, applies.

(3) On any such reference the tribunal may, if it thinks fit, appoint a person having special knowledge or experience in relation to the subject matter of the reference to sit with the tribunal as an assessor.

31. For the purpose of determining the amount of any compensation payable in respect of the loss of a whole-time office or of any two or more offices which in the aggregate involved the whole-time employment of an officer, any previous period of part-time employment shall be treated as though it were whole-time employment for a proportionately reduced period.

32. For the purpose of making any calculation under these regulations in respect of the service of an officer all periods of his service shall be aggregated, and if the aggregated service includes a fraction of a year, that fraction shall, if it equals or exceeds six months, be treated as a year, and in any other case be disregarded.

33. If in determining the amount of any compensation payable to a person under these regulations account is taken of any employment prior to the first world war and that person was temporarily absent from that employment during that war whilst serving in His Majesty's Forces or the Forces of the Allied or Associated Powers, either compulsorily or with the sanction or permission of the authority in whose employment he was immediately before such temporary absence, such period of temporary absence shall be reckoned as a period of service:

Provided that, in the case of a person who after the 11th day of November, 1918, voluntarily extended his term of service in such Forces, no period of absence during any such extension shall be reckoned.

34.—(1) Where a person to whom compensation is payable under these regulations for loss of employment has become or becomes entitled to a pension in respect of the employment he has lost otherwise than on losing such employment or where a person to whom compensation is payable under these regulations for loss of employment or diminution of emoluments has become or becomes entitled to a pension in respect of any employment the remuneration of which was payable out of public funds and which he had obtained in place of the employment he had lost or in place of or in addition to the employment the emoluments of which were diminished, and in calculating the amount of such pension account is taken of any service which was taken into account in calculating the compensation payable, then, if the compensation does not exceed such part of the pension as is attributable solely to that service, the compensation shall cease to be payable, and if it exceeds such part of the pension as aforesaid, it shall be reduced by an amount equal to that part.

(2) Where a claimant's widow to whom an annual sum is payable under paragraph 14 or 28 of this schedule has become or becomes entitled to a widow's pension in respect of any employment of her husband the remuneration of which was payable out of public funds and which he had obtained in place of the employment he had lost or in place of or in addition to the employment the emoluments of which were diminished, and any part of such widow's pension is attributable to service of her husband of which account was taken in calculating his accrued pension or accrued incapacity pension by reference to which the said annual sum was calculated, then if the said annual sum does not exceed such part of the pension as is attributable solely to that service, the said annual sum shall cease to be payable, and if it exceeds such part of the pension as aforesaid, it shall be reduced by an amount equal to that part.

(3) Where a claimant's legal personal representatives to whom a sum is payable on the claimant's death under paragraph 16 or 28 of this schedule have become entitled to receive a death benefit under a pension scheme associated with any employment of the claimant the remuneration of which was payable out of public funds and which he had obtained in place of the employment he had lost or in place of or in addition to the employment the emoluments of which were diminished, and as one of the factors in the calculation of the amount of such

benefit account fell to be taken of any service which fell to be taken into account as one of the factors in the calculation of the said sum, the said sum shall be reduced by an amount equal to such proportion of the amount of the death benefit as the number of years of the said service bears to the total number of years of service of which account fell to be taken as aforesaid in the calculation of the death benefit.

(4) Where any compensation, annual sum or lump sum is reduced in accordance with the foregoing provisions of this paragraph, such compensation, annual sum or lump sum shall be further reduced by an amount equal to such part thereof (if any) as is attributable to any additional years of service or contributions credited in accordance with paragraph 19 of this schedule and by an amount equal to such part thereof (if any) as is attributable to any minimum benefit prescribed by a pension scheme.

(5) This paragraph shall not apply to or in respect of a person in whose case paragraph 13 of this schedule has been applied, except to the extent to which the amount of the pension, widow's pension or death benefit to which the person, his widow or his legal personal representatives have become or becomes entitled as aforesaid is attributable to annual emoluments of a greater amount than the amount of the annual emoluments to which the person became entitled on entering the employment referred to in that paragraph.

(6) This paragraph shall not apply to or in respect of a person to whom compensation is or was payable for diminution of emoluments and who has become entitled to a pension in respect of employment which he had obtained in place of the employment the emoluments of which were diminished or whose widow has become entitled to a widow's pension or whose legal personal representatives have become entitled to a death benefit in respect of such employment, except to the extent to which the amount of the pension, widow's pension or death benefit is attributable to annual emoluments of a greater amount than the amount of the annual emoluments of the person's former employment after their diminution.

35.—(1) If a person receiving compensation for loss of employment obtains other employment in place of the employment he has lost and the remuneration thereof is payable out of public funds, he shall not, so long as he holds that employment, be entitled to receive any greater sum by way of compensation in respect of such loss than would make up the amount (if any) by which the net emoluments of that employment fall short of the net emoluments of the employment he has lost.

(2) If a person receiving compensation for diminution of the emoluments of any employment loses that employment in circumstances in which he does not become entitled to compensation in respect of that loss and thereupon or thereafter he obtains in place of that employment other employment the remuneration of which is payable out of public funds, he shall not, so long as he holds that employment, be entitled to receive any greater sum by way of compensation than would make up the amount (if any) by which the net emoluments of that employment fall short of the net emoluments of the former employment before diminution.

36.—(1) If a person becomes subject to the provisions of either of the two last preceding paragraphs he shall immediately notify the compensating authority in writing accordingly.

(2) A person who has become subject to the provisions of the last preceding paragraph shall also notify the compensating authority in writing of any increase in the remuneration of the employment he has obtained in place of the employment he lost.

37.—(1) Notwithstanding the preceding provisions of this schedule, if the annual sum which has been or might be awarded under those provisions does not exceed twenty-six pounds, the compensating authority may at their discretion discharge their liability in respect thereof by the payment of a lump sum representing the capital value of the annual sum, and if any lump sum has been or might be awarded in addition to such annual sum under the provisions of paragraph 12 of this schedule, the compensating authority may likewise discharge their liability in respect thereof by an immediate lump sum payment.

(2) If the annual sum which has been or might be so awarded exceeds twenty-six pounds, and the claimant is not entitled to any lump sum in respect of accrued

retiring allowance under these regulations, the compensating authority, if so requested by the claimant, may discharge their liability in respect of one quarter thereof by the payment of a lump sum representing the capital value of one quarter of the annual sum :

Provided that if the remaining three-quarters thereof does not exceed twenty-six pounds the compensating authority may discharge their liability as aforesaid in respect of the whole of the said sum.

(3) Any lump sum payable under the preceding provisions of this paragraph shall be of such amount as shall be certified by an actuary to be appropriate. [3838]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations provide for the payment of compensation to persons who suffer loss of employment or remuneration which is attributable to the passing of the National Insurance Acts, 1946, *the National Health Service Act,* 1946, *or the National Assistance Act,* 1948, *in so far as provision is not made by or under any other enactment.*

To be eligible for compensation the claimant must have had eight years' full-time service in central or local government or with some authority or body the functions of which cease or are transferred in consequence of any of the Acts mentioned, and to have been employed immediately before the 5th July, 1948, *by an authority or body whose functions are so affected (see definition of " existing officer " in regulation* 2). *If he has not refused a reasonably comparable post (regulation* 5) *he can receive an interim award of compensation of two-thirds of his net emoluments payable for a period of up to three months whilst his award is assessed but subject to reduction if he gets other employment or unemployment insurance benefit or if he fails to look for or take other suitable employment (paragraphs* 4 *and* 5 *of the Schedule). Compensation will be payable to him up to normal retiring age and will be an annual sum based on a percentage of his net emoluments and the length of his service (paragraph* 9). *The amount may be adjusted by reference to the factors mentioned in paragraphs* 8 *and* 9 *(e.g. any other emoluments which have or could have been obtained), and will be subject to review for a period of two years. If pensionable in his old employment, the claimant, on reaching retiring age or otherwise becoming qualified will be entitled to a payment equivalent to his accrued pension rights. In the assessment of this payment, account will be taken of any rights in respect of incapacity pension, widow's pension, or death benefit that may have been provided for by the pension scheme (paragraphs* 11, 12, 14, 15 *and* 16). *These rights may be increased in the case of an officer over* 40 *on displacement to take account of his loss of opportunity to earn more pension (paragraph* 19). *If he was not pensionable, compensation will cease on his reaching normal retiring age, unless it is clear that he would have been allowed to continue in his employment for a substantial period after that age, in which case compensation will be paid to him for the rest of his life at half the previous rate (paragraph* 22). *Overlap with pension or remuneration from public funds is avoided (paragraphs* 13, 34 *and* 35). *A claimant who is aggrieved by a decision of a compensating authority may appeal to referees appointed by the Minister of Labour and National Service, after consultation with the Lord Chancellor (regulation* 6).

Circular 88/48

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.
2nd June, 1948.

To Vagrancy Committees (England and Wales)
County Councils
County Borough Councils } *For information*

SIR,

NATIONAL ASSISTANCE ACT, 1948

Winding-up of Joint Vagrancy Committees

I am directed by the Minister of Health to draw your attention to paragraphs 12 and 13 of the Sixth Schedule to the National Assistance Act, 1948, which has now received the Royal Assent, and is to be brought into operation on the 5th July, 1948.

As from that date the Orders made under Section 3 of the Poor Law Act, 1930, establishing joint vagrancy committees will cease to have effect. Paragraph 12 of the Sixth Schedule to the Act of 1948 provides that any property, right or liability which, immediately before the appointed day, was vested in such a committee shall on the appointed day vest jointly in the councils which were combined for the purposes of the order. Paragraph 13 of the Sixth Schedule provides that Section 151 of the Local Government Act, 1933, shall apply to local authorities affected by this provision as it applies to the adjustment of property and liabilities between public bodies affected by an alteration of areas or authorities made by an order under Part VI of that Act. Thus the arrangements for winding up the joint committee will fall to be made on financial and other terms to be agreed by the constituent authorities or, as Section 151 of the Act of 1933 provides, to be settled by arbitration.

The Minister understands that some joint committees have already met and discussed how best to wind up their affairs, and he suggests that where this has not been done, the Committee should meet for the purpose at an early date.

The Committee will no doubt appoint one of their officers, with suitable remuneration, to be responsible for collecting any debts and settling any liabilities outstanding on 5th July, 1948, and—subject to the limitations imposed by Section 151 of the Act of 1933—for disposing of any balance of assets in accordance with the agreement. The final accounts will, of course, be subject to examination and certification by the District Auditor.

The Minister would like to take this opportunity of expressing his appreciation of the work of joint vagrancy committees in recent years in the promotion of schemes for the reduction of vagrancy throughout the country. He is confident that the experience derived from the committee's work, particularly in the establishment of reception centres in accordance with the arrangements outlined in Circular 136/46 of 28th June, 1946, will be of great value to the Assistance Board when they assume their responsibilities under the new Act.

Any correspondence from Welsh Authorities regarding this Circular should be addressed to the Welsh Board of Health. [3839]

I am, Sir, etc.

* * * * *

The Clerk to the Joint Vagrancy Committee.

PUBLIC HEALTH

CASES :— PAGE

First National Housing Trust, Ltd. v. Chesterfield Rural District Council, [1948] 2 All E. R. 658 - - - - - - - - - - - - 1366

CASES

Public health—Dustbin—Provision—Owner of building required by local authority to provide—House subject to Rent Restrictions Acts—Dustbin originally provided by owner—No contractual obligation to provide—Owner's appeal to justices allowed—Transfer of " burden of liability " from landlord to tenant—Increase of Rent and Mortgage Interest (Restrictions) Act, 1920 (*c.* 17), *s.* 2 (3)—*Public Health Act*, 1936 (*c.* 49), *s.* 75 (1).

By the Public Health Act, 1936, s. 75 (1): " A local authority who, as respects their district or any part thereof, have undertaken the removal of house refuse may by notice require the owner or occupier of any building within the district, or, as the case may be, within that part of the district, to provide such number of covered dustbins for the reception of house refuse of such material, size and construction as the authority may approve. . . . Any person aggrieved by a requirement of the local authority under this subsection may appeal to a court of summary jurisdiction."

The owners of certain houses to which the Rent Restrictions Acts applied provided a dustbin in each house when it was first let, although they were under no contractual obligation to do so. On notices being served by the local authority under the Public Health Act, 1936, s. 75 (1), requiring the owners to replace the dustbins by new ones of specified material, size and construction, the owners appealed to a court of summary jurisdiction under the subsection on the ground that the notices were unreasonable because in the circumstances the occupiers of the premises, and not the owners, should have been required to replace the dustbins. The justices allowed the appeal on the ground that the notices were unreasonable in the circumstances. It was contended by the local authority that the effect of the justices' decision was to put the burden of replacing the dustbins on the tenants, which was contrary to the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, s. 2 (3), prohibiting the " transfer to a tenant of any burden or liability previously borne by the landlord," and, therefore, the justices had no jurisdiction to come to such a decision :—

Held: (i) the words " burden or liability " in s. 2 (3) of the Act of 1920 referred to a burden or liability imposed by a contractual term or a term imported by statute, and did not affect the landlord's power to discontinue a privilege, facility or benefit which the tenant had previously enjoyed, but which was not included in the terms of the tenancy.

(ii) the decision of the justices in allowing the owners' appeal did not mean that the justices had put on the occupiers the burden of replacing the dustbins, and the decision was within the jurisdiction of the justices under s. 75 (1) of the Act of 1936.

Croydon Corpn. v. *Thomas*, [1947] K. B. 386; [1947] 1 All E. R. 239, *applied*.—FIRST NATIONAL HOUSING TRUST, LTD. *v.* CHESTERFIELD RURAL DISTRICT COUNCIL, [1948] 2 K. B. 351; [1948] 2 All E. R. 658; 112 J. P. 413; 64 T. L. R. 503; 92 Sol. Jo. 557; 46 L. G. R. 488. [3840]

PUBLIC SERVICE VEHICLES

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ORDERS, CIRCULARS AND MEMORANDA

PUBLIC SERVICE VEHICLES (INTERNATIONAL CIRCULATION) REGULATIONS, 1948

S.I. 1948 *No.* 609

March 22, 1948

The Minister of Transport in exercise of the powers conferred upon him by section 94 of the Road Traffic Act, 1930, and of all other powers him enabling hereby makes the following Regulations :—

1. These Regulations shall come into operation on the twelfth day of April, 1948, and may be cited as " The Public Service Vehicles (International Circulation) Regulations, 1948 ". [3841]

2. The Public Service Vehicles (International Circulation) Provisional Regulations, 1938, are hereby revoked. [3842]

3. These Regulations shall apply to single-decked public service vehicles brought into Great Britain for the purpose of carrying persons making only a temporary stay therein which :—

(i) do not remain in Great Britain for more than 90 days, and

(ii) are used only by persons temporarily visiting Great Britain who were passengers in the vehicle immediately before its importation and will leave Great Britain not later than 90 days after such importation and by not more than two other persons who are employed either to drive the vehicle or to act in the capacity of guide, interpreter or organizer. [3843]

4. The provisions of Part IV of the Road Traffic Act, 1930, shall, in relation to vehicles to which these Regulations, apply, have effect as though sections 67, 68, 72 and 77 (which subject user of public service vehicles to the holding of public service vehicle licences, certificates of fitness, road service licences and drivers' and conductors' licences) were omitted therefrom. [3844]

5. None of the provisions of the Public Service Vehicles (Equipment and Use) Regulations, 1941, except Regulation 13 thereof (which prohibits the drawing of trailers by public service vehicles), shall have effect in relation to vehicles to which these Regulations apply. [3845]

6. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [3846]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations re-enact with amendments the Public Service Vehicles (International Circulation) Provisional Regulations, 1938. *The changes are :—*

1. *The period for which public service vehicles may remain in Great Britain in accordance with the Regulations is increased from* 28 *to* 90 *days.*
2. *In addition to carrying temporary visitors to Great Britain, two other persons may now be carried if they are employed as driver of the vehicle or as guide, interpreter or organizer.*

STANDING PASSENGERS ORDER, 1948

S.I. 1948 *No.* 845

April 22, 1948

In exercise of the powers conferred upon him by Regulation 70 of the Defence (General) Regulations, 1939, as having effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945, as extended by the Supplies and Services (Extended Purposes) Act, 1947, and of all other powers him enabling, the Minister of Transport hereby makes the following Order :—

1. The Standing Passengers (No. 2) Order, 1941, in so far as it was not revoked by the Standing Passengers (Amendment) Order, 1946, is hereby revoked. [3847]

2. Notwithstanding anything contained in paragraph (*a*) of Regulation 15 of the Public Service Vehicles (Equipment and Use) Regulations, 1941—

(*a*) a public service vehicle, which is either a stage carriage or an express carriage and carries a conductor, may carry, subject to the provisions of Article 5 of this Order, a number of standing passengers not exceeding one-third of the number of passengers for which the vehicle, or in the case of a double-decked vehicle the lower deck, has seating capacity, or eight, whichever number is the less, if the standing passengers are taken up during hours of peak traffic or in circumstances in which undue hardship would be caused to such passengers if they were not carried on the vehicle ; and

(*b*) Regional Transport Commissioners are hereby authorised to permit single-decked public service vehicles specially constructed or adapted for the purpose to carry, subject to such conditions as the Commissioners think fit, on services or in areas specified by them, a number of standing passengers not exceeding the number of passengers for which the vehicle has seating capacity, or thirty, whichever number is the less. [3848]

3.—(1) Notwithstanding anything in any enactment or in any order, bye-law or regulation made thereunder, a trolley vehicle may carry, subject to the provisions of Article 5 of this Order, a number of standing passengers not exceeding one-third of the number of passengers for which the vehicle, or in the case of a double-decked vehicle the lower deck has seating capacity, or eight, whichever number is the less, if the standing passengers are taken up during hours of peak traffic or in circumstances in which undue hardship would be caused to such passengers if they were not carried on the vehicle.

(2) For the purposes of this Article " seating capacity " shall be calculated in accordance with the provisions of Regulation 3 of the Hackney Motor Vehicles (Seating Capacity) Regulations, 1927. [3849]

4. Nothing in this Order shall—

(*a*) restrict any right to carry standing passengers in trolley vehicles conferred by or under any enactment; or

(*b*) permit any standing passengers to be carried in a trolley vehicle running on any part of any route in connection with the approval of which a condition has been imposed that no standing passengers shall be carried in any trolley vehicle running on that part of the route. [3850]

5. Except in the case of a single-decked vehicle specially constructed or adapted for the purpose of carrying standing passengers, no standing passengers shall be carried by virtue of the provisions of paragraph (*a*) of Article 2 or Article 3 of this Order—

(*a*) on the upper deck of a double-decked vehicle;

(*b*) if there is any vacant seat in the vehicle. [3851]

6. This Order shall come into operation on the tenth day of May, 1948, and may be cited as "The Standing Passengers Order, 1948". [3852]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Order, but is intended to indicate its general purport.*)

This Order—

(*a*) *re-enacts the provisions of the Standing Passengers* (*No.* 2) *Order*, 1941 (*in so far as it was not revoked by the Standing Passengers* (*Amendment*) *Order*, 1946) *which authorises Regional Transport Commissioners in certain circumstances to permit the use of single-decked public service vehicles specially constructed or adapted to carry not more than* 30 *standing passengers; and*

(*b*) *authorises the carrying, in certain circumstances and subject to certain conditions, of not more than eight standing passengers on stage carriages, express carriages and trolley vehicles.*

EMERGENCY POWERS (DEFENCE) ROAD VEHICLES AND DRIVERS (AMENDMENT) ORDER, 1948

S.I. 1948 *No.* 1226

June 9, 1948

In exercise of the powers conferred upon him by Regulation 72 of the Defence (General) Regulations, 1939, as having effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945, as extended by the Supplies and Services (Extended Purposes) Act, 1947, and of all other powers him enabling, the Minister of Transport hereby makes the following Order:—

1. The Emergency Powers (Defence) Road Vehicles and Drivers Order, 1943, as amended by the Emergency Powers (Defence) Road Vehicles and Drivers (Amendment) Order, 1944, the Emergency Powers (Defence) Road Vehicles and Drivers (Amendment) Order, 1945, the Emergency Powers (Defence) Road Vehicles and Drivers (Amendment) (No. 2) Order, 1945, the Emergency Powers (Defence) Road Vehicles and Drivers (Amendment) Order, 1946, the Emergency Powers (Defence) Road Vehicles and Drivers (Amendment) (No. 2) Order, 1946, the Emergency Powers (Defence) Road Vehicles and Drivers (Amendment) (No. 3) Order, 1946, and the

Emergency Powers (Defence) Road Vehicles and Drivers (Amendment) Order, 1947, shall have effect as though :—

(1) the date " 31st July, 1948," and the date " 31st July, 1949," were respectively substituted for the date " 31st July, 1947," and the date " 31st July, 1948," wherever either of them occurs in paragraphs 2, 8, 14 and 15 thereof; and

(2) the date " 30th November, 1948," were substituted for the date " 30th November, 1947," in sub-paragraph (*c*) of paragraph 13 thereof. [3853]

2. This Order shall come into operation on the 31st day of July, 1948, and may be cited as " The Emergency Powers (Defence) Road Vehicles and Drivers (Amendment) Order, 1948." [3854]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Order, but is intended to indicate its general purport.*)

This Order (1) *extends for* 12 *months from the date when it would otherwise have expired any authorisation in force on the* 31*st July*, 1948, *to :—*

(i) *act as a driver or conductor of a public service vehicle ;*

(ii) *act as a driver or conductor of a tram or trolley vehicle or as a driver of a hackney carriage in the metropolitan police district ;*

(iii) *use a public service vehicle ;*

(iv) *operate a road passenger service under a permit ;*

(v) *use a goods vehicle under A, B or C carrier's licence or permit ;*

and (2) *provides that a goods vehicle, notwithstanding any conditions attached to its licence or permit, may be used for any purpose in connection with harvesting work until* 30*th November*, 1948.

CASES

Negligence—Presumption of negligence—Highway—Skid—Omnibus mounting pavement and falling down embankment—Accident due to tyre-burst—Impact fracture of tyre—No evidence when or how caused—Reasonable system of tyre maintenance by defendants.

At about 6.30 a.m. on February 27, 1943, a motor omnibus belonging to the defendants, and carrying fifty-three passengers among whom was the plaintiff's husband, was passing through a village when the off-side front tyre burst, the omnibus went over to the off-side of the road, mounted the pavement, crashed into some railings, and fell down an embankment, killing four of the passengers, including the plaintiff's husband, and injuring others. The tyre-burst was caused by an impact fracture of the cord of the outer tyre, but there was no evidence when the fracture occurred. Evidence was given that an impact fracture was caused by a severe blow which could happen without leaving any visible mark on the outer surface of the tyre and might not be visible even if the tyre were removed from the rim and examined.

The tyre, while fixed on the rim, had been examined periodically by an expert tyre fitter employed by the defendants, the last examination being three days before the accident, and it was the practice of the defendants to have tyres examined internally after every 25,000 miles when they had been running on fairly bad roads. The tyre in question had run about 23,545 miles, and about 21,750 miles since it was last taken off for examination. Before the accident occurred the driver of the omnibus had been driving at an average

speed of thirty-two miles an hour, and was, therefore, guilty of a breach of statutory duty as the maximum speed for an omnibus of that type in the "black-out" (which then existed) was twenty miles an hour. He was, however, not driving at an excessive speed just before the accident occurred and the tyre-burst was not caused by his driving too fast. The plaintiff claimed damages from the defendants on the ground that her husband's death was caused by the negligence of the defendants or their servants :—

Held : (i) the fact that the omnibus left the road and fell down the embankment raised a presumption of negligence against the defendants, requiring them to prove affirmatively that they had exercised all reasonable care ; to displace the presumption it was not sufficient for the defendants to show that the immediate cause of the accident was a tyre-burst, since a tyre-burst *per se* was equally consistent with negligence or due diligence on their part ; but it was necessary for the defendants to prove either that the burst itself was due to a specific cause which did not connote negligence, or, if they could point to no such specific cause, that they had used all reasonable care in the management of their tyres.

Laurie v. *Raglan Building Co., Ltd.*, [1941] 3 All E. R. 332 ; *Principle in Scott* v. *London Dock Co.* (1865), 3 H. & C. 596 ; and *Woods* v. *Duncan ; Duncan* v. *Hambrook ; Duncan* v. *Cammell Laird & Co., Ltd.*, [1946] A. C. 401, *applied.*

(ii) [BUCKNILL, L.J., *dissenting*] on the facts, the defendants had discharged the burden on them by proving that they had maintained a reasonable system of inspection in regard to their tyres and that they were not guilty of negligence with regard to the maintenance of the tyre in question.

(iii) [BUCKNILL, L.J., *dissenting*] since the driver of the omnibus was unaware of the defect in the tyre and the burst was not caused by fast driving, the defendants had not failed to discharge the presumption of negligence arising from the fact that the driver of the omnibus exceeded the legal speed limit on the journey before the accident occurred.—BARKWAY *v.* SOUTH WALES TRANSPORT CO., LTD., [1949] 1 K. B. 54 ; [1948] 2 All E. R. 460 ; 64 T. L. R. 462 ; 92 Sol. Jo. 528, C. A. [3855]

Stage carriage—Electric tramway car—"Injuring property of owner" —Negligence not amounting to "wanton and furious driving"—Stage Carriages Act, 1832 (*c.* 120), *s.* 48.

The appellant was driving an electric tramway car, the property of his employers. Owing to lack of care and skill amounting to negligence, but not to wanton and furious driving, the car collided with a lorry and was damaged. The appellant was found guilty of the offence, under s. 48 of the Stage Carriages Act, 1832, of injuring the property of the owner of a stage carriage :—

Held : (i) an electric tramcar, being a vehicle which proceeds from stage to stage at regular, or more or less regular, intervals, and carries passengers who pay separate fares, was a stage carriage.

(ii) it was sufficient to render the appellant liable to conviction under s. 48 of the Act, if he was proved through negligence to have caused injury to the property of the owner of the vehicle, it not being necessary to prove that he had been guilty of wanton and furious driving.—CHAPMAN *v.* KIRKE, [1948] 2 K. B. 450 ; [1948] 2 All E. R. 556 ; [1949] L. J. R. 255 ; 112 J. P. 399 ; 64 T. L. R. 519 ; 92 Sol. Jo. 558 ; 46 L. G. R. 507. [3856]

RATES AND RATING

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STATUTES

LOCAL GOVERNMENT ACT, 1948

(11 & 12 Geo. 6, c. 26)

PRELIMINARY NOTE

This Act, which received the Royal Assent on March 24, 1948, deals with a variety of subjects, but much of its provisions relates to rates and rating.

Part III (ss. 33–73) of the Act is concerned with valuation and rating procedure ; Part IV (ss. 74–84) lays down a new procedure for ascertaining the gross value of dwelling-houses ; Part V (ss. 85–110) relates to the rating of transport and electricity authorities ; and Part VII (ss. 120–139) and Part VIII (ss. 140–148) contain miscellaneous and general provisions. Most of the provisions of Part III and the repeal of the enactments specified in Part II of Sched. II will only take effect on the dates appointed in that behalf by the Local Government Act, 1948 (Appointed Days) Order, 1949 (S.I. 1949 No. 434), made by the Minister of Health (hereafter called " the Minister ") under s. 72 (1) ; all other provisions of the Act are already in operation.

Part III largely replaces the existing law as to valuation and rating procedure.

Assessment committees, county valuation committees and the Central Valuation Committee are to be abolished. Rating authorities are to be deprived of most of their functions in relation to the preparation and amendment of valuation lists, their place being taken by officers of the Commissioners of Inland Revenue to be called " valuation officers " (s. 33).

The system of quinquennial valuation lists is to be retained or, more strictly, to be re-established. Outside London the first new lists are to come into force on April 1, 1952, and in London on April 6, 1952, but power is taken to postpone the coming into operation of all the lists for one year; there is also power to postpone the coming into force of the list for a particular rating area for one year beyond the date on which it would otherwise come into force, that is to say, outside London until April 1, 1953, or April 1, 1954, and in London until April 6, 1953, or April 6, 1954. The valuation lists superseding the first new valuation lists are to come into force everywhere on April 1, 1957, or, if the coming into force of the first lists is generally postponed, on April 1, 1958. Thereafter new valuation lists will come into force exactly five years after the coming into force of the lists which they replace (s. 34).

The preparation of a new valuation list is to begin with the making of a draft list by the valuation officer. In such a list no hereditament is to be treated as an agricultural, industrial or freight transport hereditament unless (*a*) it was so treated for the purposes of the last preceding list, or (*b*) a claim that it ought to be so treated has been made by the owner or occupier in the prescribed form (s. 35). Objections may be made to a draft list within a time-limit of twenty-five days by serving on the valuation officer a notice of objection. They may, however, only be made by a person who is aggrieved (*a*) by the inclusion of any hereditament in the draft list, or (*b*) by any value ascribed in the draft list to a hereditament or by any other statement made or omitted to be made in the draft list with respect to a hereditament, or (*c*) by the valuation in the list of a building or portion of a building occupied in parts as a single hereditament (s. 36).

After the expiration of the period for the lodging of such notices, the valuation officer is to revise the draft list and may, on that revision, make such alterations as he thinks proper. But here again he may not treat a hereditament as an agricultural, industrial or freight transport hereditament unless (*a*) it was so treated for the purposes of the last preceding list, or (*b*) a claim that it ought to be so treated has been made by the owner or occupier in the prescribed form, or (*c*) an objection has been made on the ground that it ought to be so treated. Where an alteration is made, or where an objection is not met, on revision, the persons interested (including the rating authority) may appeal to one of the local valuation courts mentioned below within a time-limit of twenty-one days by serving a notice of appeal on the valuation officer (s. 37).

At or about, and in any case not later than, the end of December preceding the date on which a new valuation list is to come into force, the valuation officer is to settle and sign the list and transmit it to the rating authority. Before settling and signing the list, the valuation officer is to make such alterations as are necessary to give effect to any decisions on appeal or as the result of an agreement by which an appeal has been settled, and he is also to cause to be ascertained and inserted in the list such particulars with respect to totals of values as may be prescribed. He may further correct any clerical or arithmetical errors, but otherwise the list as settled and signed is to be identical with the draft list as revised. On the other hand, he is not required to await the determination of outstanding appeals, which are to be dealt with as if they were appeals against objections to proposals for alteration of the current valuation list (see *infra*). Any failure on the part of the valuation officer to complete any proceedings with respect to the preparation, revision or settling and signing of the list within the time required, or any omission of matters to be included in the list, is not to invalidate the list, which, until the contrary is proved, is to be deemed to have been duly made in accordance with this Part of the Act (s. 38).

On receiving the list, the rating authority are to deposit it at their offices. The authority are also to give effect to directions given by the valuation officer in pursuance of this Part of the Act with respect to alterations to be made in the list (s. 39).

Alterations of current valuation lists may be effected in pursuance of "proposals," which may be made by the valuation officer and by any person who is aggrieved (*a*) by the inclusion of any hereditament in the list, or (*b*) by any value ascribed in the list to a hereditament or by any other statement made or omitted to be made in the list with respect to a hereditament, or (*c*) by the valuation in the list of a building or portion of a building occupied in parts as a single hereditament. On such a proposal being made, the owner or occupier of the whole or any part of a

hereditament to which a proposal relates, the rating authority for the area in which the hereditament is situated, and the valuation officer (if he has not himself made the proposal), may within time-limits of twenty-one days serve notice of objection to the proposal. If, on the expiration of these time-limits, no such notice has been served or if every notice has been unconditionally withdrawn, the valuation officer must cause such alteration of the valuation list to be made as will give effect to the proposal. Otherwise the list may only be altered in pursuance of the proposal if notice of appeal against the objection is given and the alteration is either directed to be made by a court or arbitrator on the appeal or is agreed upon by all persons entitled to be heard on the appeal. Notice of appeal may, however, only be given by the person who made the proposal and must be served within a time-limit of twenty-one days (ss. 40 and 41).

Broadly speaking any alteration in the valuation list made in pursuance of a proposal relates back to the commencement of the period in respect of which the rate current at the time of the proposal was made, and provision is made for the adjustment of any difference between the amount of any rate to be paid in accordance with the alteration and the amount actually paid (s. 42). Provision is made by s. 43 for the correction of clerical or arithmetical errors in a valuation list.

Appeals against draft valuation lists and against objections to proposals are to be heard and determined by a " local valuation court " consisting of the chairman or deputy-chairman (or one of the deputy-chairmen) and two other members of a " local valuation panel," and these panels in turn are to be constituted in accordance with schemes made by county and county borough councils and approved by the Minister or, in default of the submission of a scheme within a time-limit laid down by the Act, made by the Minister (ss. 44 *et seq.*).

Under the Act a further appeal lies from a local valuation court to the county court (s. 49). But under the Lands Tribunal Act, 1949 (12 & 13 Geo. 6, c. 42), this appeal will, as from the appointed day, be replaced by a reference to the Lands Tribunal (see ss. 1 (3) (*e*) and 10 (2) of that Act).

Instead of being heard and determined by a local valuation court or the county court, a matter may, by agreement in writing between the persons who would be entitled to appear and be heard before the court in question, be referred to arbitration (s. 50).

As a general rule, the fact that an appeal is pending does not prevent the collection and recovery of a rate made and levied in accordance with the valuation list in force for the time being (s. 51).

By s. 52 provision is also made for the amendment of the current or last preceding rate so as to make the rate conform with the enactments relating thereto.

No appeal against a rate is to lie to Quarter Sessions on any matter in respect of which relief might have been obtained by means of an objection to, or an appeal against, the draft valuation list, or by means of a proposal for amendment of the current valuation list, or of an objection to such a proposal, or of an appeal against such an objection (s. 53).

In London, as elsewhere, every rate made by a rating authority is to be deemed to be made on the date on which it is approved by the authority, and no rate need any longer be allowed by justices. Also ss. 6 and 15 of the Rating and Valuation Act, 1925 (14 Halsbury's Statutes 626, 639), which relate to the publication of rates and the recovery of arrears of rates from tenants and lodgers respectively, are extended to London. But there is a saving relating to the making of rates in the City of London (s. 54).

The limits on the rateable value of hereditaments in respect of which owners may be rated in lieu of occupiers are raised outside London to £18 or, in certain cases £25, and in London to £25 (s. 55).

There are also new provisions (ss. 56 and 57) as to the treatment of advertising stations as separate hereditaments in certain cases, and as to the assessment of certain buildings occupied in parts.

Auxiliary and miscellaneous provisions in Part III of the Act relate to returns which may be required by valuation officers (s. 58); information to be given to valuation officers by surveyors of taxes and local authorities (s. 59); powers of entry (s. 60); the proof of the contents of a valuation list or an extract from such a list (s. 61 (1)); the inspection of documents by ratepayers (s. 61 (2)); appeals as to water rates (s. 62); the service of notices, etc. (s. 63); the inclusion in one proceeding of separate hereditaments (s. 64); the extension to London of s. 64 (8) of

the Rating and Valuation Act, 1925 (14 Halsbury's Statutes 684), which regulates the manner in which Crown property is to be dealt with in valuation lists (s. 65); the treatment of owners as occupiers in certain cases (s. 66); questions of disqualification arising from membership of an authority deriving revenue from rates or from owning or occupying property (s. 67); the transfer of valuation offices, etc. (s. 68); the use of certain rooms by valuation officers, etc. (s. 69); the application of the existing law as to the principles on which hereditaments are to be valued, privileges and the making of valuations on exceptional principles (s. 70 (1)); consequential amendments (s. 70 (2) and Sched. I); the adaptation of local Acts (s. 70 (3)); the making of regulations for the purposes of this Part of the Act (s. 71); and the commencement of this Part (see *supra*) and transitional matters (s. 72).

The next principal subject dealt with in the Act is the ascertainment of the gross value of dwelling-houses (that is to say, hereditaments used wholly or mainly for the purposes of a private dwelling or private dwellings, with or without any garage, outhouse, garden, yard, court, forecourt or other appurtenances other than dwelling-houses to which s. 52 of the Pluralities Act, 1838 (7 Halsbury's Statutes (2nd Edn.) 437), applies, which is put on a new basis by Part IV of the Act (s. 74).

The gross value of what the Act calls "post-1918 local authority or housing association dwelling-houses" is to be ascertained by reference to the "hypothetical 1938 cost of construction" and the "hypothetical 1938 site cost," and the gross value of what the Act terms "small post-1918 dwelling-houses" being neither "local authority or housing association dwelling-houses" nor "flats or maisonettes" is to be assessed by reference to the "hypothetical 1938 cost of construction" and the 1949 site value. This does not, however, apply to dwelling-houses to which s. 72 of the Local Government Act, 1929 (10 Halsbury's Statutes 931), which relates to agricultural dwelling-houses, applies (s. 75, in conjunction with s. 80).

In each particular case the "1938 hypothetical cost of construction" is to be estimated on the basis of a statement prepared by the Minister. Such statements are to be prepared for all rating areas, after consultation with the rating authority for the area in question, embodying specifications of houses and buildings and determining, in relation to each specification, the sum which is to be taken as the 1938 cost of constructing a house or building conforming to that specification; and in the compilation of the statements s. 76 provides that regard is to be had to costs actually incurred by local authorities in either or both of the years 1937 and 1938 in constructing houses and buildings. Similarly, for the purpose of estimating the "hypothetical 1938 site cost," the Minister is to prepare for all rating areas, after consultation with the rating authority for the area in question, statements specifying a particular site or particular sites in or near the area and determining, in relation to that site or, as the case may be, each of those sites, the sum which is to be taken as the 1938 cost of providing that site, developed as respects roads, drainage, water, electricity and gas to the extent specified in the statement. In compiling the statements regard is to be had to costs actually incurred by local authorities in 1938, or any other comparable period, in providing sites used for erecting dwelling-houses or buildings thereon, or other comparable sites. However, in estimating on the basis of any such statement the "1938 hypothetical site cost" in any particular case, any excess over £1,500 per acre is to be disregarded (s. 77).

On principle, the gross value of a "post-1918 local authority or housing association dwelling-house," not being a flat or maisonette, is to be taken as 5 per cent. of the "hypothetical 1938 cost of construction" of the dwelling-house plus 5 per cent. of the "hypothetical 1938 site cost" (s. 78); and the gross value of any such dwelling-house which is a flat or maisonette is on principle to be taken as 5 per cent. of so much of the "hypothetical 1938 cost of construction" of the building of which the flat or maisonette forms part and of the "hypothetical 1938 site cost" of that buildings as appears, on a just apportionment, to be properly attributable to the flat or maisonette in question (s. 79).

The gross value of a "small 1918 dwelling-house" which is neither a "local authority or housing association dwelling-house" nor a flat or maisonette is on principle to be taken as 5 per cent. of the "hypothetical 1938 cost of construction" of the dwelling-house plus 5 per cent. of the value of the site on April 1, 1949, estimated on a basis laid down by the Act (s. 80).

By the succeeding section, provision is made for the increase of gross values ascertained in accordance with any of the foregoing provisions where any parts of

dwelling-houses have been specially constructed or adapted for use for the purposes of any trade, business or profession.

The gross value of a dwelling-house which does not fall to be ascertained under any of the preceding provisions, *i.e.* which is to be valued neither as a " post-1918 local authority or housing association dwelling-house " nor as a " small 1918 dwelling-house," is to be estimated by reference to the rents for comparable dwelling-houses which were being paid on August 31, 1939, under lettings then in force. However, if the gross value cannot be ascertained in this way owing to the lack of comparable dwelling-houses actually the subject of lettings at the end of August, 1939, or if the dwelling-house is one to which s. 72 of the Local Government Act, 1929, mentioned above applies, the gross value is to be estimated as if Part IV of the Act had not been passed except that regard is to be had to the levels of values prevailing in 1938 instead of to those prevailing for the time being and that any amount to be deducted from a rent (whether actual or hypothetical) for services provided by the landlord is to be estimated by reference to the cost to the landlord of providing those services, exclusive of profit (s. 82).

The provisions of s. 2 (1)–(3) of the Rating and Valuation Act, 1928 (14 Halsbury's Statutes 709, 710), which provides increased scales of deduction for arriving at the rateable value of certain houses and buildings, are extended so as to apply to the making and alteration of the first valuation lists made after the passing of the Act and such subsequent valuation lists as may be prescribed ; and power is also taken to substitute, in relation to hereditaments consisting of houses or buildings without land other than gardens, other provisions for those laid down in Sched. II, Part I, to the Rating and Valuation Act, 1925 (14 Halsbury's Statutes 1692), and in Sched. III to the Valuation (Metropolis) Act, 1869 (14 Halsbury's Statutes 584), for the deduction or maximum deduction to be made from the gross annual value for arriving at the net annual value (s. 83).

Part V of the Act then provides entirely new provisions as to the rating of transport and electricity authorities. On principle, no premises which are or form part of (*a*) a " railway or canal hereditament," or (*b*) a hereditament occupied by the British Electricity Authority, an Area Electricity Board or the North of Scotland Hydro-Electric Board, are to be rated or included in any valuation list. However, by s. 85, the British Transport Commission, the British Electricity Authority and the North of Scotland Hydro-Electric Board are in 1948–1949 and all subsequent years to make payments for the benefit of local authorities in lieu of the rates which would otherwise be payable to rating authorities in respect of the hereditaments in question.

The expression " railway or canal hereditament " is defined as a hereditament occupied for what the Act calls the " non-rateable purposes," *i.e.* roughly the purposes of transport by rail or inland waterway, of the British Transport Commission. Premises occupied as a dwelling-house, hotel or place of public refreshment and premises so let out as to be capable of separate assessment are, however, excluded (s. 86).

The general exemption in favour of railway or canal hereditaments and hereditaments occupied by electricity authorities does not apply to railway or canal hereditaments used partly for non-rateable purposes and partly for other purposes (s. 87 (1) (*a*)) or to premises occupied by an electricity authority as a dwelling-house (s. 91). But where a railway or canal hereditament is accordingly non-exempted, there is to be attributed thereto only such net annual value as may be just having regard to the extent to which it is occupied for purposes other than " non-rateable purposes " and any deductions to be made from the net annual value in arriving at the rateable value are to be calculated with regard only to those other purposes (s. 87 (1) (*b*), (*c*)).

The payments to be made in lieu of rates by the British Transport Commission for the benefit of local authorities are to be calculated by reference to a standard amount. The payment to be made for the benefit of local authorites in England and Wales in the year 1948–1949 is to be a payment of the standard amount, *i.e.* £1,810,000, increased by £600,000. The payments so to be made for the years 1949–1950 and 1950–1951 are to be payments of the standard amount adjusted so as to take into account changes in the average rates levied in England and Wales, and the payments to be made in subsequent years are to be payments of the standard amount adjusted as just mentioned and further adjusted so as to take into account changes in the circumstances of the British Transport Commission (ss. 93–95).

The payments to be made in the lieu of rates by the British Electricity Authority for the benefit of local authorities are also to be calculated by reference to a standard amount. The payment to be made for the benefit of local authorities in England and Wales in the year 1948–1949 is to be a payment of the standard amount, *i.e.* £11,250,000. The payments to be made in subsequent years are to be payments of the standard amount adjusted so as to take into account changes in the average rates levied in England and Wales and changes in the amount of electricity supplied (ss. 96–98).

All payments to be made in this way for the benefit of local authorities in England and Wales are to be paid to the Minister, and, subject to certain deductions in respect of liabilities of the Railway Assessment Authority and the Anglo-Scottish Railway Assessment Authority, are to be allocated among the rating authorities in England and Wales in proportion to the rateable values for their respective areas for the relevant year. Amounts thus allocated to the council of a county borough are to be paid to that council, while amounts allocated to any other rating authority are to be paid as to one-third to that authority and as to two-thirds to the council of the county of which the area of that authority forms part (s. 100).

Other provisions in Part V of the Act relate to the determination of water-rates in respect of railway or canal hereditaments occupied partly for non-rateable purposes and partly for other purposes (s. 87 (2), (3)); the repeal of certain provisions of the Railways (Valuation for Rating) Act, 1930 (23 Halsbury's Statutes 455), and the abolition of the Railway Assessment Authority and the Anglo-Scottish Railways Assessment Authority mentioned above (s. 88); the commencement of provisions as to railway or canal hereditaments and as to electricity hereditaments and transitional matters (ss. 89, 90 and 92); the treatment of payments for the benefit of local authorities for certain purposes (s. 102); contributions from Area Electricity Boards to the British Electricity Authority (s. 103); the stabilisation of payments by the British Transport Commission to the Railway Freight Rebates Fund (s. 104); temporary grants by county councils to county district councils, parish councils, etc., in certain circumstances (s. 105); the duties of rating authorities (s. 106); the variations of certain provisions of this Part by order (s. 109); and the making of regulations for the purposes of this Part of the Act (s. 110).

Next, of the miscellaneous provisions contained in Part VII only the following are material to the subject of this title: provisions as to precepts (ss. 120 and 121); a retrospective amendment of s. 11 (1) of the Rating and Valuation Act, 1925 (14 Halsbury's Statutes 632), concerning the allowance to be made to owners rated instead of the occupiers and replacing the temporary provisions to the same effect of s. 3 (1) of the Rating and Valuation Act, 1928 (14 Halsbury's Statutes 710), as amended (s. 122); and an explanation of the meaning of "rating area" in relation to London (s. 123).

Finally, the general provisions contained in Part VIII of the Act, so far as they are material for present purposes, relate to the compensation of officers (s. 140); the treatment of receipts by local authorities under Part V of the Act as receipts for general expenditure (s. 141); statutory instruments (s. 142); expenses (s. 143); the interpretation of the Act (s. 144); the application of the Act to the Isles of Scilly (s. 146); repeals (s. 147 and Sched. II); and the short title and extent of the Act (s. 148 (1)).

Provisions of the Act falling outside the scope of this title are dealt with in the titles ELECTRICITY SUPPLY; FINANCE; HIGHWAYS; MEMORIALS, WAR AND OTHER; and MUNICIPAL HOSPITALITY, *ante*. [3857]

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An Act to amend the law relating to Exchequer grants to local authorities and other bodies and grants by local authorities to other local authorities or other bodies, and the law relating to rating, valuation for rating and precepts to rating authorities; to provide for payments for the benefit of local authorities by the British Transport Commission, the British Electricity Authority and the North of Scotland Hydro-Electric Board; to amend the Railway Freight Rebates Enactments, 1929 to 1943, section two hundred and eleven of the Local Government (Scotland) Act, 1947, the law relating to the payment of expenses and other allowances to members of local authorities and other bodies and the law relating to the manner in which certain securities of local authorities and other bodies may be transferred; to extend the powers of local authorities in certain respects; and for purposes connected with the matters aforesaid. [3858] [24th March, 1948.]

* * * * *

PART III

VALUATION AND RATING PROCEDURE

General

33. Valuations to be made by Inland Revenue officers.—(1) Valuation lists shall, instead of being prepared and amended by the bodies and at the times, in accordance with the conditions and subject to the rights as to objection and appeal specified in the Rating and Valuation Acts, 1925 to 1940, and the Rating and Valuation (Metropolis) Acts, 1869 to 1940, be prepared and amended by valuation officers of the Commissioners of Inland Revenue at the times, in accordance with the conditions and subject to the rights as to objection and appeal specified in this Part of this Act; and

(*a*) assessment committees, county valuation committees and the central valuation committee shall cease to exist; and

(*b*) save as hereafter provided in this Part of this Act, rating authorities shall have no functions in relation to the preparation and amendment of valuation lists. [3859]

(2) Nothing in this section affects any rights of a rating authority as a person who is aggrieved by anything done or omitted to be done by the valuation officer in a valuation list or draft valuation list in relation to any hereditament. [3860]

(3) In this Part of this Act, the expression "the valuation officer", in relation to a valuation list, means such officer of the Commissioners of Inland Revenue as may for the time being be authorised by the Commissioners to act (either generally or for the particular purpose in question) as the valuation officer in relation to that list. [3861]

General note.—This section provides for the abolition of assessment committees, county valuation committees and the Central Valuation Committee and relieves rating authorities of their functions in connection with the preparation and amendment of valuation lists, though it preserves the rights of rating authorities as persons aggrieved by anything done or omitted to be done in relation to valuation lists. Valuation lists are henceforth to be prepared and amended by valuation officers of the Commissioners of Inland Revenue in accordance with the procedure laid down in subsequent provisions of Part III of the present Act. As to commencement of this section, see s. 72 (1), *post*; and for repeals consequential on the provisions of Part III, see s. 147 (1), (3), Sched. II, Part II, *post*.

Valuation lists.—As to the application of the existing law to valuation lists made under this Part of the Act, see s. 70, *post*.

Rating and Valuation Acts, 1925 to 1940.—The Rating and Valuation Act, 1925 (14 Halsbury's Statutes 617), as amended by any subsequent amendment; the Rating and Valuation (Apportionment) Act, 1928 (14 Halsbury's Statutes 713); Part V of the Local Government Act, 1929 (10 Halsbury's Statutes 927); the Railways (Valuation for Rating) Act, 1930 (23 Halsbury's Statutes 455); the Rating and Valuation Act, 1932 (25 Halsbury's Statutes 537); the Rating and Valuation (No. 2) Act, 1932 (25 Halsbury's Statutes 538); the Rating and Valuation Act, 1937 (30 Halsbury's Statutes 735); the Rating and Valuation (Postponement of Valuations) Act, 1938 (31 Halsbury's Statutes 613); the Rating and Valuation (Air-Raid Works) Act, 1938 (31 Halsbury's Statutes 614); and the Rating and Valuation (Postponement of Valuations) Act, 1940 (33 Halsbury's Statutes 361).

Rating and Valuation (Metropolis) Acts, 1869 to 1940.—The Valuation (Metropolis) Act, 1869 (14 Halsbury's Statutes 552), as amended by any subsequent enactment; the Rating and Valuation (Apportionment) Act, 1928 (*supra*); Part V of the Local Government Act, 1929 (*supra*); the Railways (Valuation for Rating) Act, 1930 (*supra*); the Rating and Valuation (Air-Raid Works) Act, 1938 (*supra*); and the Rating and Valuation (Postponement of Valuations) Act, 1940 (*supra*).

Rights as to objection and appeal.—As to rights of objection, see s. 36 (to draft valuation list), s. 41 (3), (4) (to a proposal for alteration of current list), s. 43 (to the correction of a clerical error. As to rights of appeal, see s. 37 (4) (against draft valuation list), s. 41 (6) (against notice of objection to a proposal for alteration of current list), s. 49 (against a decision of a local valuation court).

Assessment committees.—These committees are constituted outside London under s. 17 of the Rating and Valuation Act, 1925, as amended by s. 15 of the Local Government Act, 1929 (14 Halsbury's Statutes 641), and in London under s. 18 (*h*) of the second-mentioned Act (10 Halsbury's Statutes 895).

County valuation committees.—These committees are constituted (outside London) under s. 18 of the Rating and Valuation Act, 1925 (14 Halsbury's Statutes 642).

Central valuation committee.—This committee is constituted under s. 57 of the Rating and Valuation Act, 1925 (14 Halsbury's Statutes 678).

Rating authority.—Outside London, the rating authorities are the county borough councils and urban and rural district councils (Rating and Valuation Act, 1925, s. 1 (1); 14 Halsbury's Statutes 617). Urban district councils include here non-county borough councils (cf. the Local Government Act, 1894, s. 21 (3); 10 Halsbury's Statutes 792), although non-county boroughs are now no longer regarded as urban districts (see the Local Government Act, 1933, s. 1 (1); 26 Halsbury's Statutes 306).

In relation to London, the expression "rating authority" means (*a*) as respects the City of London, the common council; (*b*) as respects any parish in a metropolitan borough, the council of the borough; and (*c*) as respects the Inner Temple and the Middle Temple, the Sub-Treasurer and the Under-Treasurer thereof respectively (Rating and Valuation (Apportionment) Act, 1928, s. 7 (2); 14 Halsbury's Statutes 723).

Functions.—The functions of rating authorities which are discontinued by virtue of this section are laid down in Part II of the Rating and Valuation Act, 1925 (14 Halsbury's Statutes 640 *et seq.*), the bulk of which is prospectively repealed by s. 147 (1), (3) and Sched. II, Part II, *post*.

As a person who is aggrieved, etc.—See ss. 36 and 40, *post*; and cf. ss. 37 (4), 41 (3), (6), 48 (3) and 49 (1), *post*.

Hereditament.—For definition, see s. 144 (1), *post*.

Preparation of new lists

34. New valuation lists to be made in 1952, etc.—(1) Subject to the provisions of subsection (3) of this section, a new valuation list shall be made for every rating area so as to come into force—

(*a*) outside London, on the first day of April, nineteen hundred and fifty-two; and

(*b*) inside London, on the sixth day of April, nineteen hundred and fifty-two,

and the periods for which the valuation lists in force at the date of the passing of this Act are to remain in force shall be extended accordingly:

Provided that the Minister may by order, on the application of the valuation officer and after consultation with the rating authority for the area and, where the rating area forms part of a county, with the council of the county, direct that this subsection shall have effect in relation to any such rating area, as is specified in the direction as if for references to the year nineteen hundred and fifty-two there were substituted references to the year nineteen hundred and fifty-three. [3862]

(2) Thereafter new valuation lists shall, subject to the provisions of subsection (3) of this section, be made for all rating areas, whether within or outside London, so as to come into force on the first day of April in the following years, that is to say, the year nineteen hundred and fifty-seven and each fifth subsequent year. [3863]

(3) If the Minister by order so directs, the preceding provisions of this section shall have effect as if for the words "nineteen hundred and fifty-two", "nineteen hundred and fifty-three" and "nineteen hundred and fifty-seven", in all places where those words occur, there were substituted the words "nineteen hundred and fifty-three", "nineteen hundred and fifty-four" and "nineteen hundred and fifty-eight", respectively. [3864]

(4) Every valuation list shall remain in force until it is superseded by a new valuation list. [3865]

General note.—New valuation lists are to be made so as to come into force outside London on April 1, 1952, and inside London on April 6, 1952 (though "1953" may on application be substituted for "1952"), and existing valuation lists are to continue in force until those dates. Subsequent valuation lists are to be made for all rating areas (including London), so as to come into force on April 1, 1957, and each fifth year thereafter. All these dates may be postponed by one year, if the Minister by order so directs. As to commencement of this section, see s. 72 (1), *post*.

Valuation list.—All existing enactments relating to the contents or form of valuation lists and the effect of such lists when made apply, with necessary modifications, to the new valuation lists made under this Act as they applied to valuation lists under the Valuation (Metropolis) Act, 1869, and the Rating and Valuation Act, 1925 (14 Halsbury's Statutes 552, 617) (see s. 70 (1), *post*). As to procedure in connection with the making of valuation lists under the present Act, see ss. 35 *et seq.*, *post*.

Rating area.—For definition, see s. 144 (1), *post*; and cf. s. 123, *post*.

Passing of the Act.—March 24, 1948.

The Minister.—The Minister of Health (see s. 144 (1), *post*).

Order.—See s. 142 (2), *post*.

Valuation officer.—For definition, see s. 33 (3), *ante*.

Rating authority.—See the notes to s. 33, *ante*.

Each fifth subsequent year.—Quinquennial re-valuations were instituted in the provinces by the Rating and Valuation Act, 1925, s. 19 (1) (14 Halsbury's Statutes 644); and in London by the Valuation (Metropolis) Act, 1869, s. 46 (2) and (6) (14 Halsbury's Statutes 571–572). In most areas in the provinces new valuation lists were due to come into force in 1939, but the re-valuation was postponed for two years by the Rating and Valuation (Postponement of Valuations) Act, 1938 (31 Halsbury's Statutes 613). Further, preparation of those lists, and the lists due to come into force in London in 1941, was postponed during the war period and until not more than two years after the end of the war emergency as declared under the Courts (Emergency Powers) Act, 1939 (Rating and Valuation (Postponement of Valuations) Act, 1940; 33 Halsbury's Statutes 361). These provisions are all repealed by s. 147 (1), (3) and Sched. II, Part II, *post*, and quinquennial re-valuations are restored by the present section.

35. Draft lists.—(1) Where a new valuation list is to be made for a rating area, the valuation officer shall—

(*a*) prepare a draft valuation list;

(*b*) when the draft is completed, transmit three copies thereof to the rating authority;

(*c*) forthwith publish in the prescribed manner notice that the draft has been completed;

(*d*) where there is included in the draft as completed some hereditament not previously assessed, send, within the seven days following that of the completion of the draft, to the occupier of that hereditament a notice of the gross, net annual and rateable values of the hereditament inserted in the draft list. [3866]

(2) For the period beginning with the date on which the copies of the completed draft are received by the rating authority and ending twenty-one days after the date on which the notice of the completion of the draft list is published as aforesaid, one of the said copies shall be open to inspection during ordinary business hours at the offices of the rating authority, and the said notice shall include a statement that a copy of the draft list is open to inspection as aforesaid and a statement of the right of objection conferred by the next succeeding section. [3867]

(3) Notwithstanding anything in the Rating and Valuation (Apportionment) Act, 1928, the valuation officer, in preparing the draft of a valuation list, shall not treat any hereditament as an agricultural, industrial or freight transport hereditament unless either—

(*a*) it was so treated for the purposes of the last preceding list; or

(*b*) a claim that it ought to be so treated has been made to him by the owner or occupier of the hereditament in the prescribed form. [3868]

General note.—The valuation list on completion is a draft valuation list and remains so until it is finally settled by the valuation officer under s. 38, *post*, when it becomes a valuation list. It is the valuation list for the rating area as from the date it comes into force (s. 38 (6), *post*). As to the commencement of the section, see s. 72 (1), *post*.

New valuation list.—See s. 34, *ante*.

Rating area.—For definition, see s. 144 (1), *post*; and cf. s. 123, *post.*
Valuation officer.—For definition, see s. 33 (3), *ante.*
Rating authority.—See the notes to s. 33, *ante.*
Prescribed.—*I.e.* by regulations (see s. 71 (*b*), *post*).
Notice.—The notice must comply with sub-s. (2), *supra*, in conjunction with s. 63 (2), *post.*
Hereditament; owner.—See s. 144 (1), *post.*
Send.—See s. 63 (1), *post.*
Within the seven days.—Excluding the day on which the notice is published, but including the day on which the notice is received by the occupier of the hereditament (*Williams* v. *Burgess* (1840), 12 Ad. & El. 635; *Robinson* v. *Waddington* (1849), 13 Q. B. 753.
Occupier.—The occupier is the person liable for rates as being the person in occupation of the hereditament (see the Poor Relief Act, 1601; 14 Halsbury's Statutes 477). For the purpose of this provision and other provisions of the Act relating to occupiers, the term would seem to include the purser, secretary or chief managing agent of a tin, lead or copper mine under s. 7 of the Rating Act, 1874 (14 Halsbury's Statutes 588); the owner (as defined) or lessee of rights of sporting severed from the occupation of the land under s. 6 of that Act; the owner of payments in lieu of tithe where rateable therefor; the person entitled to a right of advertising constituting a separate rateable hereditament under s. 56, *post*; the person permitting land to be used for advertising or the owner of land so used under s. 3 of the Advertising Stations (Rating) Act, 1889 (14 Halsbury's Statutes 597); and the person receiving the rents of parts of a building let in parts and assessed as one hereditament under s. 57, *post.* Where there is no occupier, the owner is treated as standing in the position of the occupier for the purposes of this Part of the Act, and where in such a case he is unknown, a notice addressed to "the occupier" and validly served will be deemed to be served on the owner (s. 66 (2), *post*). Where the owner is liable for the rates by agreement with the rating authority or under compulsory rating under ss. 3 and 4 of the Poor Rate Assessment and Collection Act, 1869, or s. 11 of the Rating and Valuation Act, 1925 (14 Halsbury's Statutes 546, 632), both the owner and the occupier will be entitled to all the notices to which the occupier is entitled (s. 66 (1), *post*), and have identical right in regard to instituting and appearing at the hearing of proceedings.
Gross values.—See the Rating and Valuation Act, 1925, s. 68 (1) (14 Halsbury's Statutes 680); the Valuation (Metropolis) Act, 1869, s. 4 (14 Halsbury's Statutes 553); and ss. 74 *et seq.*, *post.* See also, as to agricultural land, the Local Government Act, 1929, s. 72 (10 Halsbury's Statutes 931).
Net annual values.—See the Rating and Valuation Act, 1925, s. 22 (1) (14 Halsbury's Statutes 646), and the Valuation (Metropolis) Act, 1869, ss. 4, 52 (14 Halsbury's Statutes 553, 577), in conjunction with the Rating and Valuation (Apportionment) Act, 1928, s. 7 (1) (*a*) (14 Halsbury's Statutes 723). See also, as to tin, lead and copper mines, the Rating Act, 1874, ss. 7, 13 (14 Halsbury's Statutes 588, 590). See further ss. 83 (2)–(4) and 87 (1) (*b*), *post.*
Rateable values.—See the Rating and Valuation Act, 1925, s. 22 (1) (*c*), (*d*) (14 Halsbury's Statutes 647); the Valuation (Metropolis) Act, 1869, ss. 4, 52 (*supra*), in conjunction with the Rating and Valuation (Apportionment) Act, 1928, s. 7 (1) (*a*) (*supra*); the Rating and Valuation Act, 1928, s. 2 (1)–(3) (14 Halsbury's Statutes 709, 710), in conjunction with s. 83 (1), *post*; and the Local Government Act, 1929, s. 68 (10 Halsbury's Statutes 928). See also, as to tin, lead and copper mines, the Rating Act, 1874, ss. 7, 13 (*supra*).
Twenty-one days after.—Cf. the note headed "Within the seven days", *supra.*
Statement of right of objection.—See s. 63 (2), *post*, as to further matters to be included in the notice.
Rating and Valuation (Apportionment) Act, 1928.—14 Halsbury's Statutes 713.
Agricultural, industrial or freight transport hereditament.—"Agricultural hereditament", "industrial hereditament" and "freight transport hereditament" are defined respectively in ss. 2, 3 and s. 5 of the Rating and Valuation (Apportionment) Act, 1928 (14 Halsbury's Statutes 714, 715, 719).
Last preceding list.—*I.e.* the valuation list in force at the time of the preparation of the new list.

36. Objections to draft lists.—(1) Any person who is aggrieved—

(*a*) by the inclusion of any hereditament in the draft list; or

(*b*) by any value ascribed in the draft list to a hereditament or by any other statement made or omitted to be made in the draft list with respect to a hereditament; or

(*c*) in the case of a building or portion of a building occupied in parts, by the valuation in the list of that building or portion of a building as a single hereditament,

may, at any time before the expiration of twenty-five days from the date of the publication of notice of the completion of the draft list, serve on the valuation officer notice of objection to the draft list so far as it relates to that hereditament. **[3869]**

(2) Every notice of objection under this section shall be in writing and state the grounds on which the objection is made and the amendments desired to remove the objection. **[3870]**

General note.—This section makes provision for the service upon the valuation officer of written notice of objection to a draft valuation list. The description of the persons entitled

to object to a draft valuation list is identical with that of a person entitled under s. 40, *post*, to make a proposal for the alteration of a current valuation list, except that the present section is concerned with the draft list whereas s. 40 is concerned with the settled list. As to commencement of the present section, see s. 72 (1), *post*.

Any person.—It is clear from the proviso to s. 37 (1), *post*, that a person may be "aggrieved" by a failure to treat a hereditament as an agricultural, industrial or freight-transport hereditament, although by virtue of s. 35 (3), *ante*, it could not be so treated in preparing the draft list.

Hereditament.—For definition, see s. 144 (1), *post*.

Draft list.—See s. 35, *ante*.

Occupied in parts.—This would seem to refer to the occupation of different parts by different persons.

Notice of completion of draft list.—See s. 35 (1) (c), *ante*.

Valuation officer.—For definition, see s. 33 (3), *ante*. As to service of notice on the valuation officer, see also s. 63, *post*.

Notice of objection.—This notice must be distinguished from a notice of objection to a proposal under s. 41 (3), *post*.

As to the inclusion of separate hereditaments in one objection, see s. 64, *post*.

Writing.—This includes printing, lithography, photography and other modes of representing or reproducing words in a visible form (Interpretation Act, 1889, s. 20; 18 Halsbury's Statutes 1001).

Grounds.—It seems clear that the grounds of objection must fall within paras. (*a*) to (*c*) of sub-s. (1), *supra*; cf. s. 40, *post*.

37. Revision of draft lists.—(1) After the expiration of the period limited for the lodging of notices of objection to a draft valuation list, the valuation officer shall revise the draft and may, on that revision, make such alterations in the list, whether for the purpose of meeting an objection or for any other reason, as he thinks proper:

Provided that, in revising the draft, the valuation officer shall not treat any hereditament as an agricultural, industrial or freight transport hereditament unless either—

(*a*) it was so treated for the purposes of the last preceding list; or

(*b*) a claim that it ought to be so treated has been made to him by the owner or occupier of the hereditament in the prescribed form; or

(*c*) an objection has been made on the ground that it ought to be so treated. [3871]

(2) Where, on his revision, the valuation officer makes any alteration in the list, whether for the purpose of meeting an objection or for some other reason, he shall forthwith serve notice of the alteration on the occupier of the hereditament to which the alteration relates and on the rating authority for the area in which the hereditament is situated:

Provided that no notice need be served on the occupier (not being the rating authority) under this subsection where the occupier has not served notice of objection under the last preceding section with respect to the hereditament and the alteration consists only in a reduction in any value ascribed to the hereditament. [3872]

(3) Where notice of objection has been served under the last preceding section, then, whether or not the valuation officer makes, on his revision, any alteration in the list for the purpose of meeting the objection, he shall, on the completion of the revision, forthwith serve on the person who made the objection a notice stating whether he has made any and if so what alteration in the list with respect to the hereditament to which the objection relates:

Provided that no notice need be served under this subsection on any person on whom a notice with respect to the hereditament falls to be served under subsection (2) of this section. [3873]

(4) Any person on whom a notice is served under the last preceding subsection, the rating authority for the area within which the hereditament is situated and, where a notice is served on the occupier under subsection (2) of this section, any person who is the owner or occupier of the whole or any part of the hereditament in question, may, by notice of appeal served on the valuation officer, appeal to a local valuation court with respect to the hereditament in question. [3874]

(5) A notice of appeal shall be in writing and shall be served—

(*a*) in the case of a person on whom notice has been served under subsection (3) of this section, before the expiration of the twenty-one days following that of the service on him of that notice;

(*b*) in the case of the rating authority, where they do not receive notice under subsection (3) of this section, before the expiration of the twenty-one days following that of the service on the authority of the notice specified in subsection (2) of this section;

(*c*) in any other case, before the expiration of the twenty-one days following that of the service on the occupier of the hereditament of the notice specified in subsection (2) of this section,

and shall contain a statement of the grounds of the appeal. [3875]

(6) The valuation officer shall, within seven days after the date on which a notice of appeal is served upon him under this section, transmit a copy thereof to each of the following persons, not being the appellant, that is to say—

(*a*) to the occupier of the hereditament in question; and

(*b*) to the rating authority for the area in which the hereditament in question is situated. [3876]

(7) Any notice served under subsection (2) or subsection (3) of this section shall be in writing and shall include a statement of the rights of appeal conferred by this section. [3877]

Commencement of section.—See s. 72 (1), *post.*

Period for lodging notices of objection.—See s. 36 (1), *ante.*

Valuation officer.—For definition, see s. 33 (3), *ante.*

Shall revise the draft.—This procedure follows the precedent laid down for re-valuations in s. 14 of the Valuation (Metropolis) Act, 1869 (14 Halsbury's Statutes 556), and s. 27 of the Rating and Valuation Act, 1925 (14 Halsbury's Statutes 654). But the revision is now by the valuation officer, who is in the position held by the rating authority under those Acts, whereas under those Acts the revision is in each case carried out by the assessment committee.

Alterations.—For interpretation, see s. 144 (9), *post.*

Hereditament; owner.—For definitions, see s. 144 (1), *post.*

Agricultural, industrial or freight transport hereditament; last preceding list; occupier.—See the notes to s. 35, *ante.*

Prescribed.—*I.e.* by regulations (s. 71 (*b*), *post*).

An objection has been made, etc.—The power to give notice of objection on this ground is presumably conferred by s. 36 (1) (*b*), *ante.*

Serve; served.—See s. 63 (1), *post.*

Rating authority.—See the notes to s. 33, *ante.*

Notice of appeal.—As to service of a notice upon the valuation officer, see also s. 63, *post.* As to the inclusion of separate hereditaments in one appeal, see s. 64, *post.*

Appeal to a local valuation court.—See ss. 44 *et seq.*, *post.* As to reference to arbitration in lieu of appealing to a local valuation court, see s. 50, *post.*

As to appeals outstanding when valuation list is settled and signed, see s. 38 (5), *post.*

Writing.—See notes to s. 36, *ante.*

Grounds of appeal.—Where the appeal arises out of a notice from the valuation officer to an objector stating whether he has made any, and if so, what alteration in a list under sub-s. (3), *supra*, it would seem that the grounds of appeal are limited to the grounds of objection (*Williams* v. *Bedminster Union* (1874), 39 J. P. 117; *R.* v. *London JJ.*, [1897] 1 Q. B. 433). On the same principle it would seem that the grounds of appeal against an alteration in a draft list, of which notice has been given under sub-s. (2), *supra*, are confined to the alteration made. An appeal against a reduction in the assessment would thus, in general, be impossible in the latter case. Where, however, a person has given notice of objection and receives notice under sub-s. (2), *supra*, he would seem to be entitled to give notice of appeal either on grounds specified in his notice of objection or in respect of the alteration of the assessment, since he will not receive a second notice in respect of his objection under sub-s. (3), *supra* (see the proviso thereto). These rules would seem to apply to a rating authority as to any other party.

The grounds of appeal depend on the ways in which a person may be aggrieved (see s. 36 (1), *ante*).

Shall include a statement, etc.—As to a further requirement, see s. 63 (2), *post.*

38. Settling of valuation list.—(1) The valuation officer shall, at or about, and in any case not later than, the end of December preceding the date on which a new valuation list is to come into force, settle the list, sign it, and transmit it to the rating authority, and transmit to the clerk of the local valuation panel a notification of the settling and signing of the list and of the date of the settling and signing thereof. [3878]

(2) Before settling and signing the list, the valuation officer shall make

such alterations therein as are necessary to give effect to any decisions given on appeal with respect to the list before the date of the settling thereof and, where a notice of appeal has been given with respect to a hereditament and has been withdrawn as the result of an agreement made between the valuation officer, the appellant and any other person entitled to be heard on the appeal, such alterations, if any, as are necessary to give effect to the agreement. [3879]

(3) Before settling and signing the list, the valuation officer shall cause such particulars with respect to totals of values as may be prescribed, both in respect of the whole rating area and in respect of any parish or other area which is liable to be charged separately under any precept or to bear any special expenses, to be ascertained and inserted in the list. [3880]

(4) Save as aforesaid, and subject to any alteration made for the purpose of correcting any clerical or arithmetical error, the list as settled and signed shall be identical with the draft list as revised under the last preceding section. [3881]

(5) The valuation officer shall not be required to await the hearing and determination of all appeals before settling and signing the list, and if any appeal is not heard and determined before the list is settled and signed, it shall, unless withdrawn, be heard and determined as soon as possible thereafter, and with the like consequences as if it had been an appeal against an objection to a proposal duly made in accordance with the subsequent provisions of this Part of this Act for the alteration of the current valuation list and served on the valuation officer on the date on which that list comes into force. [3882]

(6) The list for any rating area settled, signed and sent to the rating authority as aforesaid shall, as from the date when it comes into force and subject to any alterations made in accordance with this Part of this Act, be the valuation list for the rating area, and any failure on the part of a valuation officer to complete any proceedings with respect to the preparation, revision or settling and signing of the list within the time required by this Part of this Act, or any omission from the list of any matters required by law to be included therein, shall not of itself render the list invalid; and, until the contrary is proved, the list shall be deemed to have been duly made in accordance with the provisions of this Part of this Act. [3883]

Commencement of section.—See s. 72 (1), *post.*

Valuation officer.—For definition, see s. 33 (3), *ante.*

The date on which a new valuation list is to come into force.—See s. 34, *ante.*

Settle the list.—The procedure of settling the list corresponds to the approval of the draft list under s. 28 of the Rating and Valuation Act, 1925 (14 Halsbury's Statutes 655), or ss. 14 and 42 (8) of the Valuation (Metropolis) Act, 1869 (14 Halsbury's Statutes 556, 568).

Rating authority.—See the notes to s. 33, *ante.*

Clerk of the local valuation panel.—For definition of "clerk", see s. 144 (1), *post.* Provision for the appointment of a clerk to a local valuation panel is made by s. 47 (1), *post.*

As to local valuation panels, see ss. 44, 45 and 46, *post.*

Appeal with respect to the list.—*I.e.* under s. 37 (4) and (5), *ante.* As to hearing and determination of such an appeal by the local valuation court, see s. 48, *post.* As to appeals to the county court from a local valuation court, see s. 49, *post*, and as to reference to arbitration in lieu of appealing, see s. 50, *post.*

Hereditament.—For definition, see s. 144 (1), *post.*

Any other person entitled to be heard, etc.—The persons entitled to be heard on appeal to a local valuation court are specified in s. 48 (3), *post.*

Totals of values.—See the Rating and Valuation Acts (Form of Valuation List) Rules, 1932 (S. R. & O., 1932, No. 395), rr. 7, 9 and 10; and the London (Valuation Lists) Rules, 1933 (S. R. & O., 1933, No. 785), rr. 5, 9 and 10.

Prescribed.—*I.e.* by regulations (see s. 71 (*b*), *post*).

Rating area.—For definitions, see s. 144 (1), *post*; and cf. s. 123, *post.*

Parish.—For definition, see Rating and Valuation Act, 1925, s. 68 (4) (14 Halsbury's Statutes 688).

Clerical or arithmetical error.—Cf. s. 43, *post*, which confers upon the valuation officer express powers to correct a clerical or arithmetical error in a valuation list at any time.

Objection to a proposal.—See s. 41 (3), (4) for right of objection to a proposal to alter a current list; as to appeal against such an objection, see s. 41 (6), (7), *post.*

Alteration.—For interpretation, see s. 144 (0), *post.* As to alteration of current lists, see ss. 40 *et seq.*, *post.*

This would seem to refer to all alterations made during the life of the list, rather than to alterations made between the date of settling the list and the date of its coming into force.

39. Duty of rating authority as respects valuation list.—(1) The rating authority on receiving a valuation list shall deposit it at the offices of the authority. [3884]

(2) The rating authority shall give effect to any directions which may from time to time be given to them by the valuation officer in pursuance of the provisions of this Part of this Act authorising or requiring the valuation officer to cause alterations to be made in valuation lists. [3885]

Commencement of section.—See s. 72 (1), *post.*
Rating authority.—See the notes to s. 33, *ante.*
On receiving a valuation list.—See s. 38 (1), *ante.*
Shall deposit it, etc.—The object of depositing the list at the offices of the authority is to enable it to be inspected under s. 60 of the Rating and Valuation Act, 1925 (14 Halsbury's Statutes 681), as extended by s. 61 (2), *post.*
Directions.—Such directions will be given as a result of alterations under ss. 41 (5), (6), 43, 48 (4), 49 (1) and 50 (3), *post.*
Valuation officer.—For definition, see s. 33 (3), *ante.*

Alteration of current valuation lists

40. Proposals for alteration of lists.—(1) Any person who is aggrieved—

(*a*) by the inclusion of any hereditament in the list; or
(*b*) by any value ascribed in the list to a hereditament or by any other statement made or omitted to be made in the list with respect to a hereditament; or
(*c*) in the case of a building or portion of a building occupied in parts, by the valuation in the list of that building or portion of a building as a single hereditament,

may at any time make a proposal for the alteration of the list so far as it relates to that hereditament. [3886]

(2) The valuation officer may at any time make a proposal for any alteration of a valuation list. [3887]

(3) Any such proposal as is mentioned in the previous provisions of this section is in this Part of this Act referred to as " a proposal ". [3888]

General note.—A proposal for alteration of a current valuation list may be made either by the valuation officer or by a person aggrieved by any of the circumstances specified in paras. (*a*), (*b*) and (*c*) of sub-s. (1), *supra.* It should be noted that the persons entitled to make a proposal are described in practically the same terms are those who, under s. 36, *ante*, are entitled to object to a draft valuation list. The present section, which may be compared with s. 37 (1) of the Rating and Valuation Act, 1925 (14 Halsbury's Statutes 664), must be read in conjunction with the transitional provisions contained in s. 72, *post.* As to commencement of this section, see s. 72 (1), *post.*
Hereditament.—For definition, see s. 144 (1), *post.*
The list.—*I.e.* the list settled under s. 38, *ante*; but see also s. 72 (2), *post.*
Occupied in parts.—See note to s. 36, *ante.*
Alteration.—For interpretation, see s. 144 (9), *post.* As to proceedings on a proposal, including notice of objection thereto, and appeal against such objection, see s. 41, *post*, and as to the effect of alterations made in pursuance of proposals under this section, see s. 42, *post.* As to alterations necessary to correct clerical or arithmetical errors, see s. 43, *post.*
Valuation officer.—For definition, see s. 33 (3), *ante.* He is to be served with every proposal for alteration, except where made by him (see s. 41 (1) (*a*), *post*).
A valuation list.—*I.e.* a list settled under s. 38, *ante*; but see also s. 72 (2), *post.*

41. Proceedings on proposals.—(1) Every proposal must—

(*a*) be made in writing and, except where it is made by the valuation officer, be served on the valuation officer;
(*b*) specify the grounds on which the proposed alteration is supported;
(*c*) comply with any requirements of any regulations made by the Minister with respect to the form of proposals and otherwise with respect to the making thereof. [3889]

(2) The valuation officer shall, within seven days after the date on which a proposal is made by or served on him, transmit a copy thereof, together with a statement in writing of the right of objection conferred by the subsequent

provisions of this section, to each of the following persons, not being the maker of the proposal, that is to say—

(*a*) the occupier of the hereditament to which the proposal relates ; and

(*b*) the rating authority for the area in which the hereditament in question is situated :

Provided that a copy of the proposal need not be transmitted under this subsection to the occupier of the hereditament (not being the rating authority) where the proposal is made otherwise than by the valuation officer and the alteration asked for by the proposal consists only of a reduction in any value ascribed to the hereditament. [3890]

(3) Any of the following persons, that is to say, the owner or occupier of the whole or any part of a hereditament to which a proposal relates or the rating authority for the area in which the hereditament is situated may, within twenty-one days from the date on which notice is served under subsection (2) of this section on the occupier or, in the case of the rating authority (where they are not the occupier), on the rating authority, serve on the valuation officer notice in writing of objection to the proposal, and the valuation officer shall, within seven days of the date on which a notice of objection is served on him, transmit a copy thereof to the maker of the proposal. [3891]

(4) Where the proposal is made otherwise than by the valuation officer, the valuation officer may, within twenty-one days from the date on which the proposal is served on him, serve on the maker of the proposal notice in writing of objection to the proposal. [3892]

(5) Where, on the expiration of the times limited by subsections (3) and (4) of this section for the service of notice of objection, no such notice has been served or where every such notice is unconditionally withdrawn, the valuation officer shall cause such alteration to be made in the list as will give effect to the proposal. [3893]

(6) Where notice of objection is made and is not unconditionally withdrawn—

(*a*) the person making the proposal may, by notice of appeal served within the time and on the persons hereinafter mentioned, appeal against the objection to a local valuation court ; and

(*b*) no alteration shall be made in the list in pursuance of the proposal except where notice of appeal is given as aforesaid and then only either—

(i) in pursuance of the directions of a court or arbitrator given under the subsequent provisions of this Part of this Act ; or

(ii) by agreement between all the persons entitled to be heard on the appeal. [3894]

(7) A notice of appeal under this section shall be in writing, shall be served within twenty-one days from the date when a copy of the notice of objection is received by the appellant or, as the case may be, from the service on the appellant of the notice of objection, and shall be so served—

(*a*) on the person making the objection ; and

(*b*) where the rating authority for the area in which the hereditament in question is situated have neither made the objection nor are themselves the appellant, on that authority ; and

(*c*) where the valuation officer has neither made the objection nor is himself the appellant, on the valuation officer. [3895]

General note.—This section lays down the procedure in connection with proposals under s. 40, *ante*, for alteration of valuation lists, and provides for the making of objections to such proposals and for appeals against such objections. Appeals are to local valuation courts constituted under s. 44, *post*, and there is a right of appeal therefrom under s. 49, *post*, to a county court. Alternatively to these appeals there may be a reference to arbitration by agreement under s. 50, *post*.

As to commencement of this section, see s. 72 (1), *post*.

Proposal.—For meaning, see s. 40 (3), *ante*; but see also s. 72 (2), *post.*
As to the inclusion of separate hereditaments in one proposal, see s. 64, *post.*
Writing.—See the notes to s. 36, *ante.*
Valuation officer.—For definition, see s. 33 (3), *ante.*
Served; serve.—See s. 63, *post.*
Specify the grounds, etc.—It seems clear from s. 40, *ante*, that, while the valuation officer may make a proposal on any grounds, any other person may make a proposal only on the grounds specified in sub-s. (1) of that section.
There is authority for saying that the proposal need not state what alteration is proposed, although the person making the proposal may be required to state this at the hearing (*R.* v. *West Norfolk Assessment Committee, Ex parte Ward* (1930), 94 J. P. 201; *R.* v. *Thanet and District Assessment Committee and Kent County Valuation Committee, Ex parte Isle of Thanet Gas Light and Coke Co.*, [1939] 2 K. B. 640; [1939] 2 All E. R. 489; *R.* v. *Heston and Isleworth Rating Authority, Ex parte Conti*, [1941] 2 All E. R. 116).
Regulations.—See s. 142 (1), *post.*
The Minister.—The Minister of Health (s. 144 (1), *post*).
Hereditament: owner.—For definitions, see s. 144 (1), *post.*
Rating authority.—See the notes to s. 33, *ante.*
Notice of objection.—As to the inclusion of separate hereditaments in one objection, see s. 64, *post.*
Shall cause.—Cf. s. 39 (2), *ante.*
Alteration.—For interpretation, see s. 144 (9), *post.*
As to the effect of an alteration made in pursuance of a proposal, see s. 42, *post.*
Appeal to a local valuation court.—See ss. 44 *et seq.*, *post.* Appeal lies from a decision of a local valuation court to the county court under s. 49, *post*; and in lieu of both classes of appeal the parties may, under s. 50, *post*, agree to a reference to arbitration.
As to the inclusion of separate hereditaments in one appeal, see s. 64, *post.*
Except where notice of appeal is given as aforesaid.—But see s. 38 (5), *ante.*
Directions given by a court or arbitrator, etc.—See ss. 48 (4), 49 (1) and 50 (3), *post.*
All the persons entitled to be heard on the appeal.—See the notes to s. 38, *ante.*

42. Effect of alterations made in pursuance of proposals.—(1) Subject to the provisions of this section, an alteration made in the valuation list in pursuance of a proposal (whether under the last preceding section or under the directions of a court or arbitrator given by virtue of the subsequent provisions of this Part of this Act) shall, in relation to any rate current at the date when the proposal in pursuance of which the amendment so made was served on the valuation officer, or, where the proposal was made by the valuation officer, current at the date when notice of the proposal was served on the occupier of the hereditament in question, be deemed to have had effect as from the commencement of the period in respect of which the rate was made, and shall, subject to the provisions of this section, have effect for the purposes of any subsequent rate. [3896]

(2) Notwithstanding anything in subsection (1) of this section, an alteration in the valuation list which either—

(*a*) consists of the inclusion in the valuation list of a newly erected or newly constructed hereditament or an altered hereditament which has been out of occupation on account of structural alterations; or

(*b*) is made by reason of a change in the value of a hereditament caused by the making of structural alterations or by the total or partial destruction of any building or other erection by fire or any other physical cause; or

(*c*) is made by reason of any hereditament having become or ceased to be an agricultural, industrial or freight transport hereditament, or of a change in the proportion in which an industrial or freight transport hereditament is occupied and used for industrial or, as the case may be, transport purposes and for other purposes respectively; or

(*d*) is made by reason of any hereditament becoming or ceasing to be a hereditament which, under Part V of this Act, is not liable to be rated; or

(*e*) is made by reason of any change in the extent to which a railway or canal hereditament, as defined for the purposes of Part V of this Act, is occupied for non-rateable purposes, as so defined; or

(*f*) is made by reason of any property previously rated as a single hereditament becoming liable to be rated in parts; or

(*g*) is made by reason of any property previously rated in parts becoming liable to be rated as a single hereditament,

shall have effect only as from the date when the new or altered hereditament comes into occupation, or as from the happening of the event by reason of which the alteration is made, as the case may be. [3897]

(3) Where in pursuance of a proposal an alteration is made in the valuation list which affects the amount of any rate levied in respect of any hereditament in accordance with the list, the difference, if too much has been paid, shall be repaid or allowed or, if too little has been paid, shall be paid and may be recovered as if it were arrears of the rate. [3898]

Commencement of section.—See s. 72 (1), *post.*
Alteration.—For interpretation, see s. 144 (9), *post.*
Proposal.—For meaning, see s. 40 (3), *ante*; but see also s. 72 (2), *post.*
Directions of a court or arbitrator, etc.—See ss. 48 (4), 49 (1) and 50 (3), *post.* The effect of this provision is that an alteration made as a result of an appeal has the same effect as one made in pursuance of a proposal under s. 41 (5), *ante.*
Rate; hereditament.—For definitions, see s. 144 (1), *post.*
Served on the valuation officer.—See s. 41 (1) (*a*), *ante*, and for the meaning of "served", see s. 63, *post.*
Service of notice of proposal on occupier.—This expression must refer to the transmission of a copy of a proposal to the occupier together with a statement of the right of objection thereto under s. 41 (2), *ante*, since actually there is no provision for service on the occupier of notice of a proposal.
Deemed to have had effect.—It would seem that the rating authority and the ratepayer must both be placed in the same position as if the alteration had been incorporated in the rate when originally made, increases or reductions in the rate being payable by or re-payable to the ratepayer under sub-s. (3), *supra.* If, as a result of an alteration made in pursuance of a proposal, the amount due in respect of a particular hereditament is increased, the extra sum will be deemed to have become due and payable on the day on which the rate was actually made in the same way as the sum originally due under the rate and must be given the same preference in cases of bankruptcy, etc. (*Re Airedale Garage Co., Anglo-South American Bank* v. *Airedale Garage Co.*, [1933] Ch. 64).
The period in respect of which the rate was made.—Cf. the Rating and Valuation Act, 1925, s. 4 (2), (3) (14 Halsbury's Statutes 623), and, as respects London, the Poor Rate Assessment and Collection Act, 1869, s. 14 (14 Halsbury's Statutes 550).
Agricultural, industrial or freight-transport hereditament.—See the notes to s. 35, *ante.*
Hereditament . . . not liable to be rated.—See s. 85, *post*, in conjunction with ss. 87 (1) and 91, *post.*
Railway or canal hereditament.—As defined in s. 86 (1), *post*; and see also ss. 86 (2), (3), 87, 89 (3), *post.*

43. Clerical and arithmetical errors.—The valuation officer may at any time cause to be made in a valuation list any alteration which is necessary to correct any clerical or arithmetical error therein and the list shall have effect accordingly, but if the alteration is made in respect of any matter other than totals, the officer shall, before causing the alteration to be made, send notice thereof to the occupier of the hereditament affected and to the rating authority of the rating area, and shall allow fourteen days to elapse during which any person concerned may object to the proposed alteration. [3899]

Commencement of section.—See s. 72 (1), *post.*
Valuation officer.—For definition, see s. 33 (3), *ante.*
Cause to be made.—*I.e.* by directions to the rating authority under s. 39 (2), *ante.*
A valuation list.—*I.e.* a valuation list settled under s. 38, *ante*; but see also s. 72 (2), *post.*
Alteration.—For interpretation, see s. 144 (9), *post.*
Clerical or arithmetical error.—Cf. s. 38 (4), *ante.*
Send notice.—See s. 63 (1), *post.*
Occupier.—See notes to s. 35, *ante.*
Hereditament; rating area.—For definitions, see s. 144 (1), *post.* See also as to "rating area" in London, s. 123, *post.*
Rating authority.—See the notes to s. 33, *ante.*
Fourteen days.—Excluding the day on which notice is given but including the day on which any objection is made (see the note headed "Within the seven days" to s. 35, *ante*).
May object.—As to the inclusion of separate hereditaments in one objection, see s. 64, *post.*

Appeals

44. Local valuation courts.—(1) Local valuation courts constituted as hereinafter provided shall be convened as often as may be necessary for the purpose of hearing and determining appeals under the preceding provisions

of this Part of this Act against draft valuation lists and against objections to proposals for the alteration of valuation lists. [3900]

(2) The local valuation court which hears and determines an appeal with respect to a hereditament shall consist of members of a local valuation panel constituted under such a scheme as is mentioned in the next succeeding section, being the panel for the area within which that hereditament is situated:

Provided that regulations made by the Minister may provide, in relation to hereditaments the value of which is or may be ascertained by reference to the accounts, receipts or profits of an undertaking carried on thereon, that jurisdiction as respects all or any of the hereditaments occupied for the purposes of a particular undertaking shall be exercised by a local valuation court consisting of members of such one of the local valuation panels within whose areas any of those hereditaments are situated as may be specified by or under the regulations. [3901]

(3) Every such court shall consist of—

(*a*) either the chairman of the local valuation panel or the deputy chairman (or, if more than one, one of the deputy chairmen) thereof; and

(*b*) two other members of the panel selected in accordance with the scheme under which the panel is constituted. [3902]

General note.—This section provides for the constitution of local valuation courts for hearing and determining appeals against draft valuation lists and against objections to proposals for the alteration of valuation lists. These courts take the place of the assessment committees abolished by s. 33 (1), *ante*, but in contrast to those committees they have no administrative functions. As to commencement of this section, see s. 72 (1), *post*.

Constituted as hereinafter provided.—See ss. 45 and 46, *post*, and sub-ss. (2), (3), *supra*. See also as to staff, expenses, etc., s. 47, *post*.

Shall be convened.—Cf. s. 48 (1), *post*.

For the purpose of hearing and determining appeals, etc.—As to appeals against draft valuation lists, see s. 37 (4), *ante*, and as to appeals against objections to proposals for the alteration of valuation lists, see s. 41 (6), *ante*. See also s. 38 (5), *ante*, and s. 72 (2), *post*.

Hereditament.—For definition, see s. 144 (1), *post*.

Members of a local valuation panel.—As to the setting up of panels, see ss. 45 and 46, *post*.

Regulations.—See s. 142 (1), *post*.

The Minister.—The Minister of Health (s. 144 (1), *post*).

Chairman, deputy chairman.—As to appointment, see s. 46 (1) (*b*), *post*.

Two other members.—See s. 46 (1) (*c*), *post*.

45. Submission and approval of schemes.—(1) It shall be the duty of the council of every county and county borough to make and submit to the Minister a scheme for the constitution of a local valuation panel for the county or county borough or two or more local valuation panels for areas which together comprise the whole of the county or county borough:

Provided that any two or more councils, whether councils of counties or of county boroughs, may, and, if so directed by the Minister, shall, make and submit to the Minister a joint scheme for the constitution of a local valuation panel or local valuation panels for the whole of their respective areas, or for areas which together comprise the whole of their respective areas. [3903]

(2) As soon as a scheme has been submitted to the Minister under this section, the council or councils submitting the scheme shall publish in one or more newspapers circulating in their area or areas a notice stating that the scheme has been so submitted and that a copy is open to inspection at a specified place; and, where the said area or areas or either of them are counties, the council or councils submitting the scheme shall, at the same time as they submit it, send a copy thereof to each of the rating authorities within that county or, as the case may be, those counties. [3904]

(3) No scheme submitted to the Minister under this section shall be of any effect unless and until it is approved by the Minister, and the Minister, after considering any objections to the scheme which may be submitted to

him by persons appearing to him to be interested, may approve the scheme with or without modifications. [3905]

(4) If, on the expiration of nine months from the date of the coming into force of this section, there remains any area which is not covered by any of the schemes which have by then been submitted under this section, or which is covered only by a scheme which the Minister is not prepared to approve, the Minister may himself make a scheme for the constitution of a local valuation panel or local valuation panels for that area, and the scheme when so made shall have effect as if it had been submitted by the council of the county or county borough in question or, as the case may be, by the councils of all the counties and county boroughs in question, and had been approved by the Minister. [3906]

(5) Any scheme made under this section may be revoked or varied—

(*a*) by a new scheme made and submitted to and approved by the Minister in accordance with the provisions (subject to any necessary modification) of subsections (1) to (3) of this section; or

(*b*) by a new scheme made by the Minister on a representation made by any local valuation panel or valuation officer and after consultation with the council of any county or county borough concerned. [3907]

(6) Before a scheme is made by the Minister under this section, he shall publish in one or more newspapers circulating in the area to which the scheme relates a notice stating his proposal to make the scheme, and that a copy of a draft of the scheme is open to inspection at a specified place, and specifying a date by which any person may send to him any representations respecting the draft. [3908]

General note.—This section, which supplements s. 44, *ante*, must also be read in conjunction with ss. 46 and 47, *post*. It places upon county and county borough councils the duty of preparing and submitting to the Minister schemes for the constitution of the local valuation panels from which are selected the members of local valuation courts established by s. 44, *ante*. Schemes so prepared and submitted must be approved by the Minister before they can take effect, and in certain circumstances the Minister may himself make a scheme, which shall when made have the same effect as if it had been duly submitted and approved as above.

This section and ss. 46 and 47, *post*, came into force in all rating areas in England and Wales, other than the Isles of Scilly, on May 1, 1948, by virtue of the Local Government Act, 1948 (Appointed Days) (No. 1) Order, 1948 (S.I. 1948 No. 823), *post*. They will come into force in the Isles of Scilly on February 1, 1950, by virtue of the Local Government Act, 1948 (Appointed Days) Order, 1949 (S.I. 1949 No. 434).

County: county borough.—As defined in s. 1 of the Local Government Act, 1933 (26 Halsbury's Statutes 306), and s. 1 of the London Government Act, 1939 (32 Halsbury's Statutes 267). See also the definition of "local authority" in s. 144 (1), *post*.

The Minister.—The Minister of Health (s. 144 (1), *post*).

Joint scheme.—The Ministry of Health favour county borough councils joining with county councils in making combined schemes (see Circular 68/48, *post*).

Publish a notice.—In Circular 68/48, *post*, it is suggested that the notice should state that objections might be made to the Minister within one month after the date of the notice.

Rating authorities.—See note to s. 33, *ante*, and see also s. 144 (8), *post*.

Objections.—The Minister is bound to consider objections to a scheme, but is not under a duty to give objectors an opportunity of being heard; nor is he bound to give any special effect to objections. As to the time for submitting objections, see the note headed "Publish a notice," *supra*.

Valuation officer.—See s. 33 (3), *ante*.

46. Membership of panels.—(1) Schemes under the last preceding section shall provide as respects the panels to which those schemes respectively, relate—

(*a*) for fixing the number of members of the panel and for determining their respective tenures of office and the persons by whom they are to be appointed respectively;

(*b*) for the appointment of one of those members as chairman of the panel and not more than two of the other members as deputy chairmen thereof;

(*c*) subject to the provisions of the last but one preceding section, for the manner in which members of local valuation courts are to be selected from members of the panel. [3909]

(2) A person shall be disqualified from being appointed or being a member of any local valuation panel as aforesaid if he is a person who has been adjudged bankrupt, or made a composition or arrangement with his creditors, or has within the five years immediately preceding his appointment or since his appointment been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and ordered to be imprisoned for a period of not less than three months without the option of a fine :

Provided that—

(*a*) a disqualification attaching to a person under this subsection by reason of his having been adjudged bankrupt shall cease—

(i) if the bankruptcy is annulled on the ground that he ought not to have been adjudged bankrupt or that his debts have been paid in full, on the date of the annulment ; or

(ii) if he is discharged with a certificate that the bankruptcy was caused by misfortune without any misconduct on his part, on the date of his discharge ; or

(iii) in any other case, on the expiration of five years from the date of his discharge ;

(*b*) a disqualification attaching to a person under this section by reason of his having made a composition or arrangement with his creditors shall cease—

(i) if he pays his debts in full, on the date on which the payment is completed ; or

(ii) in any other case, on the expiration of five years from the date on which the terms of the deed of composition or arrangement are fulfilled ;

(*c*) for the purposes of this subsection, the ordinary date on which the period allowed for making appeal from the conviction expires, or, if such appeal is made, the date on which it is finally disposed of or abandoned or fails by reason of the non-prosecution thereof, shall be deemed to be the date of the conviction. [3910]

Commencement of section.—See the General note to s. 45, *ante*.

Number of members.—In Circular 68/48 it is suggested that " while the membership should be sufficient to provide courts (. . .) to deal with appeals with reasonable expedition, and without making unduly heavy calls on the time of individual members, the number of persons appointed should be kept as low as possible to reduce the risk of varying decisions and to secure the maximum of experience to each member."

Tenures of office.—In the draft model scheme sent to local authorities with Circular 68/48, *supra*, it is suggested that the persons first appointed to be members of the panel and the first chairman and deputy chairmen should come into office on January 1, 1949, and continue in office until April 1, 1954, when the chairman and deputy chairmen and one-half of the number should retire, the other half continuing in office until April 1, 1957. The term of office of members appointed in place of retiring members suggested is six years.

Persons by whom . . . appointed.—In the draft model scheme, *supra*, the members of the panel are appointed by the county councils and the county borough councils making the scheme in proportions to be specified in the scheme and naturally expected to differ according to the numbers and size of the areas of the councils concerned.

Chairman of the panel : deputy chairmen.—The draft model scheme, *supra*, provides for the chairman and deputy chairmen of the panel being appointed by the councils or, in default of agreement, by the Minister of Health.

Manner in which . . . selected.—For a suggested manner of selection, see art. 13 of the draft model scheme, *supra*.

Disqualified.—The provisions relating to disqualification are derived from s. 59 of the Local Government Act, 1933 (26 Halsbury's Statutes 334). It would seem that a person disqualified cannot resign (*Hardwick* v. *Brown* (1873), L. R. 8 C. P. 406).

Being a member.—The effect of these words is that disqualification will attach after an appointment as soon as the disqualifying circumstances arise.

Adjudged bankrupt.—See the Bankruptcy Act, 1914, s. 18 (2 Halsbury's Statutes (2nd Edn.) 345).

Made a composition or arrangement, etc.—There must be an agreement with the creditors, and a mere assignment of a debtor's property in favour of his creditors is not, therefore, within

the present provision (*R.* v. *Cooban* (1886), 18 Q. B. D. 269). Moreover, nothing done or suffered under the Liabilities (War-Time Adjustment) Acts, 1941 and 1944 (*i.e.* the Liabilities (War-Time Adjustment) Act, 1941 (34 Halsbury's Statutes 20), and the Liabilities (War-Time Adjustment) Act, 1944 (37 Halsbury's Statutes 12)), disqualifies under the present provision (see s. 21 (1) of the Act of 1941 ; 34 Halsbury's Statutes 47 ; in conjunction with s. 22 of the Act of 1944 ; 37 Halsbury's Statutes 24). On the other hand, there is authority for saying that a person who obtains an administration order under Part VII of the County Courts Act, 1934 (5 Halsbury's Statutes (2nd Edn.) 110) (which replaces s. 122 of the Bankruptcy Act, 1883 ; 1 Halsbury's Statutes 583), makes a composition with his creditors (*Bradfield* v. *Cheltenham Guardians*, [1906] 2 Ch. 371).

Has been convicted.—This disqualification does not appear to apply where a free pardon has been granted by the Crown (*Hay* v. *Tower Division of London JJ.* (1890), 24 Q. B. D. 561).

United Kingdom.—Great Britain and Northern Ireland (Royal and Parliamentary Titles Act, 1927, s. 2 (2) ; 4 Halsbury's Statutes (2nd Edn.) 192).

If the bankruptcy is annulled, etc.—See the Bankruptcy Act, 1914, s. 29 (2 Halsbury's Statutes (2nd Edn.) 362).

If he is discharged, etc.—See the Bankruptcy Act, 1914, s. 26 (4) (2 Halsbury's Statutes (2nd Edn.) 359).

On the expiration of five years, etc.—See the Bankruptcy Act, 1914, s. 26, as amended by the Bankruptcy (Amendment) Act, 1926, s. 1 (2 Halsbury's Statutes (2nd Edn.) 354).

It is thought that, where the discharge is suspended, the five year period does not begin to run until the discharge has taken effect.

If he pays his debts in full.—There is no payment in full where certain creditors have released their debts and the debtor pays only the remainder in full (*Re Keet*, [1905] 2 K. B. 666).

47. Staff, expenses, etc. of local valuation panels and courts.—(1) To assist the panel, the chairman thereof and the local valuation courts constituted from members thereof in the performance of their functions under this Part of this Act, every local valuation panel shall appoint a person to be their clerk and may appoint such other officers and servants as they may, with the approval of the Minister, determine, and may pay to them such salaries, allowances and other remuneration as they may, with the approval of the Minister and the Treasury, determine, and every such panel shall be deemed for the purposes of the Local Government Superannuation Act, 1937, to be a local authority included in Part I of the First Schedule to that Act :

Provided that the functions of the officers and servants appointed under this subsection shall not extend to the valuation of hereditaments, and the power to appoint officers and servants conferred by this subsection shall be exercised accordingly. [3911]

(2) The expenses of every such panel, including the expenses of the local valuation courts from time to time constituted from the members thereof, shall be defrayed by the Minister out of moneys provided by Parliament. [3912]

(3) Minutes of the proceedings of a valuation panel and of the local valuation courts constituted from members thereof shall be kept in books provided for that purpose, and a minute of any such proceedings signed—

(*a*) in the case of a meeting of the panel, at the same or the next subsequent meeting of the panel, by the person acting as chairman at the meeting at which the minute is signed ; and

(*b*) in the case of a meeting of a local valuation court, at or not later than two days after the date of the meeting to which the minute relates, by the person acting as chairman at the meeting to which the minute relates,

shall be received in evidence without further proof. [3913]

Commencement of section.—See the General note to s. 45, *ante*.

Panel.—This is the local valuation panel set up under s. 45, *ante*.

Chairman.—As to the appointment of a chairman of a local valuation panel, see s. 46 (1) (*b*), *ante*. His position as chairman of a local valuation court is provided for by s. 44 (3), *ante*.

Local valuation court.—See s. 44, *ante*.

Clerk.—For definition, see s. 144 (1), *post*. The clerk receives notice of appeal to a local valuation court from a valuation officer under s. 48 (1), *post*.

The Minister.—The Minister of Health (s. 144 (1), *post*).

Local Government Superannuation Act, 1937.—30 Halsbury's Statutes 385. For Sched. I, Part I, thereto, see 30 Halsbury's Statutes 419.

Hereditaments.—For meaning, see s. 144 (1), *post*.

Minute of any such proceedings signed.—It is apparently sufficient in the case of an adjournment if the minutes of the adjourned meeting only are signed (*Inglis* v. *Great Northern Rail. Co.* (1852), 19 L. T. O. S. 149.

Not later than two days.—Excluding the day on which the meeting of the local valuation court was held but including the day on which the minutes are signed (see the note to s. 35, *ante*, headed "Within the seven days".

Received in evidence.—The minutes, even though signed in the case of the proceedings of a local valuation court by the chairman without any resolution of the court, will be *prima facie* evidence against all who attended the meeting and the onus will be on any person impugning them (*Re Llanharry Hematite Iron Ore Co., Ltd., Roney's Case, Stock's Case* (1864), 4 De G. J. & Sm. 426). They are *per se* evidence that the proceedings recorded therein were transacted and there is no need to prove the signature of the chairman (*Miles* v. *Bough* (1842), 3 Q. B. 845; *Inglis* v. *Great Northern Rail. Co.* (1852), 19 L. T. (O. S.) 149; *Sheffield, Ashton-under-Lyne and Manchester Railway Co.* v. *Woodcock* (1841), 7 M. & W. 574). The minutes are not conclusive evidence of the proceedings, however, and evidence may be given that a resolution passed differed in its terms from that actually recorded, and that a resolution, not appearing on the minutes, was in fact passed (*Re Pyle Works* (*No.* 2), [1891] 1 Ch. 173; *Re Fireproof Doors, Ltd., Umney* v. *Fireproof Doors, Ltd.*, [1916] 2 Ch. 142), while in *Re North Hallenbeagle Mining Co., Knight's Case* (1867), 2 Ch. App. 321, where a company's officer had recorded a forfeiture as if it had been passed by the directors, it was held that it must be presumed that he had acted in accordance with the law and that the resolution, though not entered on the minutes, had in fact been passed. A chairman has been permitted to give evidence that the primary object of a committee in providing conveniences was for sanitary purposes and not as an underground passage crossing under the street (*Westminster Corporation* v. *London and North Western Rail. Co.*, [1905] A. C. 426); and similar evidence has been permitted in the case of an ambiguous resolution (*Clanricarde* (*Marquess*) v. *Congested Districts Board for Ireland* (1914), 79 J. P. 481). But evidence of what was said at the meeting and of the views of some of those present at it, given in order to explain a resolution, will not in general be admitted (*R.* v. *Pembridge* (*Inhabitants*) (1841), Car. & M. 157; *Re Magrath*, [1934] 2 K. B. 415).

48. Sittings, procedure and powers of local valuation courts.—(1) Where notice of appeal to a local valuation court is served under the preceding provisions of this Part of this Act by or on the valuation officer, the valuation officer shall forthwith notify the clerk to the local valuation panel from the members of which the local valuation court which is to hear the appeal falls to be constituted, and it shall be the duty of the chairman of that panel to arrange for the convening of such a court. [3914]

(2) The procedure of local valuation courts shall, subject to such regulations, if any, as may be made in that behalf by the Minister, be such as the court in question may determine, and every such court—

(*a*) shall, unless the court otherwise order, on the application of any party to the appeal and upon being satisfied that the interests of either party would be prejudically affected, sit in public;

(*b*) may take evidence on oath and shall have power for that purpose to administer oaths. [3915]

(3) On the hearing of an appeal to a local valuation court—

(*a*) the appellant; and

(*b*) the valuation officer, when he is not the appellant; and

(*c*) the owner or occupier of the hereditament to which the appeal relates, when he is not the appellant; and

(*d*) the rating authority for the area in which the hereditament in question is situated, when that authority is not the appellant; and

(*e*) in the case of an appeal against an objection, the objector, where he is not one of the persons aforesaid,

shall be entitled to appear and be heard as parties to the appeal and to examine any witness before the court and to call witnesses. [3916]

(4) After hearing the persons mentioned in the past preceding subsection, or such of them as desire to be heard, the local valuation court shall give such directions with respect to the manner in which the hereditament in question is to be treated in the valuation list as appear to them to be necessary to give effect to the contention of the appellant if and so far as that contention appears to the court to be well founded, and the valuation officer shall incorporate in the list as settled, or, as the case may be, cause to be made in the list, such alterations as are necessary to give effect to those directions. [3917]

General note.—This section relates to sittings, powers and procedure of local valuation courts. It must, however, be read in the light of s. 50, *post*, which deals with arbitration. As to appeals from a local valuation court, see also s. 49, *post* and the notes thereto. As to commencement of the present section, see s. 72 (1), *post*.

Notice of appeal.—See ss. 37 (4) and 41 (6) (*a*), *ante*.

Local valuation court.—See s. 44, *ante*.

Served.—See s. 63, *post*.

Valuation officer.—For definition, see s. 33 (3), *ante*.

Clerk; owner; hereditament.—For definitions, see s. 144 (1), *post*. Provision for the appointment, remuneration and superannuation of a clerk to a local valuation panel is made by s. 47, *ante*.

The local valuation panel, etc.—See ss. 45 and 46, *ante*.

Chairman of that panel.—See s. 46 (1) (*b*), *ante*.

Regulations. See s. 142 (1), *post*.

The Minister.—The Minister of Health (s. 144 (1), *post*).

May determine.—The procedure determined by the court must conform to the principles of natural justice, and must not abridge the rights of the parties or the powers of the court or fetter the court's discretion in a matter which it has to decide judicially. Several cases have laid down these principles in relation to proceedings at quarter sessions. Thus, general rules of practice will not be interfered with unless they are unreasonable (*R.* v. *Pawlett* (1873), L. R. 8 Q. B. 491). But a rule may be held to be invalid if it imposes an extra condition on a party's appearance such as the giving of an additional notice of appeal or entry of an appeal at quarter sessions three days beforehand (*R.* v. *Norfolk JJ.* (1834), 5 B. & Ad. 990; *R.* v. *Bird, Ex parte Needes*, [1898] 2 Q. B. 340; *R.* v. *Pawlett, supra*; *R.* v. *Derbyshire JJ.* (1852), Bail Ct. Cas. 113); though mere adjournment of the proceedings through non-compliance will apparently not initiate them (*R.* v. *Pawlett*; *R.* v. *Bird, supra*). As to illegal practices, see *R.* v. *West Riding of Yorkshire JJ.* (1833), 5 B. & Ad. 667 and *R.* v. *Wiltshire JJ.* (1808), 10 East, 404.

Oath.—In the case of persons allowed by law to affirm or declare instead of swearing, this includes affirmation and declaration (Interpretation Act, 1889, s. 3; 18 Halsbury's Statutes 993).

Objector.—In order to be entitled to appear the objector must have given notice of objection within the twenty-one days allowed after service of the copy of the proposal on the occupier or the rating authority, as the case may be. Service of the notice a day late will debar the objector from appearing as an objector, and admission of the objector (unless, perhaps, all parties consent) will invalidate the determination of the appeal (*R.* v. *No. 7 Mid-Norfolk Assessment Committee, Ex parte Norfolk County Valuation Committee* (1946), 39 R. & I. T. 243). This will apply even where some other person has given notice of objection in time (no question will arise otherwise, since the valuation list will have been amended automatically in accordance with the proposal and there will be no appeal). A person who has failed to object may appear in another capacity, however, provided an appeal has resulted from somebody else's objection and provided he can qualify under the provisions of sub-s. (3), *supra*. He may also appear for or against the appellant as he thinks fit. The objector must be a person entitled to object within the terms of s. 41 (3), *ante*, and a person who has received a copy of a proposal and has objected to it when not entitled will not be able to appear even though his objection has been accepted (*Upper Agbrigg Assessment Committee* v. *Bents Brewery Co., Ltd.*, [1945] 1 K. B. 196; [1945] 1 All E. R. 338).

Appeal.—Under ss. 37 (4) and 41 (6), *ante*. The appellant will be one of the persons specified in s. 37 (4), *ante*, or a person who has made a proposal under s. 40 (1), *ante*. See also s. 38 (5), *ante*.

Owner: occupier.—For definition of "owner", see s. 144 (1), *post*, and as to occupier, see note to s. 35, *ante*.

Hereditament.—For definition, see s. 144 (1), *post*.

Rating authority.—See notes to s. 33, *ante*.

Appeal against an objection.—See s. 41 (6), *ante*.

Or such of them as desire to be heard.—It would seem from these words that a person may appear without being heard. This is an important point in view of the provisions of s. 49 (1), *post*.

The list as settled.—See s. 38 (1), *ante*. If the list is not yet settled, s. 38 (2), *ante*, applies. See also s. 72 (2), *post*.

Cause to be made, etc.—*I.e.* by directions to the rating authority under s. 39 (2), *ante*.

Alterations.—For interpretation, see s. 144 (9), *ante*.

49. Appeal to county court.—(1) Any person who, in pursuance of the last preceding section, appeared before a local valuation court on the hearing of an appeal and is aggrieved by the decision of the court thereon may, within twenty-one days from the date of the decision, appeal to the county court for the county court district in which the hereditament in question is situated, or, where the hereditament extends into more than one county court district, to the county court for any one of the county court districts in which any part of the hereditament is situated, and the court, after hearing such of the persons as appeared as aforesaid as desire to be heard, may give any directions which the local valuation court might have given. [3918]

(2) *The Lord Chancellor may by order—*

(*a*) *combine two or more county court districts for the purposes of this section or direct that the whole or any part of a county court district*

shall for those purposes be deemed to be included in another county court district;

(*b*) *where he combines two or more county court districts as aforesaid, make such provision as he thinks fit as to the judge who is to exercise the jurisdiction conferred by this section with respect to the combined districts, and as to the place at which the court for the combined districts is to be held.*

Any order made under this subsection may contain such consequential and incidental provisions as appear to the Lord Chancellor to be necessary or expedient and may be revoked or varied by a subsequent order. [3919]

(3) *The Minister may by regulations provide, in relation to hereditaments the value of which is or may be ascertained by reference to accounts, receipts or profits of an undertaking carried on thereon, that jurisdiction under this section shall, to such extent as may be specified in the regulations, be exercised, as respects all or any of the hereditaments occupied for the purposes of the undertaking, by such one of the county courts within whose districts any of those hereditaments are situated as may be specified by or under the regulations.* [3920]

(4) *In any proceedings under this section, the power of a judge under subsection* (1) *of section eighty-eight of the County Courts Act,* 1934, *to summon one or more persons to act as assessors may be exercised notwithstanding that no application is made in that behalf by any party to the proceedings.* [3921]

Sub-ss. (2)–(4), *supra*, are repealed as from the appointed day by s. 10 of, and Sched. II to, the Lands Tribunal Act, 1949 (12 & 13 Geo. 6, c. 42).

General note.—This section confers a right of appeal from a local valuation court to a county court. This provision constitutes a treaty with the long-standing practice under which all proceedings relating to rating have gone to the justices whether sitting as a court of summary jurisdiction in proceedings for recovery of rates or as a court of quarter sessions in connection with appeals against a rate or with respect to a valuation list. The jurisdiction of justices in relation to appeals against a rate and the recovery of a rate is not affected, but in future all appeals in connection with the valuation list go to the county court. Appeals to quarter sessions from an assessment committee were provided for by s. 31 of the Rating and Valuation Act, 1925 (14 Halsbury's Statutes 657), which is repealed by s. 147 (1), (3) (*f*) and Sched. II, Part II, *post*. As to commencement of the present section, see s. 72 (1), *post*.

As to arbitration, see s. 50, *post*.

Appeared before a local valuation court.—See s. 48 (3), *ante*.

Aggrieved.—It does not follow that a person appealing will be aggrieved only in one of the ways specified in s. 40 (1), *ante*; because he may be appealing against a decision of the local valuation court given in favour of the valuation officer on a proposal made by the valuation officer, in which case the grievance of the rate-payer might lie outside the terms of that subsection. Where, however, the appellant was the objector in the first place to a draft valuation list (s. 36, *ante*), or made the proposal for the alteration of the valuation list out of which the appeal arose, it would seem that his appeal will be confined to the grounds of the objection or proposal.

Within twenty-one days, etc.—See note "Within the seven days" to s. 35, *ante*.

Appeal.—As to the inclusion of separate hereditaments in one appeal, see s. 64, *post*.

County court.—As from the appointed day, a reference to the Lands Tribunal will take the place of the appeal to the county court; see the Lands Tribunal Act, 1949 (12 & 13 Geo. 6, c. 42), ss. 1 (3) (*e*) and 10 (2).

Any directions, etc.—See s. 48 (4), *ante*.

50. Arbitration.—(1) Notwithstanding anything in the preceding provisions of this Part of this Act, the persons who would be entitled to appear and be heard before any local valuation court *or any county court* may by agreement in writing agree to refer to arbitration any matter which would but for the agreement fall to be heard or determined by that local valuation court *or county court*, and the matter shall be referred to arbitration accordingly. [3922]

(2) The Arbitration Acts, 1889 to 1934, shall apply to any such arbitration. [3923]

(3) The award in any such arbitration may include any directions which might under this Part of this Act have been given by the local valuation court

or county court and effect shall be given to those directions as if they had been given by that court. [3924]

The words in italics in sub-ss. (1) and (3), *supra*, are repealed as from the appointed day by s. 10 of, and Sched. II to, the Lands Tribunal Act, 1949 (12 & 13 Geo. 6, c. 42).

Commencement of section.—See s. 72 (1), *post.*

Who would be entitled to appear and be heard.—As to the persons entitled to appear and be heard before a local valuation court, see s. 48 (3), *ante.*

Which would but for the agreement fall, etc.—*Quære* whether notice of appeal must have been served under s. 37 (4) or 41 (6), *ante.*

Writing.—See the notes to s. 36, *ante.*

Refer to arbitration.—As to the inclusion of separate hereditaments in one arbitration, see s. 64, *post.* See also as to arbitration by the Lands Tribunal, the Lands Tribunal Act, 1949 (12 & 13 Geo. 6, c. 42), ss. 1 (5) and 10 (2).

Arbitration Acts, 1889 to 1934.—The Arbitration Act, 1889 (2 Halsbury's Statutes (2nd Edn.) 4); the Arbitration Clauses (Protocol) Act, 1924 (2 Halsbury's Statutes (2nd Edn.) 21); the Arbitration (Foreign Awards) Act, 1930 (2 Halsbury's Statutes (2nd Edn.) 23); and the Arbitration Act, 1934 (2 Halsbury's Statutes (2nd Edn.) 29).

Any directions, etc.—See ss. 48 (4) and 49 (1), *ante.*

Effect shall be given, etc.—See ss. 38 (2), 48 (4) and 49 (1), *ante.*

Provisions as to Rates

51. Rate to be levied notwithstanding appeal against valuation list.—Any rate in respect of which the valuation list is conclusive shall be made and levied in accordance with the valuation list in force for the time being, and shall be collected and be recoverable notwithstanding any appeal which may be pending with respect to the list:

Provided that where in the case of any hereditament the value questioned by the appeal exceeds the value of that hereditament as last previously determined, whether under this Part of this Act or under the enactments repealed by this Act, the amount recoverable pending the decision of the appeal shall not, unless the hereditament has been substantially altered since its value was last previously determined, exceed the amount which would have been recoverable if its value had not been so increased. [3925]

General note.—This section corresponds with s. 36 of the Rating and Valuation Act, 1925 (14 Halsbury's Statutes 663), which is repealed by s. 147 (1), (3) and Sched. II, Part II, *post.* As to commencement of the present section, see s. 72 (1), *post.*

Rate.—For definition, see s. 144 (1), *post.*

Valuation list in force for the time being, etc.—See s. 34, *ante*, and cf. s. 38 (6), *ante.* See also s. 72 (2), *post.*

Appeal.—This clearly comprises a reference to the Lands Tribunal (see the note headed "County court" to s. 49, *ante*) or a reference to arbitration under s. 50, *ante.*

Hereditament.—For definition, see s. 144 (1), *post.*

52. Amendment of rate.—(1) Subject to the provisions of this section, the rating authority may at any time make such amendments in a rate (being either the current or the last preceding rate) as appear to them necessary in order to make the rate conform with the enactments relating thereto, and in particular may—

(*a*) correct any clerical or arithmetical error in the rate; or

(*b*) correct any erroneous insertions or omissions, or misdescriptions; or

(*c*) make such additions to or corrections in the rate as appear to the authority to be necessary by reason of—

(i) any newly erected hereditament or any hereditament which was unoccupied at the time of the making of the rate coming into occupation; or

(ii) any change in the occupation of any hereditament; or

(iii) any property previously rated as a single hereditament becoming liable to be rated in parts. [3926]

(2) Where the effect of the amendment would be either—

(*a*) to alter, otherwise than by way of correction of a clerical or arithmetical error, the value on which a hereditament is rated; or

(*b*) to charge to the rate a hereditament not shown, or not separately shown, in the valuation list,

the rating authority shall not make any amendment of the rate unless either the amendment is necessary to bring the rate into conformity with the valuation list or a proposal for a corresponding alteration of the valuation list has been made by the valuation officer; and if effect, or full effect, is ultimately not given to such a proposal, and the amount of the rate levied in pursuance of the amendment is affected, the difference, if too much has been paid, shall be repaid or allowed, or, if too little has been paid, shall be paid and may be recovered as if it were arrears of the rate. [3927]

(3) Every amendment made under paragraph (*a*) or paragraph (*b*) of subsection (1) of this section shall have effect as if it had been contained in the rate as originally made. [3928]

General note.—This section corresponds, as far as concerns the provinces, with s. 5 of the Rating and Valuation Act, 1925 (14 Halsbury's Statutes 625), which is repealed by s. 147 (1), (3), and Sched. II, Part II, *post*. As to London, see s. 72 of the Valuation (Metropolis) Act, 1869 (14 Halsbury's Statutes 582) (also repealed by the above provisions) which empowered overseers, on the application of two justices or a magistrate, to alter the rate where a person's name was omitted from or misdescribed in that rate. As to commencement of this section, see s. 72 (1), *post*.

Rating authority.—See the notes to s. 33, *ante*.

Rate; hereditament.—For definitions, see s. 144 (1), *post*.

Proposal.—For meaning, see s. 40 (3), *ante*; but see also s. 72 (2), *post*.

Alteration.—For interpretation, see s. 144 (9), *post*.

Valuation officer.—For definition, see s. 33 (3), *ante*.

53. Limits of right to appeal at quarter sessions against rate.—No appeal against a rate shall lie to quarter sessions in respect of any matter in respect of which relief might have been obtained under this Part of this Act by means of an objection to the draft valuation list, or an appeal against that list, or by means of a proposal for the amendment of the current valuation list, or by means of an objection to such a proposal, or by means of an appeal against such an objection. [3929]

General note.—This section corresponds with s. 14 of the Rating and Valuation Act, 1925 (14 Halsbury's Statutes 638), which is repealed by s. 147 (1), (4) and Sched. II, Part II, *post*. It applies both to London and the provinces, whereas s. 14 of the 1925 Act applied only to the provinces. Further restrictions on appeals are contained in s. 45 of the Valuation (Metropolis) Act, 1869 (14 Halsbury's Statutes 569), as amended by s. 147 and Sched. II, Part II, *post*, and in s. 20 of the Rating and Valuation Act, 1925 (14 Halsbury's Statutes 645), which, by making valuation lists conclusive evidence as to the values of hereditaments included therein eliminate questions of values from appeals against rates. As to commencement of section, see s. 72 (1), *post*.

Appeal against a rate.—In both the provinces and the Metropolis a right of appeal to quarter sessions against a rate is conferred upon any person "aggrieved by any rate made . . ." or having "any material objection to any person or persons being put on or left out of such rate, or to the sum charged on any person or persons therein, or . . . aggrieved by any neglect, act, or thing done or omitted by" the rating authority (Poor Relief Act 1743, s. 4; 14 Halsbury's Statutes 486, as amended by Statute Law (Revision Act, 1948 (11 & 12 Geo. 6, c. 62), s. 1 and Sched. I). For definition of "rate", see s. 144 (1), *post*.

Objection to the draft valuation list.—See s. 36, *ante*.

Appeal against that list.—See s. 37 (4), *ante*; and see also s. 38 (5), *ante*.

Proposal for the amendment of the current valuation list.—See ss. 40 and 41, *ante*, and s. 72 (2), *post*.

Objection to such a proposal.—See s. 41 (3), (4), *ante*, and s. 72 (2), *post*.

Appeal against such an objection.—See s. 41 (6) (*a*), *ante*, and s. 72 (2), *post*.

54. Rates in London.—(1) In London, as elsewhere, every rate made by a rating authority shall be deemed to be made on the date on which it is approved by the authority, and any enactments requiring that rates must be allowed by justices shall cease to have effect. [3930]

(2) Section six of the Rating and Valuation Act, 1925 (which relates to the publication of rates) and section fifteen of that Act (which relates to the recovery of arrears of rates from tenants and lodgers) shall extend to London. [3931]

(3) Nothing in this section affects the provisions of section twenty of the City of London (Union of Parishes) Act, 1907, relating to the signature of rates made by the Common Council of the City of London the publicaton of such rates and the date on which such rates are to be deemed to be made. [3932]

Commencement of section.—See s. 72 (1), *post.*
London.—The administrative county of London, as defined in the London Government Act, 1939, s. 1 (32 Halsbury's Statutes 267).
As elsewhere.—Corresponding provision outside London was already made by s. 4 (1) of the Rating and Valuation Act, 1925 (14 Halsbury's Statutes 623).
Rate.—For definition, see s. 144 (1), *post.*
Rating authority.—See the notes to s. 33, *ante.*
Any enactments, etc.—See the Poor Relief Act, 1601, s. 1 (14 Halsbury's Statutes 477), and the Poor Rate Assessment and Collection Act, 1869, ss. 17 and 18 (14 Halsbury's Statutes 551, 552).
For the formal repeal of s. 17, and of certain words in s. 18, of the Act of 1869, see s. 147 (1), (3) and Sched. II, Part II, *post*; and for the repeal of part of s. 1 of the Act of 1601, see the Statute Law Revision Act, 1948 (11 & 12 Geo. 6, c. 62), s. 1 and Sched. I.
Rating and Valuation Act, 1925, *ss. 6 and 15.*—14 Halsbury's Statutes 626, 639.
City of London (Union of Parishes) Act, 1907, *s. 20.*—14 Halsbury's Statutes 607.

Provisions as to Rating

55. Rating of owners instead of occupiers.—(1) [In] subsection (1) of section eleven of the Rating and Valuation Act, 1925 (which imposes a limit on the rateable value of hereditaments outside London in respect of which owners may be rated instead of occupiers of thirteen pounds or, where at the passing of that Act a higher limit was in certain circumstances in force, that higher limit) for the words " thirteen pounds " there shall be substituted the words " eighteen pounds " and for the words " that higher limit " there shall be substituted the words " twenty-five pounds". [3933]

(2) The Poor Rate Assessment and Collection Act, 1869, shall have effect as if in section three of that Act (which imposes a limit of twenty pounds in the corresponding provisions relating to London) for the words " twenty pounds " there were substituted the words " twenty-five pounds". [3934]

General note.—This section increases the limit of rateable value of hereditaments in respect of which owner may be rated instead of occupiers from £13 to £18 in the provinces, from a higher limit than £13 applicable in any particular case to £25, and from £20 to £25 in London. As to commencement of the section, see s. 72 (1), *post.*
The word " in", which appears in square brackets in sub-s. (1), *supra*, does not appear in the King's Printer's copy of the Act, but is obviously required.
Rating and Valuation Act, 1925, *s.* 11 (1).—14 Halsbury's Statutes 632.
Poor Rate Assessment and Collection Act, 1869, *s.* 3.—14 Halsbury's Statutes 546.

56. Advertising stations to be separate hereditaments in certain cases.—Where the right to use any land (including any hoarding, frame, post, wall or structure erected or to be erected on the land, and including also any wall or other part of a building) for the purpose of exhibiting advertisements is let out or reserved to any person other than the occupier of the land, or, when the land is not occupied for any other purpose, to any person other than the owner of the land, that right shall be deemed for rating purposes to be a separate hereditament in the occupation of the person for the time being entitled to the right, and shall be included in the valuation list as a separate hereditament accordingly, and, notwithstanding anything in section three or section four of the Advertising Stations (Rating) Act, 1889, in estimating the value of the land for rating purposes no account shall be taken of any value or, as the case may be, of any increased value arising from the use of the land for the purpose of exhibiting advertisements in accordance with that right. [3935]

General note.—An advertising station which is let out or reserved to any person other than the occupier of land, or the owner of otherwise unoccupied land, is to be treated in the valuation list as a separate hereditament in the occupation of the person entitled to the right, and no account is to be taken of any value or increased value of the land under ss. 3 or 4 of the Advertising Stations (Rating) Act, 1889 (14 Halsbury's Statutes 597, 598), arising from its use for advertising.

The section supplements and to an extent replaces ss. 3 and 4 of the Advertising Stations (Rating) Act, 1889 (*supra*).

Hoarding, frame, post, wall or structure.—These words are taken from ss. 3 and 4 of the Advertising Stations (Rating) Act, 1889 (*supra*).

As to the commencement of the section, see s. 72 (1), *post*.

Advertisements.—These mean posters, bills, announcements on hoardings, etc., but do not include goods exhibited by way of advertisement in show cases on sites in railway stations. The sites occupied by the show cases will be in separate rateable occupation (*Westminster Corpn.* v. *Southern Rail. Co.*, [1936] A. C. 511).

Let out.—These words can be applied to licences (*Westminster Corpn.* v. *Southern Rail. Co.*, *supra*).

Reserved.—*I.e.* normally on the letting of the land. The letting in this case need not be by deed (*Cleobury Mortimer Rural District Council* v. *Childe*, [1933] 2 K. B. 368).

Occupier.—See notes to s. 35, *ante*. It would seem that this would exclude the occupier of the land by virtue of its use for advertising under the decision in *Taylor* v. *Pendleton Overseers* (1887), 19 Q. B. D. 288, since otherwise this section would be largely robbed of any effect.

Not occupied.—In *Chappell* v. *St. Botolph Overseers*, [1892] 1 Q. B. 561, a public highway on which a hoarding was erected was held not to be otherwise rateably occupied. In *Lewisham Corpn.* v. *Avey* (1912), 76 J. P. 343, the owner let a house to a tenant and the right to use one wall for advertising to a third party. It was held that the external surface of the wall was occupied for other purposes as part of the house (and the whole was rateable as one hereditament under the Advertising Stations (Rating) Act, 1889, s. 4 (14 Halsbury's Statutes 598).

Owner; hereditament.—For definitions, see s. 144 (1), *post*.

In the occupation.—The present section imposes an express liability subject to the existence of certain conditions. These conditions are: (1) There must be a letting out or a reservation of right to use land for the purpose of exhibiting advertisements; (2) the effect of that letting out or reservation must be to confer the right on some person other than the occupier of the land or other than the owner if it is unoccupied. Once these two conditions apply the right becomes a separate hereditament and the person entitled is deemed to be in occupation of it. There is no requirement that the right shall be exercised in any way comparable with the specific requirement in the Advertising Stations (Rating) Act, 1889 (*supra*), and it would seem that liability to be rated will endure as long as the right even though it has remained unused for a long period.

57. Assessment of certain buildings occupied in parts.—(1) Where a building which was constructed or has been adapted for the purposes of a single dwelling-house, or as to part thereof for such purpose, and as to the remainder thereof for any purpose other than that of a dwelling or residence, is occupied in parts, the valuation officer, in preparing or revising a draft valuation list or in altering a current valuation list, may, if he thinks fit, having regard to all the circumstances of the case, including the extent, if any, to which the parts separately occupied have been severed by structural alterations, treat the building or any portion thereof as a single hereditament, and a building or portion of a building so treated as a single hereditament shall, for the purposes of rating, be deemed to be a single hereditament in the occupation of the person who receives the rents payable in respect of the parts [3936]

(2) Section seven of the Representation of the People Act, 1867, and section twenty-three of the Rating and Valuation Act, 1925, are hereby repealed. [3937]

General note.—Sub-s. (1) of this section follows the identical wording of s. 23 of the Rating and Valuation Act, 1925 (14 Halsbury's Statutes 649), which is now repealed, except that in the repealed section the discretion was conferred on the rating authority or assessment committee instead of, as in the present section, on the valuation officer, and there was a reference to amendment, instead of, as here, to alteration, of a current valuation list. As to commencement of the section, see s. 72 (1), *post*.

Dwelling or residence.—These words must be distinguished from the expression "private dwellings", which occurs in s. 74 (2), *post*, and has a much more limited application. They would, for instance, include premises used by lodgers.

Occupied in parts.—See notes to s. 36, *ante*.

Valuation officer.—See s. 33 (3), *ante*.

Preparing or revising a draft valuation list.—See ss. 35 and 37, *ante*.

Altering current valuation list.—This is a curious expression because the valuation officer has no power to alter a current valuation list except by making a proposal for its alteration under s. 40, *ante*, and by correcting a clerical or arithmetical error under s. 43, *ante*. (The latter procedure would obviously not apply.) The valuation officer does, of course, alter the valuation list, or cause it to be altered, in accordance with the terms of proposals made by other parties under s. 41 (5), *ante*, and on appeal by virtue of ss. 41 (6) (*b*) (ii), 48 (4), 49 (1) and 50 (3), *ante*; but these alterations do not involve any exercise of the discretion such as is conferred upon him by the present section.

Single hereditament.—Hereditament as defined in s. 144 (1), *post*.

Who receives the rents.—As a person cannot pay rent to himself it has been suggested that

this cannot apply where the owner is himself the occupier of part of the property. If the property is in fact occupied in part, however, notwithstanding the owner's presence, it would seem to be at least permissible to treat the other part as a single hereditament and to rate the owner's part separately; but see also *Helman* v. *Horsham and Worthing Assessment Committee*, [1949] 1 All E. R. 776, C. A.).

Representation of the People Act, 1867, s. 7.—7 Halsbury's Statutes 404. That section was already repealed outside London by s. 69 (1) of, and Sched. VII to the Rating and Valuation Act, 1925 (14 Halsbury's Statutes 689, 705).

Returns, Inspection, etc.

58. Returns.—(1) In every case where a new valuation list is to be made for any rating area, the valuation officer may serve a notice on the occupier, owner or lessee of any premises in the area, or on any one or more of them, requiring him or them to make a return containing such particulars as may be reasonably required for the purpose of enabling him accurately to compile the list. [3938]

(2) The valuation officer may at any time, in connection with a proposal which has been made for the alteration of the valuation list, or with a view to the making of such a proposal, serve a notice on the occupier, owner or lessee of any premises in the area, or on any one or more of them, requiring him or them to make a return containing such particulars as may be reasonably required for the purpose of enabling him to decide whether or not to make, or, as the case may be, to object to, the proposal. [3939]

(3) Every person upon whom a notice to make a return is served in pursuance of the provisions of this section shall within twenty-one days after the date of the service of the notice make a return in such form as is required in such notice and deliver it in manner so required to the valuation officer. [3940]

(4) If any person on whom notice has been served under the provisions of this section fails without reasonable excuse to comply with the notice, he shall for each offence be liable on summary conviction to a fine not exceeding twenty pounds. [3941]

(5) Where a person is convicted under subsection (4) of this section in respect of a failure to comply with a notice and the failure continues after the conviction, them unless he has a reasonable excuse for the continuance of the failure, he shall be guilty of a further offence under the said subsection (4) and may, on summary conviction, be punished accordingly. [3942]

(6) If any person, in a return made under this section, makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular, he shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds or to both such imprisonment and such fine. [3943]

General note.—This section corresponds to ss. 40–42 of the Rating and Valuation Act, 1925 (14 Halsbury's Statutes 668, 670), and to ss. 55, 57 and 58 of the Valuation (Metropolis) Act, 1869 (14 Halsbury's Statutes 577, 578), in conjunction with s. 2 of the Valuation (Metropolis) Amendment Act, 1884 (14 Halsbury's Statutes 596), all of which enactments are now repealed by the s. 147 (1), (4) and Sched. II, Part II, *post*. As to commencement of section, see s. 72 (1), *post*.

Valuation list.—See s. 34, *ante*.

Rating area.—For definition, see s. 144 (1), *post*; and, in relation to London, see s. 123, *post*.

Valuation officer.—For definition, see s. 33 (3), *ante*.

Serve.—See s. 63 (1), *post*.

Occupier.—See the notes to s. 35, *ante*.

Owner.—For definition, see s. 144 (1), *post*.

As may be reasonably required.—For a case where a demand for particulars of the trade done in a public house was held unreasonable, see *Grant* v. *Knaresborough Urban District Council*, [1928] Ch. 310.

Proposal for the alteration of the valuation list.—See s. 40 (2), *ante*; and cf. s. 72 (2), *post*. As to objection by the valuation officer to a proposal, see s. 41 (4), *ante*.

Within twenty-one days.—See note to s. 35, *ante*, headed "Within the seven days".

59. Duty of surveyor of taxes and local authorities.—(1) The valuation officer may from time to time require the surveyor of taxes for the area covered by the valuation list to furnish to him a copy of the annual values for

the time being in force for the purpose of income tax under Schedule A of the Income Tax Act, 1918, for all or any of the properties in that area :

Provided that nothing in this section shall extend to annual values which by law are not allowed to be made public. [3944]

(2) If, in the course of the exercise of their functions, any information comes to the notice of any local authority which leads them to suppose that a valuation list requires alteration as respects a hereditament, it shall be the duty of that authority to inform the valuation officer.

In this subsection, the expression " local authority " includes any joint committee of any two or more local authorities and any joint authority on which any local authority is represented. [3945]

Commencement of section.—See s. 72 (1), *post*

General note.—Sub-s. (1) of this section corresponds with s. 43 (3) of the Rating and Valuation Act, 1925 (14 Halsbury's Statutes 671), and s. 56 of the Valuation (Metropolis) Act, 1869 (14 Halsbury's Statutes 578), both of which enactments are repealed by s. 147 (1), (3), and Sched. II, Part II, *post.*

Valuation officer.—For definition, see s. 33 (3), *ante.*

Surveyor of taxes.—*I.e.* the inspector of taxes (see the Income Tax Act, 1918, ss. 75, 237 (9 Halsbury's Statutes 464, 531).

Income Tax Act, 1918.—For Schedule A, see 9 Halsbury's Statutes 532. Tax is charged under this Schedule in respect of property in lands, tenements, hereditaments and heritages and is based on the annual value thereof.

Provided that, etc.—This proviso is substantially identical with that to s. 43 (3) of the Rating and Valuation Act, 1925 (*supra*). That proviso was apparently intended to preserve the effect of s. 212 of the Income Tax Act, 1918 (9 Halsbury's Statutes 522), which prohibits the disclosure of documents concerning tax upon profits of trade in respect of quarries, mines, ironworks, gasworks or other concerns in the nature of trade or manufacture chargeable under Schedule A. But, by virtue of s. 28 of the Finance Act, 1926 (14 Halsbury's Statutes 667), such properties are now chargeable to tax under Schedule D.

Local authority.—For meaning, see s. 144 (1), *post*, in conjunction with sub-s. (2), *supra.*

Alteration.—For interpretation, see s. 144 (9), *post.*

Hereditament.—For definition, see s. 144 (1), *post.*

60. Power of entry.—(1) The valuation officer and any person authorised by him in writing in that behalf shall have power, at all reasonable times and after giving not less than twenty-four hours' notice in writing and, in the case of a person authorised as aforesaid, on production, if so required, of his authority, to enter on, survey and value any hereditament in the area for which the valuation officer acts. [3946]

(2) If any person wilfully delays or obstructs any person in the exercise of any of his powers under this section, he shall be liable on summary conviction to a fine not exceeding five pounds. [3947]

Commencement of section.—See s. 72 (1), *post.*

Valuation officer.—For definition, see s. 33 (3), *ante*,

Writing.—See the notes to s. 36, *ante*,

Hereditament.—For definition, see s. 144 (1), *post*,

61. Evidence and inspection of valuation lists rates, etc.—(1) The contents of a valuation list as for the time being in force, or an extract from any such list, may be proved by the production of a copy of the list or of the relevant part thereof purporting to be certified by the clerk of the rating authority to be a true copy. [3948]

(2) Section sixty of the Rating and Valuation Act, 1925 (which relates to inspection of documents by ratepayers)—

(*a*) shall extend to London ; and

(*b*) shall apply in relation to valuation lists made under this Part of this Act, to notices of appeal, notices of objection and proposals made thereunder, and to minutes of the proceedings of any local valuation court as it applies in relation to the documents specified in sub-section (1) thereof ; and

(*c*) shall apply in relation to valuation officers (for whatever area) as it applies in relation to ratepayers. [3949]

General note.—This section corresponds with s. 64 of the Valuation (Metropolis) Act, 1869 (14 Halsbury's Statutes 579), and s. 43 of the Rating and Valuation Act, 1925 (14 Halsbury's

Statutes 670), both of which sections are repealed by s. 147 (1), (3) and Sched. II, Part II, *post*. As to commencement of the present section, see s. 72 (1), *post*.

Valuation list as for the time being in force.—See s. 34, *ante*; and cf. s. 38 (6), *ante*.

Clerk.—For definition, see s. 144 (1), *post*.

Rating authority.—See the notes to s. 33, *ante*.

Rating and Valuation Act, 1925, s. 60.—14 Halsbury's Statutes 681.

Notices of appeal.—See ss. 37 (4), (5) and 41 (6) (*a*), (7), *ante*, and s. 72 (2), *post*.

Notices of objection.—See ss. 36 and 41 (3), (4), *ante*, and s. 72 (2), *post*. Objections under s. 43, *ante*, would seem to be also within the spirit, if not the letter, of this provision.

Proposals.—For meaning, see s. 40 (3), *ante*; but see also s. 72 (2), *post*.

Minutes of proceedings of local valuation court.—See s. 47 (3), *ante*. It is only the minutes of proceedings of a local valuation court which are to be open to inspection, those of a local valuation panel being excluded from this provision. As to local valuation courts, see s. 44, *ante*.

Valuation officers.—For meaning, see s. 33 (3), *post*.

Miscellaneous

62. Appeals as to water rates.—(1) So much of any statutory provision as authorises or requires any dispute arising in relation to water rates to be determined by a court of summary jurisdiction shall have effect as if it authorised or required that dispute to be determined by the county court for the county court district in which the property in question is situated. [3950]

(2) *The power to make orders conferred by subsection* (2) *of section forty-nine of this Act (which enables the Lord Chancellor to combine county court districts or direct that one county court district shall be included in another county court district for the purposes of that section) shall include power to make orders in relation to the purposes of this subsection, and the said subsection* (2) *shall have effect accordingly.* [3951]

Sub-s. (2), *supra*, is repealed as from the appointed day by s. 10 of, and Sched. II to, the Lands Tribunal Act, 1949 (12 & 13 Geo. 6, c. 42).

Commencement of section.—See s. 72 (1), *post*.

Statutory provision.—See, *e.g.* the Public Health Act, 1936, s. 126 (1) (29 Halsbury's Statutes 415); and cf. the Water Act, 1945, s. 38 (3) and Sched. III, s. 46 (4) (38 Halsbury's Statutes 525, 558). For definition of "statutory provision", see s. 144 (1), *post*.

Court of summary jurisdiction.—As defined in the Interpretation Act, 1889, s. 13 (11) (18 Halsbury's Statutes 997).

To be determined, etc.—As from the appointed day, the Lands Tribunal will take the place of the county court; see the Lands Tribunal Act, 1949 (12 & 13 Geo. 6, c. 42), ss. 1 (3) (*e*) and 10 (2).

63. Service of notices, etc.—(1) Section fifty-nine of the Rating and Valuation Act, 1925 (which relates to the service of notices and similar matters) shall extend to London and shall apply in relation to any notice, demand note, order or other document required or authorised to be sent or served under or for the purposes of any Act relating to the making, levying, collection and recovery of rates in London, and, both inside and outside London, in relation to notices and other documents required or authorised to be sent or served under or for the purposes of this Part of this Act as it applies in relation to notices, demand notes, orders and other documents required or authorised to be sent or served under or for the purposes of the first-mentioned Act. [3952]

(2) Any notice required by this Part of this Act to be served on the valuation officer need not name the valuation officer but may describe him as the valuation officer for the rating area in question, without further description, and may be served by post, and every notice published in pursuance of any of the provisions of this Part of this Act which contains a statement of a right of objection or appeal shall include a statement of the address to or at which notice of objection or notice of appeal, as the case may be, may be sent to the valuation officer or service thereof otherwise effected. [3953]

Commencement of section.—See s. 72 (1), *post*.

Rating and Valuation Act, 1925, s. 59.—14 Halsbury's Statutes 680.

London.—The administrative county of London, as defined in the London Government Act, 1939, s. 1 (32 Halsbury's Statutes 267).

Rates.—For definition, see s. 144 (1), *post*.

This Part of this Act.—The Rating and Valuation Act, 1925, s. 59, (*supra*), cannot be used

in connection with notices under any other Part of this Act. Certain notices have to be given under Parts V and VII, *post*, but these do not carry the same legal implications as those under Part III.

Notice required to be served on valuation officer.—See ss. 36 (1), 37 (4), 41 (3), (7), *ante*. As to valuation officer, see s. 33 (3), *ante*.

Rating area.—For definition, see s. 144 (1), *post*, and as to London, see s. 123, *post*.

Statement of right of objection or appeal.—See ss. 35 (2) (right of objection) and 37 (7) (right of appeal), *ante*.

64. Inclusion in one proceeding of separate hereditaments.—Any person may include in the same objection, proposal, appeal or other proceeding under this Part of this Act all or any hereditaments comprised in the same valuation list as respects which he has a right to make or bring any such objection, proposal, appeal or other proceeding, although they are separately assessed in that list. [3954]

Commencement of section.—See s. 72 (1), *post*.
Objection.—See ss. 36 and 41 (3), (4), and 43, *ante*.
Proposal.—For meaning, see s. 40 (3), *ante*; but see also s. 72 (2), *post*.
Appeal.—See ss. 37 (4), 41 (6) (*a*) and 49 (1), *ante*.
Hereditaments. For meaning, see s. 144 (1), *post*.

65. Extension to London of provisions as to Crown property.—Subsection (3) of section sixty-four of the Rating and Valuation Act, 1925, (which regulates the manner in which Crown property is to be dealt with in valuation lists) shall extend to London. [3955]

Commencement of section.—See s. 72 (1), *post*.
Rating and Valuation Act, 1925, s. 64 (3).—14 Halsbury's Statutes 684.

66. Saving for position of owners in certain cases.—(1) Every owner who is rated under section eleven of the Rating and Valuation Act, 1925, or section four of the Poor Rate Assessment and Collection Act, 1869, instead of the occupier, or who enters into an agreement with the rating authority under the said section eleven or under section three of the said Act of 1869, in respect of any hereditaments shall, without prejudice to the rights of the occupier of any of those hereditaments, be treated for the purposes of the provisions of this Part of this Act relating to objections, proposals and appeals as standing in the same position as the occupier. [3956]

(2) Where any premises are unoccupied, any reference in this Part of this Act to the occupier shall be construed as a reference to the owner thereof:

Provided that where the owner is unknown and a notice addressed to the occupier has been served in the manner authorised by law for the service of notices on the occupier where the occupier is unknown, that notice shall be deemed to have been duly served on the owner. [3957]

Commencement of section.—See s. 72 (1), *post*.

Every owner.—The expression "owner" clearly has here the meanings assigned to it by s. 11 (11) of the Rating and Valuation Act, 1925 (14 Halsbury's Statutes 636), and s. 20 of the Poor Rate Assessment and Collection Act, 1869 (14 Halsbury's Statutes 551), respectively and not the meaning given to it by s. 144 (1), *post*.

Rating and Valuation Act, 1925, s. 11.—14 Halsbury's Statutes 632.

Poor Rate Assessment and Collection Act, 1869, ss. 3 *and* 4.—14 Halsbury's Statutes 546, 547.

Occupier.—See the notes to s. 35, *ante*.

Rating authority.—See the notes to s. 33, *ante*.

Hereditaments.—For meaning, see s. 144 (1), *post*.

Without prejudice to the rights of the occupier.—The owner and occupier will both therefore be entitled to all notices to which the occupier is expressed by this Part of this Act to be entitled, and be entitled to appear at the hearing of proceedings and to institute proceedings in the same way as the occupier.

Provisions relating to objections, proposals and appeals, etc.—See ss. 36 *et seq.*, and 40 *et seq.*, *ante*; and see also s. 72 (2), *post*.

Unoccupied.—It is not quite certain whether this means that there must be nobody in occupation at all or whether it includes the case in which there is an occupier but that occupier is not strictly rateable because the occupation is not a beneficial occupation (*e.g.* because it comprises structural alterations to the hereditament such as were being carried out in *London County Council* v. *Hackney Borough Council*, [1928] 2 K. B. 588, or where there is a caretaker on the premises (see, *e.g. Bertie* v. *Walthamstow Overseers* (1904), 68 J. P. 545). It would seem, however, that the occupier whose occupation is not beneficial has a sufficient interest in the property to be entitled to notice, since his only satisfactory remedy against an

assessment may be by opposing any proposal or other proceeding instituted in respect of it (see *London County Council* v. *Hackney Borough Council*, *supra*).

The owner.—For definition of "owner", see s. 144 (1), *post*.

A notice addressed to the occupier, etc.—In conjunction with s. 63 (1), *ante*, see the Rating and Valuation Act, 1925, s. 59 (2) (14 Halsbury's Statutes 680), which, however, is not confined to the case where the occupier is unknown.

67. Membership of local authority, etc. not to be disqualification in certain cases.—(1) A person shall not be disqualified to act as a member of, or as the clerk or an officer of, a local valuation panel or local valuation court by reason only that he is—

(*a*) a member of an authority deriving revenue directly or indirectly from rates which may be affected by the exercise of his functions; or

(*b*) the owner or occupier of any property within any rating area the rates within which are affected by the exercise of his functions,

and a person shall not be disqualified from acting as aforesaid in relation to any property by reason only that an authority of which he is a member either owns or occupies the whole or any part of that property. [3958]

(2) A person shall not be disqualified to act as a valuation officer or as *the judge on any appeal to a county court* by reason only that he is the owner or occupier of any property within any rating area the rates within which are affected by the exercise of his functions. [3959]

(3) Nothing in this section shall authorise any person to whom this section applies to act in relation to any property which, or any part of which, he himself owns or occupies. [3960]

The words in italics in sub-s. (2), *supra*, are repealed as from the appointed day by s. 10 of, and Sched. II to, the Lands Tribunal Act, 1949 (12 & 13 Geo. 6, c. 42).

General note.—The rules laid down in this section are intended to meet the common law rule that the slightest pecuniary interest acts as a disqualification for any person acting in a judicial capacity. The section came into force as respects all rating areas in England and Wales, except the Isles of Scilly, on May 1, 1948, by virtue of the Local Government Act, 1948 (Appointed Day) (No. 1) Order, 1948 (S.I. 1948 No. 823), *post*. It will come into force in the Isles of Scilly on February 1, 1950, by virtue of the Local Government Act, 1948 (Appointed Day) Order, 1949 (S.I. 1949 No. 434).

Member.—For members of a local valuation court, see s. 44 (3), *ante*; and for members of a local valuation panel, see s. 46, *ante*.

Clerk or an officer.—See s. 47 (1), *ante*; and for definition of "clerk", see s. 144 (1), *post*.

Local valuation panel.—See ss. 45 and 46, *ante*.

Local valuation court.—See s. 44, *ante*.

Rates; owner.—See the definitions in s. 144 (1), *post*.

Occupier.—See the notes to s. 35, *ante*.

Rating area.—As defined in s. 144 (1), *post*.

Valuation officer.—See s. 33 (3), *ante*.

68. Transfer of valuation offices, etc.—If the Minister is satisfied that any premises which are, or any interest in which is, owned by a local authority are, or at some time during the year 1947–48 were, used by that authority wholly or mainly for the purpose of their functions relating to the valuation of property for rating purposes and that it is reasonable so to do, he may direct the authority to make over their interest to the Minister of Works, and where such a direction is given the like consequences shall ensue as would have ensued if a notice to treat had been given, on the date of the direction to the authority, by the Minister of Works in pursuance of a power conferred by Act of Parliament compulsorily to acquire that interest. [3961]

Commencement of section.—See s. 72 (1), *post*.

The Minister.—The Minister of Health (s. 144 (1), *post*).

Local authority.—For definition, see s. 144 (1), *post*.

Year 1947–48.—The period of twelve months beginning with April 1, 1947 and ending on March 31, 1948 (s. 144 (1), (6), *post*).

Notice to treat.—Under the Lands Clauses Consolidation Act, 1845, s. 18 (3 Halsbury's Statutes (2nd Edn.) 902).

69. Use of public rooms.—(1) The valuation officer may request the permission of any county council or rating authority the whole or any part of whose area is within the area for which the officer acts for the use by him and his staff on such days or for such period as may be specified in the request

of such premises belonging to the council or authority as may be so specified and the council or authority shall not unreasonably withhold their permission. [3962]

(2) The chairman of any local valuation panel may request the permission of any county council or rating authority the whole or any part of whose area is within the area for which the panel acts for the use for meetings of the panel or of any local valuation court constituted from members of the panel or for the use of the chairman, clerk or officers of the panel, on such days as may be specified in the request of any premises belonging to the council or authority, and the council or authority shall not unreasonably withhold their permission. [3963]

(3) Any person having the control of any room maintained out of any rate may put that room at the disposal of the valuation officer or any local valuation panel or local valuation court for the purpose of the exercise by them or their officers, or, in the case of a panel, by the chairman thereof, of any functions directly or indirectly affecting the valuation list by reference to which that rate is levied. [3964]

(4) Where a request is made under subsection (1) or subsection (2) of this section, any dispute as to whether the permission of the county council or rating authority has been unreasonably withheld shall be determined by the Minister. [3965]

General note.—This section corresponds with s. 63 of the Valuation (Metropolis) Act, 1869 (14 Halsbury's Statutes 579), and s. 47 of the Rating and Valuation Act, 1925 (14 Halsbury's Statutes 672), both of which sections are repealed by s. 147 (1), (3), and Sched. II, Part II, *post*. As to commencement of the present section, see s. 72 (1), *post*.

Valuation officer.—For definition, see s. 33 (3), *ante*.

County council.—As defined in the Local Government Act, 1933, s. 1 (26 Halsbury's Statutes 306), and in the London Government Act, 1939, s. 1 (32 Halsbury's Statutes 267).

Rating authority.—See the notes to s. 33, *ante*.

Chairman.—See s. 46 (1) (*b*), *ante*.

Local valuation panel.—See ss. 45 and 46, *ante*. As to meetings of the panel, see s. 47 (3), *ante*.

Local valuation court.—See s. 44, *ante*.

Clerk or officers of the panel.—See s. 47 (1), *ante*, and for definition of " clerk", see s. 144 (1), *post*.

Rate.—For definition, see s. 144 (1), *post*.

The Minister.—The Minister of Health (s. 144 (1), *post*).

70. Savings and application of enactments.—(1) Save as otherwise expressly provided in this Act, nothing therein contained shall affect—

(*a*) the principles on which hereditaments are to be valued or any privilege or any provision for the making of a valuation on any exceptional principle; or

(*b*) the contents or form of valuation lists; or

(*c*) the effect of valuation lists when made,

and accordingly enactments relating to the matters aforesaid shall have effect with any necessary modifications, as if references to valuation lists included references to valuation lists made under this Part of this Act. [3966]

(2) The amendments specified in the First Schedule to this Act (being minor amendments consequential on the provisions of this Part of this Act) shall be made in the enactments referred to in that Schedule. [3967]

(3) The Minister may, if he in any particular case thinks fit, by order provide that such provisions of any local Act as may be specified in the order, being provisions relating to rating or valuation for rating to which, by reason of the provisions of this Part of this Act, effect can no longer be given, shall continue in force with such adaptations specified in the order as may be necessary to enable effect to be given to them. [3968]

Commencement of section.—See s. 72 (1), *post*.

Hereditaments.—For meaning, see s. 144 (1), *post*.

Valuation lists made under this Part of this Act.—See ss. 34 *et seq.*, *ante*.

The Minister.—The Minister of Health (s. 144 (1), *post*).

Order.—See s. 142 (2), *post*.

71. Regulations for the purposes of Part III.—Without prejudice to any other provision of this Part of this Act enabling the Minister to make regulations, the Minister may make regulations—

(*a*) for carrying the provisions of this Part of this Act into effect; and

(*b*) for prescribing anything which under this Part of this Act is to be prescribed; and

(*c*) for requiring rating authorities to transfer without payment to the valuation officer any such documents or classes of documents as may be specified in the regulations; and

(*d*) for winding up the affairs of assessment committees, county valuation committees, and the central valuation committee and for disposing of their property; and

(*e*) for prescribing the manner in which any liabilities of assessment committees, county valuation committees or the central valuation committee are to be met, and requiring local authorities to contribute such sums as may be necessary for the meeting thereof,

and different provision may be made by the regulations for different cases or classes of case. [3969]

Commencement of section.—See s. 72 (1), *post.*
Other provisions.—Other provisions of this Part enabling the Minister to make regulations are contained in ss. 41 (1) (*c*), 44 (2), proviso, 48 (2), 49 (3), *ante*, and 72 (2), *post.*
The Minister.—The Minister of Health (s. 144 (1), *post*).
Regulations.—These are to be made by statutory instrument under s. 142 (1), *post.*
Prescribing.—See ss. 35 (3) (*b*) and 41 (1) (*c*), *ante*, under which the Minister is empowered to make regulations with respect to forms of claims and of proposals.
Rating authorities.—See the notes to s. 33, *ante.*
Valuation officer.—For meaning, see s. 33 (3), *ante.*
Paras. (d) and (e).—See s. 33 (1) (*a*), *ante.*
Local authorities.—For meaning, see s. 144 (1), *post.*

72. Commencement of Part III and transitional provisions.—(1) This Part of this Act shall come into effect on such day as the Minister may by order appoint, and different days may be appointed for different purposes, different rating areas and different provisions of this Part of this Act. [3970]

(2) Subject to the provisions of subsection (1) of this section, the provisions of this Part of this Act relating to the alteration of current valuation lists shall have effect in relation to lists in force under the Rating and Valuation Acts, 1925 to 1940, or, as the case may be, under the Rating and Valuation (Metropolis) Acts, 1869 to 1940, as they have effect in relation to lists prepared in accordance with the provisions of this Act, and regulations made by the Minister may include such transitional provisions as the Minister thinks fit as respects proceedings for the amendment of lists or the making of provisional or supplemental lists pending on the day appointed as aforesaid. [3971]

(3) Section forty-six of the Valuation (Metropolis) Act, 1869 (which relates to the revision of valuation lists in London) shall, until the repeal thereof by this Act comes into force, have effect in relation to the period for which the valuation lists in force at the date of the passing of this Act continue in force, as if the references to the first four years, the fifth year, and the last four years, of the period were respectively references to every year except the last year, the last year, and every year except the first year, of the period. [3972]

The Minister.—The Minister of Health (s. 144 (1), *post*).
Order.—By the Local Government Act, 1948 (Appointed Days) (No. 1) Order, 1948 (S.I. 1948 No. 823), *post*, and the Local Government Act, 1948 (Appointed Days) Order, 1949 (S.I. 1949 No. 434), dates have been fixed for the coming into force of the whole of this Part of the Act, except ss. 55 and 56, *ante*. Ss. 33–34, 48–54, 58–66, 68 and 70, *ante*, and sub-s. (2), *supra*, will (subject to certain savings), come into force in all rating areas on February 1, 1950. S. 57, *ante*, will come into force in all rating areas outside London on April 1, 1950, and in all rating areas in London on April 6, 1950. S. 69, *ante*, will come into operation in all rating areas on November 1, 1949. S. 71 came into force in all rating areas, and sub-s. (3), *supra*,

came into force in all rating areas in London, on May 1, 1948. As to ss. 45–47, *ante*, see the General note to s. 45 ; and as to s. 67, *ante*, see the General note thereto.

Rating areas.—For meaning, see s. 144 (1), *post* ; and cf. s. 123, *post*.

Alteration of current valuation lists.—See ss. 40 *et seq.*, *post*.

Rating and Valuation Acts, 1925 *to* 1940 ; *Rating and Valuation* (*Metropolis*) *Acts*, 1869 *to* 1940.—See the notes to s. 33, *ante*.

Regulations.—See s. 142 (1), *post*.

Valuation (*Metropolis*) *Act*, 1869, s. 46.—14 Halsbury's Statutes 571.

Until the repeal, etc.—See s. 147 (1), (3), *post*, and Sched. II, Part II, *post*.

73. Extent of Part III.—This Part of this Act shall not extend to Scotland. [3973]

PART IV

VALUATION OF DWELLING-HOUSES

Gross values ; Preliminary

74. Scope of provisions of Part IV as to gross values.—(1) For the purpose of making or altering the first valuation lists made after the passing of this Act and subsequent lists, the gross value for rating purposes of a dwelling-house, instead of being ascertained by reference to the definitions of gross value in section sixty-eight of the Rating and Valuation Act, 1925, and section four of the Valuation (Metropolis) Act, 1869, shall be ascertained in accordance with the following provisions of this Part of this Act. [3974]

(2) For the purposes of this Part of this Act, the expression "dwelling-house" means a hereditament used wholly or mainly for the purposes of a private dwelling or private dwellings, with or without any garage, outhouse, garden, yard, court, forecourt or other appurtenances. [3975]

(3) Nothing in this section, or in the other provisions of this Part of this Act relating to the ascertainment of gross values, shall apply to any dwelling-house to which section fifty-nine of the Pluralities Act, 1838 (which relates to certain dwelling-houses the letting of which is restricted) applies, and references in this section and in the said other provisions of this Part of this Act to dwelling-houses do not include references to any such dwelling-house. [3976]

Commencement of section.—In the absence of any provision to the contrary, this section and all other sections in this Part of the Act came into operation on the passing of the Act (March 24, 1948).

For the purpose of making or altering, etc.—See ss. 34 *et seq.*, *ante*, and ss. 40 *et seq.*, *ante*.

Rating and Valuation Act, 1925, s. 68.—14 Halsbury's Statutes 686.

Valuation (*Metropolis*) *Act*, 1869, s. 4.—14 Halsbury's Statutes 553.

Hereditament.—For definition, see s. 144 (1), *post*.

Used.—The parallel words used in relation to the derating of industrial hereditaments under s. 3 of the Rating and Valuation (Apportionment) Act, 1928 (14 Halsbury's Statutes 715), are "occupied and used". Except that the use of the combined expression "occupied and used" might conceivably give rise to some question where the occupation and the use were by different persons (which might have been material in the case of a house which was occupied for an employer's purposes under the present section)—the single word would seem to make no material difference. Subject to this qualification and to any implications arising from the different subject-matter of this enactment the decision on the meaning of "used" in *Yates* (*Revenue Officer for Burnley Assessment Area*) v. *Burnley Rating Authority* (1933), 97 J. P. 226, would seem to apply. Under this decision, whether there is a sufficient user of a hereditament for it to be used for the purposes of a private dwelling, is a question of fact to be determined by reference to the actual use and not holding in readiness for use, potential use or the intention of the occupier. Temporary disuse will make no difference, but disuse may be so prolonged that absence of use may be the necessary inference in law. There was held to be no evidence of use as a factory where fourteen months' disuse at the relevant date has been followed by two and a half years' disuse thereafter (looked at to support the inference drawn from the fourteen months). Temporary discontinuance of use for two months does not involve a discontinuance of use (*Schwerzerhof* v. *Wilkins*, [1898] 1 Q. B. 640). This interpretation of the word "used" may limit the period during which a furnished house may be left unoccupied before it can be said to have ceased to be used as a private dwelling.

Wholly or mainly for the purposes of a private dwelling or private dwellings.—As distinct, *e.g.* from a boarding or guest house (see especially *Hobson* v. *Tulloch*, [1898] 1 Ch. 424 ; *Chatsworth Estates Co.* v. *Fewell*, [1931] 1 Ch. 224 ; and *Tendler* v. *Sproule*, [1947] 1 All E. R. 193, C. A.).

With or without any garage, etc.—This seems to mean that, if the hereditament is used as mentioned in sub-s. (2), *supra*, it is a dwelling-house even though it includes a garage, etc.

The expressions " garage", " outhouse", etc., must obviously be construed in the light of the words " other appurtenances". On the other hand, it seems that those words must be construed *ejusdem generis* with the preceding terms, although the Act speaks only of " other appurtenances", while in s. 77 (5), *post*, the enumeration of garages, outhouses, etc., is followed by a reference to other *like* appurtenances.

For definition of " garden", see s. 144 (1), *post*.

Pluralities Act, 1838, s. 59.—7 Halsbury's Statutes (2nd Edn.) 437.

Ascertainment of gross values by references to 1938 *cost*

75. Scope of principle that gross value is to be ascertained by 1938 cost.—(1) Subject to the provisions of this section, the gross values of the following dwelling-houses, that is to say—

(*a*) post-1918 local authority or housing association dwelling-houses, including flats and maisonettes ; and

(*b*) to the extent hereinafter specified, small post-1918 dwelling-houses, not being local authority or housing association dwelling-houses and not being flats or maisonettes,

shall be ascertained in the manner provided by the subsequent provisions of this Part of this Act by reference to the hypothetical 1938 cost of construction, and the hypothetical 1938 site cost, as defined in the two next succeeding sections, of those dwelling-houses or the buildings of which they form part :

Provided that the preceding provisions of this subsection shall not apply to any dwelling-house to which section seventy-two of the Local Government Act, 1929 (which relates to agricultural dwelling-houses) applies, and references to dwelling-houses in the subsequent provisions of this Part of this Act relating to the ascertainment of gross values by reference to the matters mentioned in this subsection or either of them do not include references to any dwelling-house to which the said section seventy-two applies. [3977]

(2) Any reference in this Part of this Act to a local authority or housing association dwelling-house shall be construed as a reference to—

(*a*) a dwelling-house erected by, or by arrangement with, a local authority or by a housing association as defined for the purposes of the Housing Act, 1936, and owned by a local authority or such a housing association as aforesaid ; or

(*b*) a structure made available under section one of the Housing (Temporary Accommodation) Act, 1944, for use by a local authority for the provision of temporary housing accommodation ; or

(*c*) any other structure of a temporary nature used as a dwelling-house by virtue of any tenancy under or licence from a local authority. [3978]

(3) Any reference in this Part of this Act to a flat or maisonette shall be construed as a reference to a dwelling-house which forms part of a larger building :

Provided that—

(*a*) in considering for the purpose of this section whether or not a dwelling-house forms part of a larger building, garages, outhouses, gardens, yards, courts, forecourts and other appurtenances shall be left out of account ; and

(*b*) a semi-detached house or a house in a row of houses forming a terrace shall not be treated for the purpose of this section as forming part of a larger building. [3979]

(4) Any reference in this Part of this Act to a post-1918 dwelling-house shall be construed as a reference to a dwelling-house consisting of, or of part of, a building which was erected after, or in course of erection on, the second day of April, nineteen hundred and nineteen, or which has been since that date, or was at that date being, bona fide reconstructed by way of conversion into two or more separate and self-contained flats or tenements. [3980]

(5) Any reference in this Part of this Act to a small dwelling-house shall

be construed as a reference to a dwelling-house of which the rateable value on the appropriate day did not exceed—

(*a*) in the case of a dwelling-house in the Metropolitan Police District or the City of London, one hundred pounds; and

(*b*) in the case of any other dwelling-house, seventy-five pounds. [3981]

(6) In the last preceding subsection, the expression "rateable value on the appropriate day" has the meaning assigned to it by section seven of the Rent and Mortgage Interest Restrictions Act, 1939, and that section shall apply accordingly for the purposes of this subsection:

Provided that—

(i) where the rateable value on the appropriate day of a dwelling-house falls under subsection (2) of that section to be determined by an apportionment and no apportionment has been made by the county court, the valuation officer, or on appeal, any court or arbitrator concerned, shall himself or themselves make the necessary apportionment for the purposes of this subsection;

(ii) if the dwelling-house has not been separately assessed and does not form part of some other property which has been separately assessed, the valuation officer, court or arbitrator shall treat the dwelling-house as being, or as not being, a small dwelling-house according as the net annual value thereof, calculated as if it were a small dwelling-house, does or does not exceed, in the case of a dwelling-house in the Metropolitan Police District or the City of London, one hundred pounds and, in any other case, seventy-five pounds. [3982]

Commencement of section.—See the notes to s. 74, *ante.*

Dwelling-house.—For definition, see s. 74 (2), (3), *ante*; but note the proviso to sub-s. (1), *supra.*

Post-1918 local authority or housing association dwelling-houses.—For meaning, see sub-ss. (2) and (4), *supra.*

Including flats and maisonettes.—For construction, see sub-s. (3), *supra.* This means, of course, no more than that flats and maisonettes may be "post-1918 local authority or housing association dwelling-houses".

To the extent hereafter specified.—The explanation of these words is that the gross value of the houses specified in sub-s. (1) (*b*), *supra*, is by s. 80, *post*, to be ascertained by reference to the "hypothetical 1938 cost of construction" and a hypothetical 1949 site value.

Small post-1918 dwelling-houses.—For meaning, see sub-ss. (4)–(6), *supra.*

Hypothetical 1938 cost of construction.—For meaning, see s. 76, *post.*

Hypothetical 1938 site cost.—For definition, see s. 77, *post.*

Local Government Act, 1929, *s.* 72.—10 Halsbury's Statutes 931.

Local authority.—For definition, see s. 144 (1), *post.*

Housing Act, 1936.—In s. 188 (1) (11 Halsbury's Statutes (2nd Edn.) 586), "housing association" is defined as meaning a society, body of trustees or company established for the purpose of, or amongst whose objects or powers are included those of, constructing, improving or managing or facilitating or encouraging the construction or improvement of, houses for the working classes, being a society body of trustees or company who do not trade for profit or whose constitution or rules prohibit the issue of any capital with interest or dividend exceeding the rate for the time being prescribed by the Treasury, whether with or without differentiation as between share and loan capital.

Housing (Temporary Accommodation) Act, 1944, *s.* 1.—11 Halsbury's Statutes (2nd Edn.) 632.

Garages, outhouses, etc.—See the notes to s. 74, *ante.*

Sub-s. (4).—This subsection may be compared with s. 12 (9) of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920 (10 Halsbury's Statutes 347).

Sub-s. (5).—The effect of this subsection, which may be compared with s. 3 (1) of the Rent and Mortgage Interest Restrictions Act, 1939 (32 Halsbury's Statutes 973) is that, broadly speaking, all rent-controlled dwelling-houses are small dwelling-houses within the meaning of this Part of the Act.

Rent and Mortgage Interest Restrictions Act, 1939, *s.* 7.—32 Halsbury's Statutes 975.

That section (so far as material here) is as follows:—

"(1) In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say:—

. . . . . .

'rateable value on the appropriate day' in relation to any dwelling-house, means (subject to the following provisions of this section) the value shown, with respect to that dwelling-house, on that day in the valuation list then in force, as the rateable value or, where the net annual value differs from the rateable value, as the net annual value; and

' the appropriate day ' means, as respects the administrative county of London, the sixth day of April, nineteen hundred and thirty-nine, or, as respects the remainder of England, the first day of April, nineteen hundred and thirty-nine ;

. . . . . .

(2) In relation to any dwelling-house of which the rateable value on the appropriate day was not on that day separately assessed, any reference in the preceding provisions of this Act to the rateable value on the appropriate day shall be construed as a reference to such proportion of the rateable value on that day of the property in which the dwelling-house is comprised as may be apportioned to the dwelling-house by the county court in accordance with the provisions of subsection (3) of section twelve of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920.

(3) In relation to any dwelling-house first assessed after the appropriate day, any reference in the preceding provisions of this Act to the rateable value on the appropriate day shall be construed as a reference to the rateable value on the day on which the dwelling-house was first assessed.

. . . . . ."

S. 12 (3) of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920 (10 Halsbury's Statutes 346) enacts :

" Where, for the purpose of determining the standard rent or rateable value of any dwelling-house to which this Act applies, it is necessary to apportion the rent at the date in relation to which the standard rent is to be fixed, or the rateable value of the property in which that dwelling-house is comprised, the county court may, on application by either party, make such apportionment as seems just, and the decision of the court as to the amount to be apportioned to the dwelling-house shall be final and conclusive."

Valuation officer.—There can be no doubt that this expression has here the meaning assigned to it by s. 33 (3), *ante*, although the present section is not in Part III of the Act.

On appeal, etc.—See ss. 48 (4), 49 (1) and 50 (3), *ante*.

76. Meaning of " hypothetical 1938 cost of construction."—(1) References in this Part of this Act to the hypothetical 1938 cost of construction of a dwelling-house or building shall be construed in accordance with the provisions of this section. [3983]

(2) The Minister shall prepare, for each rating area, after consultation with the rating authority for the area, a statement which—

(*a*) embodies specifications, set out in such detail as he thinks fit, of houses and buildings of such types as he thinks fit ; and

(*b*) determines, in relation to each specification, the sum which is to be taken for the purposes of this section as the 1938 cost of constructing a house or building conforming to that specification. [3984]

(3) In compiling the said statements, the Minister shall be guided by the costs actually incurred by local authorities in either or both of the years nineteen hundred and thirty-seven and nineteen hundred and thirty-eight in constructing houses and buildings either in the rating area in question or in nearby comparable rating areas, but nothing in this subsection shall be construed as requiring the Minister, in selecting the specifications, to confine himself to houses and buildings of types actually constructed by local authorities in those or any other areas in those years :

Provided that, if the Minister is satisfied in relation to any local authority that the costs actually incurred by that authority, compared with the costs incurred by other authorities in constructing houses and buildings affording comparable accommodation, were substantially greater than they would otherwise have been by reason of exceptional circumstances existing in the rating area in question, he may for the purposes of this subsection treat those costs as being diminished by so much thereof as appears to him to be due to those exceptional circumstances. [3985]

(4) The valuation officer, or, on appeal, any court or arbitrator concerned, shall, for the purpose of arriving at the hypothetical 1938 cost of construction of a dwelling-house or building—

(*a*) assume that the cost in the year nineteen hundred and thirty-eight of constructing houses or buildings conforming with the specifications included in the statement prepared by the Minister as aforesaid for the area in which the dwelling-house or building in question is situated was in each case that which is determined in relation thereto in the statement ; and

(*b*) estimate on that assumption what would have been the cost in that year of constructing a dwelling-house or building similar to the particular dwelling-house or building with which the valuation officer, court or arbitrator is dealing,

and the sum so estimated shall be deemed to be the hypothetical 1938 cost of constructing the house or building. [3986]

(5) In making any such estimate as is required by paragraph (*b*) of the last preceding subsection, the valuation officer, court or arbitrator shall take into account the cost of constructing garages, outhouses and other like appurtenances, and of paving and fencing yards, courts, forecourts and other like appurtenances, but shall not take into account the cost of providing or making up roads, or the cost of bringing to the site of the house or building drainage, water, electricity or gas, or of providing shelter from hostile attack from the air. [3987]

(6) A copy of the statement prepared by the Minister under subsection (2) of this section for any rating area shall be deposited at the offices of the rating authority for that area and shall be open to inspection during ordinary business hours, and any person shall be entitled to obtain from the rating authority a copy thereof for his own use upon payment to the authority of such fee as may be prescribed by regulations of the Minister. [3988]

Commencement of section.—See the notes to s. 74, *ante*.
Dwelling-house.—For meaning, see s. 74 (2), (3), *ante*, and s. 75 (1), proviso, *ante*.
The Minister.—The Minister of Health (s. 144 (1), *post*).
Rating area.—For definition, see s. 144 (1), *post*, see also s. 123, *post*.
Consultation.—As to what constitutes "consultation", see *Rollo* v. *Minister of Town and Country Planning*, [1948] 1 All E. R. 13, C. A., title TOWN AND COUNTRY PLANNING, *post*.
Rating authority.—See the notes to s. 33, *ante*.
As he thinks fit.—These words give a complete discretion to the Minister (cf. *R.* v. *Comptroller-General of Patents, Ex parte Bayer Products, Ltd.*, [1941] 2 K. B. 306).
Local authority.—For definition, see s. 144 (1), *post*.
Nearby comparable rating areas.—This appears to mean areas not necessarily adjoining but within a reasonable distance.
If the Minister is satisfied.—See the note headed "As he thinks fit", *supra*.
Valuation officer.—See the notes to s. 75, *ante*.
On appeal, etc.—See ss. 48 (4), 49 (1) and 50 (3), *ante*.
Other like appurtenances.—The word "like" makes it clear that in each case "appurtenances" must be read *ejusdem generis* with the objects or things that precede the phrase.
Regulations.—See s. 142 (1), *post*. Up to the time of going to press no such regulations had been made.

77. Meaning of "hypothetical 1938 site cost."—(1) References in this Part of this Act to the hypothetical 1938 site cost of a dwelling-house or building shall be construed in accordance with the provisions of this section. [3989]

(2) The Minister shall prepare, for each rating area, after consultation with the rating authority for the area, a statement—

(*a*) specifying a particular site or particular sites in or near the area; and
(*b*) determining, in relation to that site or, as the case may be, each of those sites, the sum which is to be taken as the 1938 cost of providing that site, developed as respects roads, drainage, water, electricity and gas to the extent specified in the statement. [3990]

(3) In preparing the said statements, the Minister shall select sites actually used by local authorities, whether in the year nineteen hundred and thirty-eight or at some other time, for the purpose of erecting dwelling-houses or buildings thereon, and shall be guided as respects the sums which he determines in relation to them by the costs incurred by local authorities in the year nineteen hundred and thirty-eight, or any other comparable period, in providing the sites or other comparable sites. [3991]

(4) The valuation officer, or, on appeal, any court or arbitrator concerned,

shall, for the purpose of arriving at the hypothetical 1938 site cost of a dwelling-house or building—

(*a*) select, where necessary, that one of the sites specified in the statement prepared by the Minister as aforesaid for the area in which the dwelling-house or building is situate which appears most appropriate ; and

(*b*) starting from the assumption that the cost in the year nineteen hundred and thirty-eight of providing the site, or the selected one of the sites, specified in the statement, developed as respects the matters aforesaid to the extent specified therein, would have been that which is determined in the statement, estimate what would have been the cost in that year of providing the site which, or part of which, is occupied by the particular dwelling-house or building with which the valuation officer, court or arbitrator is dealing, developed as respects the matters aforesaid to the extent to which it is in fact developed ; and

(*c*) where part only of the site the cost of which is estimated under paragraph (*b*) of this subsection is occupied by the particular dwelling-house or building with which the valuation officer, court or arbitrator is dealing, estimate the part of that cost which would properly be ascribed to the actual site of the said dwelling-house or building,

and the sum estimated under paragraph (*b*) or, as the case may be, paragraph (*c*) of this subsection shall be deemed to be the hypothetical 1938 site cost of the house or building :

Provided that if the cost estimated under paragraph (*b*) of this subsection exceeds fifteen hundred pounds per acre, the excess over fifteen hundred pounds per acre shall be disregarded, and the estimate, if any, under paragraph (*c*) thereof shall be made accordingly. [3992]

(5) References in the last preceding subsection to the site or the part of the site which is occupied by the particular dwelling-house or building or to the actual site of the particular dwelling-house or building include references to land occupied by garages, outhouses, gardens, yards, courts, forecourts and other like appurtenances forming part of the hereditament. [3993]

(6) A copy of the statement prepared by the Minister under subsection (2) of this section for any rating area shall be deposited at the offices of the rating authority for that area and shall be open to inspection during ordinary business hours, and any person shall be entitled to obtain from the rating authority a copy thereof for his own use upon payment to the authority of such fee as may be prescribed by regulations of the Minister. [3994]

Commencement of section.—See the notes to s. 74, *ante.*
Dwelling-house.—For meaning, see s. 74 (2), (3) and s. 75 (1), proviso, *ante.*
The Minister.—The Minister of Health (s. 144 (1), *post*).
Rating area.—For definition, see s. 144 (1), *post* ; and see also s. 123, *post.*
Rating authority.—See the notes to s. 33, *ante.*
Statement.—This statement is to form the basis of the valuation of the sites of the houses valued by reference to cost under s. 75, *ante.*
In or near the area.—*I.e.* so near as to afford a reasonable guide to the cost of providing similar sites in the rating area.
Local authorities ; gardens ; hereditament.—For meanings, see s. 144 (1), *post.*
Valuation officer.—See the notes to s. 75, *ante.*
On appeal.—See the notes to s. 76, *ante.*
Arbitrator.—That is, in making an award under s. 50, *ante.*
Garages, outhouses, etc.—The expressions " garages ", " outhouses ", etc., must obviously be construed in the light of the words " or other appurtenances ". On the other hand the word " like " makes it qute clear that " appurtenances " must be read *ejusdem generis* with the objects and things that precede the phrase.
For definition of " garden ", see s. 144 (1), *post.*
Regulations.—See s. 142 (1), *post.*

78. Post-1918 local authority or housing association dwelling-houses, other than flats and maisonettes.—(1) Subject to the provisions of this section,

the gross value of a post-1918 local authority or housing association dwelling-house, not being a flat or maisonette, shall be five per cent. of the hypothetical 1938 cost of construction of the dwelling-house plus five per cent. of the hypothetical 1938 site cost thereof. [3995]

(2) Where the state of repair or amenities of such a dwelling-house as aforesaid or the amenities of its surroundings are not as good as those of the majority of comparable dwelling-houses in the locality, being dwelling-houses to which this section applies, the gross value thereof shall be the amount ascertained under subsection (1) of this section diminished by such amount as may be just:

Provided that any factor affecting the amenities of the dwelling-house or its surroundings shall not be taken into account under this subsection in so far as it has already affected the hypothetical 1938 cost of construction of the dwelling-house or the hypothetical 1938 site cost thereof. [3996]

General note.—This section should be read in conjunction with ss. 74 and 75, *ante*, and s. 81, *post*; it sets out the mode of calculation of the gross value of post-1918 local authority and housing association dwelling-houses other than flats and maisonettes, just as s. 79, *post*, does in the case of post-1918 local authority and housing association flats and maisonettes, and s. 80, *post*, does in the case of other small post-1918 dwelling-houses except flats and maisonettes. As to commencement of the section, see the notes to s. 74, *ante*.

Subject to the provisions of this section.—This is a reference to sub-s. (2), *supra*, which allows a reduction factor in the circumstances named.

Dwelling-house.—For meanings, see s. 74 (2), (3), *ante*, and s. 75 (1), proviso, *ante*.

Post-1918 local authority or housing association dwelling-house.—For meaning, see s. 75 (2), (4), *ante*.

Flat or maisonette.—For meaning, see s. 75 (3), *ante*.

Hypothetical 1938 cost of construction.—For meanings, see s. 76 *ante*.

Hypothetical 1938 site cost.—For meaning, see s. 77, *ante*.

Amenities.—The nature of "amenity" was considered in *Re Ellis and Ruislip, Northwood Urban Council*, [1920] 1 K. B. 343.

Such amount as may be just.—A similar phrase appears in ss. 79 (2), (4), 80 (2) and 81, *post*. In each case except the last the words apply to a reduction or diminution of value, the last case relating to an increase.

79. Post-1918 local authority or housing association flats or maisonettes.—(1) Subject to the provisions of this section, the gross value of a post-1918 local authority or housing association dwelling-house, being a flat or maisonette, shall be ascertained by reference to the sum of—

(*a*) the hypothetical 1938 cost of construction of the building of which the flat or maisonette forms part; and

(*b*) the hypothetical 1938 site cost of that building,

and shall be five per cent. of so much of that sum as appears, on a just apportionment, to be properly attributable to the flat or maisonette. [3997]

(2) Where the amenities of the surroundings of the said building are not as good as in the case of the majority of the buildings in the locality which consist of or contain post-1918 local authority or housing association dwelling-houses (whether flats or maisonettes or not) comparable to the flats or maisonettes contained in the first-mentioned building, the sum referred to in subsection (1) of this section shall be reduced by such amount as may be just:

Provided that any factor affecting the amenities of the surroundings of the building shall not be taken into account under this subsection in so far as it has already affected the hypothetical 1938 cost of construction of the building or the hypothetical 1938 site cost thereof. [3998]

(3) Where the building has been destroyed in part, the hypothetical 1938 cost of the construction thereof shall be ascertained, and the apportionment referred to in subsection (1) of this section shall be made, as if the destroyed part was still in existence. [3999]

(4) Where the state of repair or amenities of the flat or maisonette itself are not as good as those of the majority of comparable post-1918 local authority or housing association dwelling-houses in the locality (whether flats or maisonettes or not), the gross value of the flat or maisonette shall be the

amount ascertained under the previous provisions of this section diminished by such amount as may be just :

Provided that the said state of repair, and any other factor affecting the amenities, shall not be taken into account under this subsection in so far as it has already affected the hypothetical 1938 cost of construction of the building or the hypothetical 1938 site cost thereof, or has already been taken into account in making the apportionment referred to in subsection (1) of this section. [4000]

General note.—This section, which relates to flats and to maisonettes, should be read in conjunction with ss. 74 and 75, *ante*, and s. 81, *post*; it sets out the mode of calculation of the gross value of post-1918 local authority and housing association flats and maisonettes, just as s. 78, *ante*, did in the case of post-1918 local authority and housing association dwelling-houses other than flats and maisonettes, and s. 80, *post*, does in the case of other small post-1918 dwelling-houses except flats and maisonettes. As to the commencement of this section see the notes to s. 74, *ante*..

Subject to the provisions of this section.—This is a reference to sub-ss. (2) and (4), *supra*.

Post-1918 *local authority or housing association dwelling-house.*—For meaning, see s. 75 (2), (4), *ante*.

Flat or maisonette.—For meaning, see s. 75 (3), *ante*.

Hypothetical 1938 *cost of construction.*—This term is defined in s. 76, *ante*.

Hypothetical 1938 *site cost.*—For definition, see s. 77, *ante*.

A just apportionment.—Cubic capacity in relation to cost of construction seems to be the principal factor in arriving at such apportionments, subject to proper allowances for differences in facilities.

Reduced.—The meaning of this term appears to be similar to that of " diminished " in s. 78, *ante*, sub-s. (4), *supra*, and s. 80 (2), *post*.

Destroyed in part.—This appears to have particular relevance to war-damaged properties part of which is unusable.

80. Other small post-1918 dwelling-houses, except flats and maisonettes.—(1) Subject to the provisions of this section, the gross value of any small post-1918 dwelling-house which is neither a local authority or housing association dwelling-house nor a flat or maisonette shall be five per cent. of the hypothetical 1938 cost of construction of the dwelling-house plus five per cent. of the value of the site on the first day of April, nineteen hundred and forty-nine, estimated on the basis—

(*a*) that all buildings have been removed therefrom ;

(*b*) that there is no impediment (whether of a legal nature or not) to the use of the site for the construction thereon of a dwelling-house of the same general character and dimensions as the existing dwelling-house and with foundations occupying the whole, or, at the option of the builder, any part of, the ground occupied by the buildings of the existing dwelling-house ; and

(*c*) that any permission required by any statutory provision for that use of the site will be forthcoming unconditionally, and in particular, in the case of a permission under the enactments relating to town and country planning, will be forthcoming without the imposition of any development charge. [4001]

(2) If the state of repair or amenities of the dwelling-house are not as good as those of the majority of comparable dwelling-houses in the locality, being dwelling-houses to which this section applies, the gross value of the dwelling-house shall be the amount ascertained under the preceding provisions of this section diminished by such amount as may be just. [4002]

General note.—This section should be read in conjunction with ss. 74 and 75, *ante*, and s. 81 *post*; it sets out the mode of calculation of the gross value of certain small post-1918 dwelling-houses, other than flats and maisonettes, just as s. 78, *ante*, did in the case of post-1918 local authority and housing association dwelling-houses other than flats and maisonettes, and s. 79, *ante*, did in the case of post-1918 local authority and housing association flats and maisonettes. As to commencement of this section, see notes to s. 74, *ante*.

Dwelling-house.—For meaning, see s. 74 (2), (3), and s. 75 (1), proviso, *ante*.

Small post-1918 *dwelling-house.*—For meaning, see s. 75 (4)–(6), *ante*.

Local authority or housing association dwelling-house.—For meaning, see s. 75 (2), *ante*.

Flat or maisonette.—For meaning, see s. 75 (3), *ante*.

Hypothetical 1938 *cost of construction.*—For meaning, see s. 76, *ante*.

No impediment (whether of a legal nature or not).—Impediments of a legal nature could include easements, restrictive covenants, local authority byelaws and planning controls.

Permission required.—See, for example, the Town and Country Planning Act, 1947, ss. 12 *et seq.* (40 Halsbury's Statutes 748 *et seq.*). As to the grant of permission unconditionally, see s. 14 (1) of the same Act (40 Halsbury's Statutes 751).

Statutory provision.—For definition, see s. 144 (1), *post.*

The enactments relating to town and country planning.—See the Town and Country Planning Act, 1947 (40 Halsbury's Statutes 727).

Development charge.—These charges fall to be imposed under Part VII of the Town and Country Planning Act, 1947 (40 Halsbury's Statutes 804 *et seq.*).

81. Adjustment for adaptation for business purposes.—Where any part of a dwelling-house, being a dwelling-house to which one of the three last preceding sections applies, has been specially constructed or adapted for use for the purposes of any trade, business or profession, the gross value thereof, as ascertained under the relevant preceding provisions of this Part of this Act, shall be increased by such amount, if any, as may be just, having regard to any extra annual value for the time being conferred on the dwelling-house by the said special construction or adaptation thereof:

Provided that, where the dwelling-house is a flat or maisonette, any special construction or adaptation thereof shall only be taken into account under this section if and in so far as it has not already affected the apportionment required to be made of the hypothetical 1938 cost of construction, and the hypothetical 1938 site cost, of the building of which the flat or maisonette forms part. [4003]

General note.—Ss. 78, 79 and 80, *ante*, laid down rules for the calculation of gross values in these particular types of case, and the present section, which provides for increasing the gross values so ascertained by taking into account additional value because of construction or adaptation for business purposes, is, as it were, subsidiary to each. As to commencement of this section, see the notes to s. 74, *ante.*

Dwelling-house.—For definition, see s. 74 (2), (3) and s. 75 (1), proviso, *ante.*

Flat or maisonette.—For meaning, see s. 75 (3), *ante.*

Hypothetical 1938 *cost of construction.*—For definition, see s. 76, *ante.*

Hypothetical 1938 *site cost.*—For definition, see s. 77, *ante.*

Other cases

82. Gross value of other dwelling-houses.—(1) Subject to the provisions of this section, the gross value of any dwelling-house the gross value of which is not ascertainable under any of the preceding provisions of this Part of this Act shall be estimated by reference to the rents for comparable dwelling-houses in the locality, being dwelling-houses to which this section applies, which were being paid on the thirty-first day of August, nineteen hundred and thirty-nine, under lettings in force at that date, whenever made. [4004]

(2) For the purposes of this section account shall, subject to the provisions of subsection (5) of this section, only be taken of rents charged under lettings where the landlord undertakes to bear the cost of the repairs and insurance and the other expenses, if any, necessary to maintain the dwelling-house in a state to command the rent. [4005]

(3) Where, under any such letting—

(*a*) the landlord undertakes any further obligation; or

(*b*) the tenant does not undertake to pay all the usual tenant's rates and taxes,

the rent payable on that letting shall be adjusted, before being taken into account under subsection (1) of this section, by deducting therefrom sums representing the cost to the landlord of any services provided by him to fulfil any such obligation (exclusive of profit) and the burden otherwise falling on him by reason of his undertaking any such obligation or by reason of the tenant not undertaking to pay all the usual tenant's rates and taxes:

Provided that the said cost and the said burden shall be estimated by reference to the levels of costs prevailing in the year nineteen hundred and thirty-eight. [4006]

(4) Where, under any such letting as is referred to in subsection (2) of this section, the rent charged is less than it might have been expected to be but for the fact that the letting is to a servant of the landlord, the rent payable on that letting shall, in addition to any adjustment under the last preceding subsection, be adjusted, before being taken into account under subsection (1) of this section, by making such addition thereto as may be reasonable. [4007]

(5) Where, under any letting, the landlord undertakes to bear the cost of insurance and the other expenses, if any, necessary to maintain the dwelling-house in a state to command the rent, other than expenses of repair, and also undertakes to bear the cost of some, but not all, of the repairs necessary to maintain the dwelling-house as aforesaid, the rent payable under that letting shall be adjusted by adding a sum representing the estimated cost of the said repairs so far as not undertaken to be borne by the landlord, and the rent, as so adjusted and, if need be, as further adjusted under subsection (3) of this section or under the last preceding subsection, shall be taken into account for the purposes of this section as if it were rent charged under such a letting as is mentioned in subsection (2) of this section :

Provided that the said cost shall be estimated by reference to the levels of cost prevailing in the year nineteen hundred and thirty-eight. [4008]

(6) In estimating the gross value of any dwelling-house in accordance with the provisions of this section, all necessary allowances shall be made for differences between the dwelling-houses which are taken into consideration. [4009]

(7) If, owing to the lack of comparable dwelling-houses actually the subject of lettings at the end of August, nineteen hundred and thirty-nine, it is not possible to arrive at the gross value of a dwelling-house in accordance with the preceding provisions of this section, or if the dwelling-house is one to which section seventy-two of the Local Government Act, 1929 (which relates to agricultural dwelling-houses) applies, the gross value thereof shall be estimated as if this Part of this Act had not been passed, except that regard shall be had to the levels of values prevailing in the year nineteen hundred and thirty-eight instead of to the levels of values prevailing for the time being :

Provided that where the gross value falls to be ascertained by reference to a rent (whether actual or hypothetical) the amount of which is referable in part to services provided by the landlord, the amount falling to be deducted from that rent, in ascertaining the gross value, as being the amount referable to the provision of those services shall be estimated by reference to the actual, or, as the case may be, the hypothetical, cost to the landlord of providing those services, exclusive of profit. [4010]

General note.—This section which must be read in conjunction with s. 74, *ante*, provides for the ascertainment of the gross values of dwelling-houses to which s. 75, *ante*, does not apply. As to commencement of this section, see the notes to s. 74, *ante*.

Dwelling-house.—For meaning, see s. 74 (2), (3), *ante*.

Where the landlord undertakes to bear the cost of the repairs, etc.—This corresponds with the assumption to be made as respects obligations of the landlord under the definitions of " gross value " in s. 68 (1) of the Rating and Valuation Act, 1925 (14 Halsbury's Statutes 686), and in s. 4 of the Valuation (Metropolis) Act, 1869 (14 Halsbury's Statutes 553).

See also the next note, *infra*.

The tenant does not undertake.—An undertaking may, of course, be express or implied.

Tenant's rates and taxes.—Under the definitions of " gross value " in s. 4 of the Valuation (Metropolis) Act, 1869 (*supra*), and s. 68 (1) of the Rating and Valuation Act, 1925 (*supra*), the tenant is always to be responsible for tenant's rates and taxes. These will include, in general, outside London the general rate and, in a rural district, the special rate also (Rating and Valuation Act, 1925, ss. 2 and 3 ; 14 Halsbury's Statutes 618, 621) and in London the general rate (London Government Act, 1899, s. 10 (2) ; 11 Halsbury's Statutes 1231 ; the City of London has its own rates). Tenant's rates and taxes do not include the Land Tax (*Goodchild* v. *St. John, Hackney Trustees* (1858), E. B. & E. I.). Where by a local Act the owner is responsible for any part of the usual tenant's rates, that part is not a usual tenant's rate for this purpose (*Slaylor* v. *Newcastle-upon-Tyne Assessment Committee*, [1926] 1 K. B. 172). Some difficulty may arise in connection with rates or charges for sewers or embankments, etc. If these are in the nature of a tenant's rate, it would seem that they should be so treated and not as expenses of maintaining the hereditament. Water rates being a charge for a commodity cannot be treated as a usual tenant's rate for this purpose, but they will be a further obligation under sub-s. (3), *supra*, if borne by the landlord. The deduction to be made in

respect of rates should be calculated at the anticipated rate in the pound on the new rateable value (*Tyne Improvement Commissioners* v. *Chirton Overseers* (1862), 32 L. J. (M. C.) 192 ; *R.* v. *South Staffordshire Waterworks Co.* (1885), 16 Q. B. D. 359). Where a partial rating exemption is enjoyed by the property locally, the lower rates resulting therefrom must be deducted (*Slade* v. *Bristol Overseers* (1910), 74 J. P. Jo. 629). Under the old law the full amount of the rates was required to be deducted, although the landlord was entitled to a compounding allowance (*R.* v. *Dodd* (1865), L. R. 1 Q. B. 16). But, in the present case only, the additional burden falling on the landlord may be deducted, and this would seem to be the amount less compounding allowance.

Exclusive of profit.—See note " Provided that where", *infra.*

The landlord undertakes to bear the cost of insurance, etc.—See note " the tenant does not undertake", *supra.*

Local Government Act, 1929, *s.* 72.—10 Halsbury's Statutes 931.

As if this Part of this Act had not been passed.—*I.e.* by reference to the definition of " gross value " in s. 68 (1) of the Rating and Valuation Act, 1925 (14 Halsbury's Statutes 686), as amended by s. 48 (3) of, and Sched. IX to, the Tithe Act, 1936 (29 Halsbury's Statutes 961, 974), or that in s. 4 of the Valuation (Metropolis) Act, 1869 (14 Halsbury's Statutes 553), as so amended, as the case may be, and where s. 72 of the Local Government Act, 1929 (*supra*) applies, in accordance with that section. See also the Rating and Valuation (Air-Raid Works) Act, 1938, s. 1 (31 Halsbury's Statutes 614).

Except that regard shall be had.—This modification is in accordance with the other provisions of this Part of the Act which require gross values of dwelling-houses to be ascertained by reference to 1938 prices.

Provided that where, etc.—The sting of this proviso lies in the words " exclusive of profit", which reverse the decision (so far as it relates to profits) in *Bell Property Trust, Ltd.* v. *Hampstead Borough Assessment Committee*, [1940] 2 K. B. 543 ; [1940] 3 All E. R. 640, C. A., according to which a deduction might properly be made from a rent in respect of profit to the landlord on the services provided to the tenant in addition to the cost of these services.

Deductions from gross value

83. Deductions from gross value in certain cases.—(1) Subject to the provisions of this section, subsections (1) to (3) of section two of the Rating and Valuation Act, 1928 (which provide increased scales of deduction in arriving at the rateable value of certain houses and buildings) shall apply in relation to the making and alteration of—

(*a*) the first valuation lists made after the passing of this Act ; and

(*b*) such subsequent valuation lists, if any, as may be prescribed by regulations of the Minister,

as they apply in relation to the valuation lists specified in those subsections. [4011]

(2) The Minister may by order provide that, in the case of hereditaments of such classes as may be specified in the order, being hereditaments consisting of houses or buildings without land other than gardens, the deduction or maximum deduction to be made from the gross annual value for the purpose of arriving at the net annual value shall, instead of being ascertained by reference to Part I of the Second Schedule to the Rating and Valuation Act, 1925, or by reference to the Third Schedule to the Valuation (Metropolis) Act, 1869, as the case may be, be such as may be specified in the order in relation to those classes respectively. [4012]

(3) An order under the last preceding subsection may be revoked or varied by a subsequent order of the Minister. [4013]

(4) Before any order is made under subsection (2) or subsection (3) of this section, a draft thereof shall be laid before each House of Parliament, and the order shall not be made until approved by resolution of each House. [4014]

General note.—The increased deductions from gross to rateable value temporarily provided for by the Rating and Valuation Act, 1928, s. 2 (14 Halsbury's Statutes 709), are to apply to all valuation lists made under the present Act. The Minister may, by order, which may be varied or revoked, prescribe deductions or maximum deductions in certain cases to replace the present scales. Affirmative resolution procedure applies to all such orders. As to commencement of this section, see the notes to s. 74, *ante.*

Rating and Valuation Act, 1928, *s.* 2 (1)-(3).—14 Halsbury's Statutes 709, 710.

The first valuation lists, etc.—See s. 34, *ante.*

Regulations.—See s. 142 (1), *post.* Up to the time of going to press, no regulations under sub-s. (1) (*b*), *supra*, had been made by the Minister.

The Minister.—The Minister of Health (s. 144 (1), *post*).

By order.—See 142 (2), *post.* Up to the time of going to press, no such order as is mentioned in sub-s. (2), *supra*, had been made by the Minister.

Hereditaments ; gardens.—For meanings, see s. 144 (1), *post.*

The deductions . . . to be made, etc.—See the Rating and Valuation Act, 1925, s. 22 (1) (*a*) (14 Halsbury's Statutes 646), and the Valuation (Metropolis) Act, 1869, ss. 4 and 52 (14 Halsbury's Statutes 553, 577), in conjunction with the Rating and Valuation (Apportionment) Act, 1928, s. 7 (1) (*a*) (14 Halsbury's Statutes 723).

Rating and Valuation Act, 1925, *Sched. II, Part I.*—14 Halsbury's Statutes 692.

Valuation (Metropolis) Act, 1869, *Sched. III.*—14 Halsbury's Statutes 584.

Sub-s. (3).—The express power conferred by this subsection is necessary because s. 32 (3) of the Interpretation Act, 1889 (18 Halsbury's Statutes 1003), does not apply to departmental orders.

A draft thereof shall be laid.—As the orders are not to be made until they have been laid before Parliament and have received parliamentary approval, ss. 4–7 of the Statutory Instruments Act, 1946 (39 Halsbury's Statutes 785 *et seq.*), as to the laying of documents before Parliament have no application to this particular class of instrument. See, however, now the Laying of Documents before Parliament (Interpretation) Act, 1948, s. 1 (1), title STATUTES AND STATUTORY RULES AND ORDERS, *post.*

Extent of Part IV

84. Extent of Part IV.—This Part of this Act shall not extend to Scotland. [4015]

PART V

RATING OF TRANSPORT AND ELECTRICITY AUTHORITIES

General

85. Railway or canal hereditaments and electricity hereditaments not to be rated.—(1) Save as is otherwise provided in this Part of this Act, no premises which are or form part of either—

(*a*) a railway or canal hereditament (as defined for the purposes of this Part of this Act) ; or

(*b*) a hereditament occupied by the British Electricity Authority, an Area Electricity Board or the North of Scotland Hydro-Electric Board,

shall be liable to be rated or be included in any valuation list or in any rate, and the British Transport Commission, the British Electricity Authority and the North of Scotland Hydro-Electric Board shall, in the year 1948–49 and all subsequent years, make such payments for the benefit of local authorities as are provided for by the subsequent provisions of this Part of this Act in lieu of the rates which would, apart from the provisions of this Part of this Act, be payable to rating authorities in respect of those hereditaments. [4016]

(2) Where any lands and heritages in Scotland are occupied by the British Transport Commission, the British Electricity Authority, the North of Scotland Hydro-Electric Board or an Area Electricity Board, and are owned by some other person, nothing in this Part of this Act shall relieve that person from his liability to pay rates in respect of his ownership of those lands and heritages, and the value for the purpose of such rates of those lands and heritages shall be ascertained and fixed by the assessor of the county or burgh within which they are situated and not by the Assessor of Public Undertakings (Scotland) and shall be entered in the valuation roll for that county or burgh.

For the purposes of this Act or of any apportionment among rating authorities or of any requisition to a rating authority, the rateable value of any such lands and heritages as aforesaid shall be taken to be such sum as bears to the rateable value entered in the valuation roll the same proportion as that part of the county or burgh rate as the case may be which is payable by owners only bears to the whole of that rate. [4017]

As to the commencement of this section, see ss. 89 (1) and 92 (1), *post.*

Save as is otherwise provided, etc.—See ss. 87 and 91, *post* ; and see also ss. 89, 90 and 92, *post.*

Railway or canal hereditament.—For definition, see s. 86, *post* ; but see also s. 89 (3), *post.*

Hereditament ; rate ; local authorities.—For meanings, see s. 144 (1), *post.*

British Electricity Authority.—This authority was constituted under s. 1 of the Electricity Act, 1947 (40 Halsbury's Statutes 414).

Area Electricity Board.—Area Electricity Boards are the Boards specified in Sched. I to the Electricity Act, 1947, (40 Halsbury's Statutes 489), and established under s. 1 of that Act (*supra*).

British Transport Commission.—This Commission is constituted under s. 1 of the Transport Act, 1947 (40 Halsbury's Statutes 925).

Year 1948–1949.—The period of twelve months beginning with April 1, 1948, and ending on March 31, 1949, s. 144 (1), (6), *post.*

Make such payments, etc.—See ss. 93 *et seq.*, *post.*

Rating authorities.—See the notes to s. 33, *ante.*

Railways and Canals ; rating provisions

86. Definition of railway or canal hereditament.—(1) In this Part of this Act, except where the contrary is expressly provided, the expression " railway or canal hereditament " means a hereditament occupied for any of the purposes of the British Transport Commission specified in subsection (2) of this section :

Provided that no premises occupied as a dwelling-house, hotel or place of public refreshment, or so let out as to be capable of separate assessment, shall be deemed to be, or to form part of, a railway or canal hereditament. [4018]

(2) The purposes referred to in subsection (1) of this section (elsewhere in this Act referred to as " non-rateable purposes ") are—

(*a*) all purposes of the parts of the undertaking of the Commission which are concerned with the carriage of goods or passengers by rail or inland waterway or the provision of facilities for traffic by inland waterway ; and

(*b*) all purposes of any parts of their undertaking which are subsidiary or incidental to any such part as aforesaid, not being parts thereof concerned with road transport, sea transport or harbours or parts thereof subsidiary or incidental to the parts thereof concerned with road transport, sea transport or harbours :

Provided that—

(i) services performed by the Commission in connection with the collection and delivery of parcels, goods or mechandise conveyed or to be conveyed by rail or inland waterway shall be deemed for the purposes of this subsection to be performed in carrying on a part of the Commission's undertaking concerned with the carriage of goods by rail or inland waterway and not in carrying on a part of their undertaking concerned with road transport ; and

(ii) where a hereditament is occupied mainly for non-rateable purposes as defined by the preceding provisions of this section, and partly for the purposes of the central direction and control of the affairs of the Commission, the last-mentioned purposes shall be deemed for the purposes of this Part of this Act to be non-rateable purposes. [4019]

(3) In this section, the expression " harbour " has the same meaning as in the Transport Act, 1947, and the expression " road transport " includes transport by a light railway or tramway, if the light railway or tramway is laid wholly or mainly along a public highway and is used wholly or mainly for the carriage of passengers. [4020]

Commencement of section.—See s. 89 (1) and the notes to s. 89, *post.*

Except where the contrary is expressly provided.—These words seem to have been inserted in view of the provisions of s. 89 (3), *post* ; but see also the proviso to sub-s. (1), *supra.*

Hereditament ; inland waterway.—For definitions, see s. 144 (1), *post.*

British Transport Commission.—See the notes to s. 85, *ante.*

Provided that no premises, etc.—This proviso applies even though the dwelling-house, hotel or place of public refreshment is occupied by the British Transport Commission itself.

Dwelling-house.—In *Railway Assessment Authority* v. *Great Western Rail. Co.*, [1948] A. C. 234 ; [1947] 2 All E. R. 794, a hostel and canteen with recreation, reading and writing rooms and 256 sleeping cubicles provided by a railway company for employees of the company staying there temporarily, though for substantial periods, were held to be occupied as a dwelling-

house. In *River Lee Conservancy Board* v. *Poplar R. O.* (1931), 13 R. & I. T. 262, six cottages occupied by a lock-keeper, a police-constable, a collector, an assistant collector, an assistant lock-keeper and a wharf attendant and lock-keeper, situated on a canal undertaking were held to be used as a dwelling-house.

Hotel or place of public refreshment.—In *Railway Assessment Authority* v. *Great Western Rail. Co.*, *supra*, the hostel was held not to be an hotel within the meaning of the same provision. Lord THANKERTON there said: "An hotel, in my opinion, connotes a building in which a hotel business is carried on, to which the public are entitled to resort for accommodation and refreshment, and to which the edict "*nautae, caupones*" would apply."

So let out as to be capable of separate assessment.—These words involve the application of the old law determining whether property which is let out of a major hereditament constitutes a separate hereditament in the occupation of the lessee or remains part of the major hereditament in the occupation of the occupier thereof, the lessee being in a position analogous to that of a lodger (*Westminster Corpn.* v. *Southern Rail. Co.*, [1936] A. C. 511; [1936] 2 All E. R. 322). In that case the House of Lords held that various classes of property on a railway station were so let out as to be capable of assessment and so were not a railway hereditament although: (1) The holding was only a licence and was determinable at the will of the railway company; (2) there were no boundary walls and the servants of the railway company had a right of access; (3) pipes and cables and certain rights were reserved to the railway company; (4) the tenants and licensee had access only through other property of the railway company and when the outside gates were open; and (5) the tenants' user was subject to byelaws and other restrictions imposed by the railway company. The premises dealt with included shops, offices, banks, kiosks, sweet stalls, garages and bare sites used for storage or warehousing building materials, coal, etc., book stalls made of timber (which were movable on rollers and could be required to be moved by the railway company) and showcases for advertising purposes placed at points fixed by the railway company and removable by the company at will. Railway canteens used by catering contractors to provide meals for railway employees but supervised by the railway company were held not to be so let out as to be capable of separate assessment in *Re London and North Eastern Rail. Co.'s Appeal*, [1946] K. B. 13.

Harbour.—By s. 125 (1) of the Transport Act, 1947 (40 Halsbury's Statutes 1008), "harbour" means any harbour, whether natural or artificial, and any port, haven, estuary, tidal or other river or inland waterway navigated by sea-going ships; and any docks; and, in turn, "dock" includes any pier, jetty or other place at which ships can ship or unship goods or passengers, "inland waterway" includes every such waterway, whether natural or artificial, and "ship" includes every description of vessel used in navigation.

Road transport.—The definition of this expression in sub-s. (3), *supra*, may usefully be compared with the definition of "railway" in s. 144 (1), *post*.

87. Railway or canal hereditaments partly used for other purposes.—(1) Where a railway or canal hereditament is occupied partly for non-rateable purposes and partly for other purposes—

(*a*) the hereditament shall not, by virtue of the preceding provisions of this Part of this Act, be exempt from liability to be rated and from inclusion in any valuation list or in any rate; but

(*b*) there shall be ascribed to the hereditament such net annual value as may be just having regard to the extent to which it is occupied for those other purposes; and

(*c*) the deductions, if any, to be made from the net annual value in arriving at the rateable value shall be calculated with regard only to those other purposes. [4021]

(2) Where by or under any enactment the amount of any water rate in England or Wales is to be determined by reference to the gross value or net annual value of any property as appearing in the valuation list for the time being in force, then, if the property in question is or forms part of a hereditament to which subsection (1) of this section applies, the value thereof for the purposes of that water rate shall not be determined by reference to the said gross value or the said net annual value but shall be determined in the event of any dispute by the county court for the county court district in which the property in question is situated. [4022]

(3) *The power to make orders conferred by subsection* (2) *of section forty-nine of this Act* (*which enables the Lord Chancellor to combine county court districts or direct that one county court district shall be included in another county court district for the purposes of that section*) *shall include power to make orders in relation to the purposes of this subsection, and the said subsection* (2) *shall have effect accordingly.* [4023]

Sub-s. (3), *supra*, is repealed as from the appointed day by s. 10 of, and Sched. II to, the Lands Tribunal Act, 1949 (12 & 13 Geo. 6, c. 42).

Commencement of section.—See s. 89 (1) and the notes to s. 89, *post*.

Railway or canal hereditament.—For definition, see s. 86, *ante*; but see also s. 89 (3), *post*.

Non-rateable purposes.—For meaning, see s. 86 (2), *ante.*
By virtue of the preceding provisions, etc.—See s. 85 (1), *ante.*
Rate.—For definition, see s. 144 (1), *post.*
Net annual value.—Cf. the Rating and Valuation Act, 1925, s. 22 (1) (14 Halsbury's Statutes 646), as amended by the Tithe Act, 1936, s. 48 (3), Sched. IX (29 Halsbury's Statutes 961, 974), and the Rating and Valuation (Apportionment) Act, 1928, s. 7 (1) (*a*) (14 Halsbury's Statutes 723).
The deductions . . . to be made, etc.—See the Rating and Valuation Act, 1925, s. 22 (1) (*c*) and Sched. II, Part II, as amended by the Local Government Act, 1929, s. 137 and Sched. XII, Part V (14 Halsbury's Statutes 647, 693); and the Local Government Act, 1929, s. 68 (1) (14 Halsbury's Statutes 928).
Where by or under any enactment, etc.—Cf. the Public Health Act, 1936, s. 126 (1) (29 Halsbury's Statutes 415); and see the Water Act, 1945, Sched. III, s. 46 (38 Halsbury's Statutes 558).
But shall be determined, etc.—As from the appointed day, the Lands Tribunal will take the place of the county court; see the Lands Tribunal Act, 1949 (12 & 13 Geo. 6, c. 42), ss. 1 (3) (*e*) and 10 (2).

88. Repeal of certain provisions of Railways (Valuation for Rating) Act, 1930, etc.—(1) The provisions of the Railways (Valuation for Rating) Act, 1930, specified in Part III of the Second Schedule to this Act and the enactments amending or applying that Act shall cease to have effect, and the Railway Assessment Authority and the Anglo-Scottish Railway Assessment Authority shall cease to exist. [4024]

(2) Any documents or other property of the said Authorities shall be disposed of in such manner as the Minister may direct, and any liabilities of the said Authorities, and any sum payable by the Minister under any provision of this Act by way of compensation to any officer or servant of either of those Authorities, shall be defrayed out of such payments falling to be made under this Part of this Act for the benefit of local authorities in England and Wales as the Minister may direct:

Provided that—

(*a*) as respects documents or other property of the Anglo-Scottish Railways Assessment Authority, the powers conferred by this subsection on the Minister shall be exercised only with the consent of the Secretary of State; and

(*b*) such part as the Minister and the Secretary of State, acting jointly, may direct of the liabilities of, and of any sums payable by way of compensation to any officer or servant of, the Anglo-Scottish Railways Assessment Authority shall be defrayed by the British Transport Commission (as successors to the railway companies referred to in subsection (8) of section twenty-two of the Railways (Valuation for Rating) Act, 1930). [4025]

Commencement of section.—See s. 89 (1) and the notes to s. 89, *post.*
Railways (Valuation for Rating) Act, 1930.—23 Halsbury's Statutes 455.
The enactments amending or applying that Act.—That is, s. 92 of the London Passenger Transport Act, 1933 (26 Halsbury's Statutes 834); the Railways (Valuation for Rating) Act, 1946 (39 Halsbury's Statutes 711); and s. 34 of the Transport Act, 1947 (40 Halsbury's Statutes 966).
Shall cease to have effect.—For formal repeals, see s. 147 and Sched. II, Part III, *post.*
Railway Assessment Authority and Anglo-Scottish Railways Assessment Authority.—These were constituted under s. 2 of the Railways (Valuation for Rating) Act, 1930 (23 Halsbury's Statutes 456).
The Minister.—The Minister of Health (s. 144 (1), *post*).
Compensation to any officer or servant, etc.—See s. 140, *post.*
Payments falling to be made, etc.—See ss. 93 *et seq.*, *post.*
British Transport Commission.—See the notes to s. 85, *ante.*

89. Commencement of provisions as to railway or canal hereditaments and transitional provisions.—(1) The provisions of this Part of this Act, so far as they relate to railway or canal hereditaments, the repeals in the Railways (Valuation for Rating) Act, 1930, the repeal of the enactments amending or applying that Act, and the abolition of the authorities referred to in that Act, shall (subject to the provisions of the next succeeding subsection) come into operation on the first day of April, nineteen hundred and forty-eight. [4026]

(2) The following provisions of this subsection shall have effect as from the passing of this Act, that is to say—

(*a*) the railway valuation roll for the fourth quinquennial period under the Railways (Valuation for Rating) Act, 1930, and the London Passenger Transport valuation roll for the third quinquennial period under the said Act as applied by the London Passenger Transport (Valuation for Rating) Scheme, 1935, shall not be completed ; and

(*b*) any part of such a roll for either of the periods aforesaid which has been completed shall be deemed never to have come into force ; and

(*c*) any alteration made in any valuation list by way of substituting for values or other particulars appearing in that list values or other particulars entered in any such part of a roll as aforesaid shall be deemed never to have been made ; and

(*d*) any valuation list altered as aforesaid, and any rate made, whether before or after the passing of this Act, in accordance with that list as so altered, shall be corrected accordingly ; and

(*e*) where the preceding provisions of this subsection affect the amount of any rate levied in respect of any hereditament in accordance with any such list, the difference, if too much has been paid, shall be repaid or allowed, or, if too little has been paid, shall be paid and may be recovered as if it were arrears of the rate,

and any reference in the subsequent provisions of this section to a valuation list shall be construed, in relation to a valuation list which is required by this subsection to be corrected, as a reference to the list as so corrected. [4027]

(3) Until other provision is made under Part III of this Act, either by the preparation of new valuation lists or by the alteration of existing lists, the hereditaments in England and Wales which, on the thirty-first day of March, nineteen hundred and forty-eight, are shown in the valuation lists as railway hereditaments within the meaning of the Railways (Valuation for Rating) Act, 1930, or as transport hereditaments within the meaning of that Act as applied by a scheme under section ninety-two of the London Passenger Transport Act, 1933, or as freight transport hereditaments used wholly or partly for railway transport purposes or canal transport purposes and occupied by the British Transport Commission or one of the bodies specified in the Third Schedule to the Transport Act, 1947, shall, unless—

(*a*) they are shown in the said lists on that date as freight transport hereditaments used wholly for dock purposes ; or

(*b*) they appear from the said lists on that date to be hereditaments used wholly for tramway or trolley-bus purposes of that part of the British Transport Commission's undertaking which corresponds to the undertaking of the London Passenger Transport Board,

be deemed to be railway or canal hereditaments for the purposes of this Part of this Act :

Provided that this subsection shall have effect subject to the provisions of the next succeeding section. [4028]

(4) The hereditaments which, under subsection (3) of this section, are to be deemed to be railway or canal hereditaments shall be dealt with as follows in the lists, that is to say—

(*a*) all those hereditaments, other than such thereof as are shown in the lists as freight transport hereditaments used partly for dock purposes or as appear from the lists to be used partly for tramway or trolley-bus purposes of that part of the British Transport Commission's undertaking which corresponds to the undertaking of the London Passenger Transport Board, shall be omitted from the lists ; and

(*b*) the net annual values of those of the said hereditaments which are not so omitted shall be the net annual values shown in the lists on that date as attributable to dock purposes, or the said tramway or trolley-bus purposes, as the case may be,

and it shall be the duty of all assessment committees to cause to be made, on the said first day of April, or as soon as may be thereafter, all such alterations in the valuation lists as are necessary to give effect to the provisions of this subsection, including alterations of totals of values, and the said alterations, when made, shall have effect as from the said first day of April. [4029]

(5) Save as provided in the preceding provisions of this section, and without prejudice to the provisions of the next following subsection, no alteration shall be made in any valuation list—

(*a*) so far as it relates to any hereditament in England or Wales which is by virtue of subsection (3) of this section to be deemed to be a railway or canal hereditament; or

(*b*) for the purpose of securing that any other hereditament in England or Wales is treated as or as part of a railway or canal hereditament,

until the provisions of Part III of this Act relating to the alteration of valuation lists by means of proposals made by or served on valuation officers have come into force. [4030]

(6) Save as provided in the preceding provisions of this section, no alteration shall be made in any valuation list in force at the date of the passing of this Act so far as that list relates to any hereditament in England or Wales which, on the thirty-first day of March, nineteen hundred and forty-eight, is shown in the valuation list as a railway hereditament within the meaning of the Railways (Valuation for Rating) Act, 1930, or as a transport hereditament within the meaning of that Act as applied by a scheme under section ninety-two of the London Passenger Transport Act, 1933, or as a freight transport hereditament used wholly or partly for railway transport purposes or canal transport purposes and occupied by the British Transport Commission or one of the bodies mentioned in the Third Schedule to the Transport Act, 1947:

Provided that nothing in this subsection shall—

(*a*) affect any new list made under Part III of this Act; or

(*b*) prevent an alteration in a list in force at the date of the passing of this Act being made under and in accordance with the provisions of the said Part III by means of a proposal made by or served on a valuation officer where the ground of the proposal is that the hereditament ought to be but is not, or ought not to be but is, treated as a railway or canal hereditament under this Part of this Act, or that the value thereof has been affected since the first day of April, nineteen hundred and forty-eight, by the making of structural alterations or by the total or partial destruction of any building or other erection by fire or any other physical cause; or

(*c*) prejudice the operation of the next succeeding section. [4031]

(7) Where an alteration is made in the valuation list under subsection (4) of this section, the rating authority shall, where necessary, make the corresponding amendment in any rate made in respect of a period beginning on or after the said first day of April, and the amendment shall have effect as from the beginning of the said period. [4032]

General note.—This section is concerned with the commencement of this Part of the Act as regards railway or canal hereditaments and makes ancillary transitional provisions. It has its counterpart as regards electricity hereditaments in s. 92, *post*.

So far as they relate to railway or canal hereditaments.—This would seem to cover s. 85, *ante* (in part), and ss. 86 and 87, *ante*. Whether it extends also to other provisions is doubtful but of little, if any, practical significance as all provisions for which no other date is laid down by the Act came into operation on the passing of the Act.

The repeals, etc.—The words from " the repeals " to " referred to in that Act " would seem to be intended to cover the whole of s. 88, *ante*.

Passing of this Act.—March 24, 1948.

Railways (Valuation for Rating) Act, 1930.—23 Halsbury's Statutes 455.

The railway valuation roll, etc.—See the Railways (Valuation for Rating) Act, 1930, ss. 3, 23 (1) (23 Halsbury's Statutes 457, 477).

The London Passenger Transport valuation roll, etc.—See the London Passenger Transport (Valuation for Rating) Scheme, 1935, *infra*.

Rate; hereditament.—For definitions, see s. 144 (1), *post*.

By the preparation of new valuation lists.—See ss. 34 *et seq.*, *ante*.

By the alteration of existing lists.—See ss. 40 *et seq.*, *ante*, in conjunction with s. 72 (2), *ante*.

Railway hereditaments, etc.—See the Railways (Valuation for Rating) Act, 1930, s. 1 (3) (23 Halsbury's Statutes 456).

Transport hereditaments . . . London Passenger Transport Act, 1933.—The scheme under s. 92 of the London Passenger Transport Act, 1933 (26 Halsbury's Statutes 834), is the London Passenger Transport (Valuation for Rating) Scheme, 1935, referred to in s. 90 (2), *post*.

Freight-transport hereditaments.—See the Rating and Valuation (Apportionment) Act, 1928, s. 5 (14 Halsbury's Statutes 719).

Railway transport purposes; canal transport purposes; dock purposes.—Cf. the Rating and Valuation (Apportionment) Act, 1928, s. 5 (2), (3) (14 Halsbury's Statutes 720).

British Transport Commission.—See the notes to s. 85, *ante*.

Transport Act, 1947, *Sched. III.*—40 Halsbury's Statutes 1012.

The undertaking of the London Passenger Transport Board.—This was vested in the British Transport Commission by s. 12 of, and Sched. III, Part I to, the Transport Act, 1947 (40 Halsbury's Statutes 940, 1012).

Assessment committees.—See the notes to s. 33, *ante*.

Cause to be made.—See s. 106, *post*.

Alteration.—For interpretation, see s. 144 (9), *post*.

The provisions . . . relating to the alteration of valuation lists, etc.—See ss. 40 *et seq.*, *ante*, in conjunction with s. 72 (2), *ante*.

As to the commencement of those provisions, see s. 72 (1), *ante*.

Any new list, etc.—See ss. 34 *et seq.*, *ante*.

An alteration . . . by means of a proposal.—See ss. 40 *et seq.*, *ante*, in conjunction with s. 72 (2), *ante*.

Rating authority.—See the notes to s. 33, *ante*.

90. Hereditaments shown as railway hereditaments, etc., but not in fact occupied by British Transport Commission.—(1) Where, on the thirty-first day of March, nineteen hundred and forty-eight, the whole or any part of a hereditament which is shown in any valuation list in force at the said date as a railway hereditament within the meaning of the Railways (Valuation for Rating) Act, 1930, or as a transport hereditament within the meaning of that Act as applied by a scheme under section ninety-two of the London Passenger Transport Act, 1933, is in the occupation of some person other than the British Transport Commission, such amendments may be made of the valuation list (by way of proposal under Part III of this Act, of proposal under the Rating and Valuation Act, 1925, or of provisional or supplemental list, according as may be appropriate) as are necessary to secure that that hereditament or, as the case may be, that part thereof, appears as a separate hereditament in the list, as if it had not been shown in the valuation list as being, or forming part of, a railway hereditament or a transport hereditament. [4033].

(2) For the purpose of the liability of any person (other than the British Transport Commission) to rates, an amendment made under this section shall, in relation to any rate (including any rate for a period which has already elapsed when the amendment is made), have effect as from the beginning of the quinquennial period under the Railways (Valuation for Rating) Act, 1930 (or, as the case may be, under that Act as applied by the London Passenger Transport (Valuation for Rating) Scheme, 1935) current at the date of the passing of this Act or as from the date on which the hereditament ceased to be in the occupation of the British Transport Commission or, as the case may be, the relevant body specified in the Third Schedule to the Transport Act, 1947, whichever is the later date; and the amount underpaid shall be paid and may be recovered as if it were arrears of the rate. [4034]

Commencement of section.—See the notes to s. 89, *ante*.

Hereditament; rate.—For definitions, see s. 144 (1), *post*.

Railways (Valuation for Rating) Act, 1930.—23 Halsbury's Statutes 455.

For the meaning of " railway hereditament " in that Act, see s. 1 (3) thereof (23 Halsbury's Statutes 456).

Transport hereditament . . . London Passenger Transport Act, 1933.—The scheme under s. 92 of the London Passenger Transport Act, 1933 (26 Halsbury's Statutes 834), is the London Passenger Transport (Valuation for Rating) Scheme, 1935, which is referred to in sub-s. (2), *supra*.

British Transport Commission.—See the notes to s. 85, *ante*.

By way of proposal under Part III of this Act.—See ss. 40 *et seq.*, *ante*, in conjunction with s. 72, *ante*.

Rating and Valuation Act, 1925.—14 Halsbury's Statutes 617. As to proposals thereunder, see s. 37 thereof (14 Halsbury's Statutes 664) (repealed by s. 147 (1), (3) and Sched. II, Part II, *post*).

Provisional or supplemental list.—See the Valuation (Metropolis) Act, 1869, ss. 46 and 47 (14 Halsbury's Statutes 571, 572) (repealed by s. 147 (1), (3) and Sched. II, Part II, *post*).

Including any rate for a period which has already elapsed, etc.—*I.e.* notwithstanding s. 42, *ante*; s. 37 (10) of the Rating and Valuation Act, 1925, as amended by s. 70 (3) of the Local Government Act, 1929 (14 Halsbury's Statutes 666); or ss. 46 (4) and 47 (8) of the Valuation (Metropolis) Act, 1869 (14 Halsbury's Statutes 572, 574), as the case may be.

The beginning of the quinquennial period, etc.—The quinquennial period under the Railways (Valuation for Rating) Act, 1930, *supra*, itself current at the date of the passing of this Act (March 24, 1948), began outside London on April 1, 1946, and in London on April 6, 1946 (see ss. 3 (2) and 23 (1) of the Act of 1930 (14 Halsbury's Statutes 458, 477).

Transport Act, 1947, *Sched. III.*—40 Halsbury's Statutes 1012.

Electricity ; rating provisions

91. Dwelling-houses of electricity authorities and boards to remain rateable.—So much of this Act as provides that premises which are or form part of a hereditament occupied by the British Electricity Authority, an Area Electricity Board or the North of Scotland Hydro-Electric Board shall not be liable to be rated or to be included in any valuation list or in any rate shall not apply to premises used as a dwelling-house. [4035]

General note.—The derating of electricity hereditaments provided for by s. 85, *ante*, does not apply to premises used as a dwelling-house.

As to commencement of this section, see s. 92 (1), *post*.

So much of this Act, etc.—See s. 85, *ante*.

Used as a dwelling-house.—See the notes to s. 86, *ante*, but note that this section, in contrast to the proviso to s. 86 (1), *ante*, relates to premises *used* as a dwelling-house.

92. Commencement of provisions as to electricity hereditaments and transitional provisions.—(1) The provisions of this Part of this Act, so far as they relate to hereditaments occupied by the British Electricity Authority, an Area Electricity Board or the North of Scotland Hydro-Electric Board, shall come into operation on the first day of April, nineteen hundred and forty-eight. [4036]

(2) If the vesting date for the purposes of the Electricity Act, 1947, is after the said first day of April, the like consequences shall ensue under this Part of this Act as respects hereditaments which, on the vesting date, are occupied by the British Electricity Authority, an Area Electricity Board or the North of Scotland Hydro-Electric Board and were, at any time on or after the said first day of April, occupied by a body to whom Part II of that Act applies as would have ensued if the occupation thereof by the said body had been occupation by the said Authority or Board. [4037]

(3) It shall be the duty of all assessment committees to cause to be made, on or as soon as may be after the said first day of April, or, if the said vesting date is subsequent to the said first day of April, on or as soon as may be after the said vesting date, all such alterations of the valuation lists as are necessary to secure that no hereditament in England or Wales occupied on the said vesting date by the British Electricity Authority or an Area Electricity Board, other than any hereditament appearing from the valuation list to be used as a dwelling-house, remains in the said lists, and any consequential alterations of totals of values, and the said alterations, when made, shall have effect as from the said first day of April :

Provided that every assessment committee shall, for the purposes of this subsection, assume—

(*a*) that all hereditaments shown in the valuation lists as in force on the

said vesting date as occupied by a body to whom Part II of the Electricity Act, 1947, applies, other than a local authority or a composite company as defined in section seventeen of the said Act, were occupied on the said vesting date by the British Electricity Authority or an Area Electricity Board; and

(*b*) that of the hereditaments shown in the lists as in force on the said vesting date as occupied by any such body as aforesaid, being a local authority or such a composite company as aforesaid, such and such only as are specified in that behalf in notices in writing to be served on the committee by the British Electricity Authority or an Area Electricity Board are occupied on the said vesting date by the Authority or any such Board; and

(*c*) that no other hereditaments not shown in the lists as in force on the said vesting date as occupied by the said Authority or any such Board were on that date so occupied. [4038]

(4) The provisions of the last preceding subsection shall be without prejudice to the making or effect of any proposal made under the provisions of Part III of this Act relating to the alteration of valuation lists by means of proposals made by or served on valuation officers, but until the said provisions of the said Part III come into force it shall not, save as is provided in the last preceding subsection, be competent to make any alteration in the valuation lists in force in England and Wales at the date of the passing of this Act either on the ground that a hereditament contained therein ought to be omitted therefrom as being occupied by the British Electricity Authority or an Area Electricity Board, or on the ground that a hereditament which has been removed from the list under the last preceding subsection ought to be included in the list. [4039]

(5) Where an alteration is made in the valuation list under subsection (3) of this section, the rating authority shall, where necessary, make the corresponding amendment in any rate made in respect of a period beginning on or after the said first day of April, and the amendment shall have effect as from the beginning of the said period. [4040]

General note.—In relation to electricity hereditaments this section is the counterpart of s. 89, *ante*, as regards railway and canal hereditaments.

The provisions of this Part, etc.—This would appear to cover s. 85, *ante* (in part), and s. 91, *ante*. Whether or not it extends also to other provisions is doubtful, but of little, if any, practical significance as all provisions for which no other date is laid down by the Act came into operation on the passing of the Act (March 24, 1948).

Hereditament; rate.—For definitions, see s. 144 (1), *post*.

British Electricity Authority; Area Electricity Board.—See notes to s. 85, *ante*.

If the vesting date, etc.—The vesting date for the purposes of the Electricity Act, 1947 *infra*, was April 1, 1948 (Electricity (Vesting Date) Order, 1948 (S.I. 1948 No. 217), title ELECTRICITY SUPPLY, *ante*). Sub-s. (2), *supra*, accordingly does not operate.

Electricity Act, 1947.—40 Halsbury's Statutes 409.

As to bodies to whom Part II of that Act applies, see s. 13 thereof (40 Halsbury's Statutes 427). For s. 17 of that Act, see 40 Halsbury's Statutes 436.

Assessment committee.—See the notes to s. 33, *ante*.

Cause to be made.—Cf. s. 106, *post*.

If the said vesting date, etc.—See the note headed "If the vesting date, etc.," *supra*.

Alteration.—For interpretation, see s. 144 (9), *post*.

Local authority.—This expression clearly has here, not the meaning assigned to it by s. 144 (1), *post*, but that given to it by s. 67 (1) of the Electricity Act, 1947 (40 Halsbury's Statutes 486), under which "local authority" means the council of a county borough, county district or metropolitan borough, and the Common Council of the City of London; and includes, in s. 7 of that Act (40 Halsbury's Statutes 422), the council of a county and, in any other provision of that Act, any joint board of local authorities having functions as authorised undertakers and also other functions. See also the same subsection for the meanings of "authorised undertakers" and "functions".

Composite company.—A composite company as defined in s. 17 of the Electricity Act, 1947 (*supra*) is a company specified in Part II of Sched. II to that Act (40 Halsbury's Statutes 497) being a company which, by virtue of any enactment, supplies gas, or gas or water, as well as electricity and which has not served a notice in accordance with the proviso to sub-s. (1) of that section.

The said vesting date.—See the note headed "If the vesting date, etc.", *supra*.

Writing.—See the notes to s. 36, *ante*.

No other hereditaments not shown.—*I.e.* no other hereditaments being hereditaments not shown.
Any proposal made, etc.—See ss. 40 *et seq.*, *ante*, in conjunction with s. 72 (2), *ante*.
Until the said provisions . . . come into force.—See s. 72 (1), *ante*.
Passing of this Act.—March 24, 1948.
Rating authority.—See the notes to s. 33, *ante*.

Payments by British Transport Commission for benefit of local authorities

93. Amount of payments by British Transport Commission.—(1) The payments which are, under the preceding provisions of this Part of this Act, to be made year by year by the British Transport Commission for the benefit of local authorities shall be as follows, that is to say, the Commission—

(*a*) shall in each year make a payment for the benefit of local authorities in England and Wales; and

(*b*) shall in each year make a payment for the benefit of local authorities in Scotland. [4041]

(2) The said payments for the benefit of local authorities in England and Wales shall—

(*a*) in the case of the year 1948–49, be a payment of the standard amount, increased by six hundred and thirty thousand pounds;

(*b*) in the case of the years 1949–50 and 1950–51, be payments of the standard amount, adjusted in accordance with the provisions of the next succeeding section for changes in the average rates levied in England and Wales;

(*c*) in the case of subsequent years, be payments of the standard amount, adjusted, in accordance with the provisions of the two next succeeding sections, for such changes as aforesaid and for changes in the circumstances of the British Transport Commission. [4042]

(3) The said payments for the benefit of local authorities in Scotland shall—

(*a*) in the case of the year 1948–49, be payments of the standard amount;

(*b*) in the case of the years 1949–50, 1950–51, 1951–52 and 1952–53, be payments of the standard amount, adjusted in accordance with the provisions of the next succeeding section for changes in the average rates levied in Scotland;

(*c*) in the case of subsequent years, be payments of the standard amount adjusted, in accordance with the provisions of the two next succeeding sections, for such changes as aforesaid and for changes in the circumstances of the British Transport Commission. [4043]

(4) In this section and the two next succeeding sections, the expression "the standard amount" means, in relation to a payment for the benefit of local authorities in England and Wales, the sum of one million eight hundred and ten thousand pounds, and, in relation to a payment for the benefit of local authorities in Scotland, such sum as is certified by the Secretary of State to be the estimated amount which would have been payable by way of rates in Scotland in respect of railway or canal lands and heritages for the year 1947–48 if the rateable value of such lands and heritages in that year had been based upon the cumulo yearly rent or value of railway undertakings specified in Part II of the First Schedule to the Railways (Valuation for Rating) Act, 1946. [4044]

General note.—This section, in conjunction with ss. 94 and 95, *post*, lays down the amount of the payments to be made by the British Transport Commission in lieu of rates. These sections have their counterpart, as regards payments by the British Electricity Authority in ss. 96 *et seq.*, *post*. As to commencement of this section, see the notes to s. 89, *ante*.
The payments, etc.—See s. 85, *ante*.
Year; local authorities.—For meanings, see s. 144 (1), *post*.
Make a payment, etc.—As to how the payment is to be made and divided, see s. 100, *post*.
Years 1948–49, 1949–50 and 1950–51. *I.e.* the periods of twelve months beginning with April 1, 1948, April 1, 1949 and April 1, 1950, and ending on March 31, 1949, March 31, 1950 and March 31, 1951, respectively (s. 144 (1), (6), *post*).

94. Adjustments of British Transport Commission's payments for changes in the average rates.—(1) The adjustment which, under the last preceding section, is to be made for changes in the average rates levied in England and Wales, or, as the case may be, in Scotland, shall be the adjustment which results from the application of the subsequent provisions of this section. [4045]

(2) The aggregate gross charge to rates for England and Wales or, as the case may be, for Scotland, for the year preceding the year for which the payment by the British Transport Commission in question has to be made, as ascertained and certified by the Minister or, as the case may be, the Secretary of State, shall be multiplied by two hundred and forty and divided by the rateable value for England and Wales or, as the case may be, for Scotland, for the said preceding year, as so ascertained and certified. [4046]

(3) The results of the calculation directed to be made by subsection (2) of this section shall then be reduced or increased to the nearest whole number, by ignoring any fraction which is less than one-half and treating any other fraction as equivalent to one. [4047]

(4) The adjustment referred to in subsection (1) of this section is the application to the standard amount of the fraction of which the numerator is the result of the calculation directed to be made by subsection (2) of this section, reduced or increased to the nearest whole number, and the denominator is—

(*a*) in the case of a payment for the benefit of local authorities in England and Wales, the number two hundred and fourteen (being the estimated result, to the nearest whole number, of multiplying the aggregate gross charge to rates for England and Wales for the year 1947–48 by two hundred and forty and dividing the result by the rateable value for England and Wales for that year);

(*b*) in the case of a payment for the benefit of local authorities in Scotland, by the number certified by the Secretary of State to be the estimated result, to the nearest whole number, of a similar calculation as respects Scotland. [4048]

General note.—The adjustments in the payments to be made by the British Transport Commission for changes in the average rates levied are calculated as follows:

The standard amount is multiplied by the following figure: The aggregate gross charge to rates for England and Wales or for Scotland for the previous year, multiplied by 240 and divided by the rateable value for England and Wales or for Scotland for the same year; one-half being treated as one for this purpose and any less fraction ignored; and divided by the figure produced by making a similar calculation for 1947–48 (214 for England and Wales and for Scotland a number to be certified by the Secretary of State for Scotland). The aggregate gross rate charge and rateable values are to be certified by the Minister and the Secretary of State for Scotland.

As to commencement of this section, see the notes to s. 89, *ante*.

Aggregate gross charge to rates.—For meaning, see s. 144 (5), *post*.

Year.—For definition, see s. 144 (1), *post*.

The Minister.—The Minister of Health (s. 144 (1), *post*).

Rateable value for England and Wales.—For meaning, see s. 144 (2), *post*.

The standard amount.—For definition, see s. 93 (4), *ante*.

Year 1947–48.—*I.e.* the period of twelve months beginning with April 1, 1947 and ending on March 31, 1948 (s. 144 (1), (6), *post*).

95. Adjustments for changes in the circumstances of British Transport Commission.—(1) The adjustment which, under the last but one preceding section, is to be made for changes in the circumstances of the British Transport Commission shall be such adjustment as may be prescribed by order of the Minister and the Secretary of State, acting jointly. [4049]

(2) Any order made under this section may be revoked or varied by a subsequent order made thereunder. [4050]

(3) Before any order is made under this section, a draft thereof shall be laid before each House of Parliament, and the order shall not be made until the draft has been approved by resolution of each House. [4051]

Commencement of section.—See the notes to s. 89, *ante.*

Prescribed by order.—Powers to make orders conferred by the present Act are exercisable by statutory instrument (s. 142 (2), *post*).

The Minister.—The Minister of Health (s. 144 (1), *post*).

May be revoked or varied.—The express power of revocation conferred by sub-s. (2), *supra*, is included because s. 32 (3) of the Interpretation Act, 1889 (18 Halsbury's Statutes 1003), has no application to departmental orders.

Shall not be made until, etc.—That is to say, the " affirmative resolution procedure " is to apply. To this procedure ss. 4 to 7 of the Statutory Instruments Act, 1946 (39 Halsbury's Statutes 785 *et seq.*), are inapplicable. On approval of such orders being moved, each House of Parliament must either approve or reject them *in toto*; on such a motion there is no power to amend. See also the Laying of Documents before Parliament (Interpretation) Act, 1948, s. 1 (1) (title STATUTES AND STATUTORY RULES AND ORDERS, *post*).

Payments by British Electricity Authority for benefit of local authorities

96. Amount of payments by British Electricity Authority.—(1) The payments which are, under the preceding provisions of this Part of this Act, to be made year by year by the British Electricity Authority for the benefit of local authorities shall be as follows, that is to say, the Authority—

(*a*) shall in each year make a payment for the benefit of local authorities in England and Wales; and

(*b*) shall in each year make a payment for the benefit of local authorities in Scotland with areas outside the North of Scotland District. [4052]

(2) The said payments shall—

(*a*) in the case of the year 1948–49, be payments of the standard amount;

(*b*) in the case of subsequent years, be payments of the standard amount adjusted, in accordance with the provisions of the two next succeeding sections, for changes in the average rates levied in England and Wales or, as the case may be, in Scotland outside the North of Scotland District, and for changes in the amount of electricity supplied. [4053]

(3) In this section and the two next succeeding sections, the expression " the standard amount " means, in relation to a payment for the benefit of local authorities in England and Wales, the sum of eleven million two hundred and fifty thousand pounds, and, in relation to a payment for the benefit of local authorities in Scotland, such sum as is certified by the Secretary of State to be the estimated amount which would have been payable by way of rates in Scotland outside the North of Scotland District for the year 1947–48 in respect of the lands and heritages belonging to the British Electricity Authority or an Area Electricity Board which are by virtue of this Act not liable to be rated. [4054]

General note.—As regards the British Electricity Authority this section is the counterpart of s. 93, *ante*, relating to the British Transport Commission. As to commencement of this section, see the notes to s. 92, *ante.*

The payments, etc.—See s. 85, *ante.*

Year; local authorities.—For meanings, see s. 144 (1), *post.*

Make a payment, etc.—As to how the payment is to be made and divided, see s. 100, *post*; and as to contributions by Area Electricity Boards, see the Electricity Act, 1947, s. 41 (40 Halsbury's Statutes 464), as amended by s. 103, *post.*

Year 1948–49.—*I.e.* the period of twelve months beginning with April 1, 1948, and ending on March 31, 1949 (s. 144 (1), (6), *post*).

97. Adjustments of British Electricity Authority's payments for changes in the average rates.—(1) The adjustment which, under the last preceding section, is to be made for changes in the average rates levied in England and Wales shall be the same adjustment as that which falls to be made for such changes under the preceding provisions of this Part of this Act in arriving at the payments to be made by the British Transport Commission for the benefit of local authorities in England and Wales and the provisions of this Part of this Act relating to that adjustment shall, with the necessary adaptations, have effect accordingly, and in particular as if references therein to the British Transport Commission were references to the British Electricity

Authority, and references to the standard amount were references to the standard amount as defined by the last preceding section. [4055]

(2) The adjustment which, under the last preceding section, is to be made for changes in the average rates levied in Scotland outside the North of Scotland District shall, subject to the provisions of this subsection, be the same adjustment as that which falls to be made for changes in the average rates levied in Scotland under the preceding provisions of this Part of this Act in arriving at the payments to be made by the British Transport Commission for the benefit of local authorities in Scotland, and the provisions of this Part of this Act relating to that adjustment shall, with the necessary adaptations, have effect accordingly :

Provided that—

(*a*) references therein to the British Transport Commission shall be construed as references to the British Electricity Authority ;

(*b*) references to the standard amount shall be construed as references to the standard amount as defined by the last preceding section ;

(*c*) references to Scotland shall be construed as references to so much of Scotland as is not within the North of Scotland District ; and

(*d*) for the number certified under paragraph (*b*) of subsection (4) of section ninety-four of this Act there shall be substituted such number as is certified by the Secretary of State to be the estimated result, to the nearest whole number, of multiplying the aggregate gross charge to rates for the year 1947–48 for so much of Scotland as is outside the North of Scotland District by two hundred and forty and then dividing it by the rateable value for that year for so much of Scotland as is outside the said District. [4056]

General note.—The adjustment in the amount payable by the British Electricity Authority for the benefit of local authorities for changes in the average rates levied is the same as that made for such changes in the case of the British Transport Commission. The provisions of s. 94, *ante*, are applied, so far as England and Wales is concerned, with the substitution of the British Electricity Authority for the British Transport Commission and the standard amounts under s. 96 for those under s. 93, *ante*.

As to commencement of the section, see the notes to s. 92, *ante*.

Shall be the same adjustment, etc. ; *the provisions . . . relating to that adjustment.*—See s. 94, *ante*.

98. Adjustments for changes in amount of electricity supplied.—(1) The adjustment which, under the last but one preceding section, is to be made for changes in the amount of electricity supplied shall be the adjustment which results from the application of the subsequent provisions of this section. [4057]

(2) The Minister of Fuel and Power shall ascertain and certify the total number of units of electricity supplied to consumers in the calendar year nineteen hundred and forty-seven by authorised undertakers as defined in section thirteen of the Electricity Act, 1947, other than undertakers with areas in the North of Scotland District. [4058]

(3) The Minister of Fuel and Power shall then ascertain and certify the amount by which the total number of units of electricity supplied to consumers in the last calendar year ending before the beginning of the year for which the payment by the British Electricity Authority is to be made, either by that Authority or by an Area Electricity Board or by any authorised undertakers as defined in the said section thirteen other than undertakers with areas in the North of Scotland District, exceeds or falls short of the number ascertained under subsection (2) of this section. [4059]

(4) The adjustment referred to in subsection (1) of this section is the application to the standard amount (as adjusted under the last preceding section) of the fraction of which—

(*a*) the numerator is the number ascertained and certified under subsection (2) of this section increased by one-fifth of the excess or, as

the case may be, decreased by one-fifth of the deficiency, ascertained and certified under subsection (3) of this section ; and

(*b*) the denominator is the number ascertained and certified under the said subsection (2). [4060]

(5) References in this section to units of electricity supplied to consumers shall be construed as references to—

(*a*) all the units of electricity supplied otherwise than to the British Electricity Authority, an Area Electricity Board, the North of Scotland Hydro-Electric Board or any authorised undertakers as defined in section thirteen of the Electricity Act, 1947 ; plus

(*b*) forty-five per cent. of the units of electricity (if any) supplied to the North of Scotland Hydro-Electric Board or to any authorised undertakers (as defined in the said section thirteen) with areas in the North of Scotland District ; minus

(*c*) forty-five per cent. of the units of electricity (if any) received from the North of Scotland Hydro-Electric Board or from any authorised undertakers (as defined in the said section thirteen) with areas in the North of Scotland District. [4061]

General note.—Under this section the Minister of Fuel and Power is to certify : (*a*) The number of units of electricity supplied by authorised undertakers outside the North of Scotland District to consumers in 1947 ; (*b*) the amount by which the number of units of electricity supplied by the British Electricity Authority, an Area Electricity Board or any authorised undertakers outside the North of Scotland District to consumers in the calendar year preceding the year exceeds or falls short of the number ascertained under (*a*). Units of electricity supplied to consumers means all units supplied otherwise than to the British Electricity Authority, an Area Electricity Board, the North of Scotland Hydro-Electric Board or any authorised undertakers, plus 45 per cent. of the units supplied to the Hydro-Electric Board or authorised undertakers in the North of Scotland District, minus 45 per cent. of the units received from that Board and those undertakers.

The standard amount is adjusted by multiplying it by the number ascertained under (*a*), *supra*, increased or reduced by one-fifth of the number ascertained under (*b*), *supra*, and dividing it by the number ascertained under (*a*).

As to commencement of this section, see s. 92, *ante*.

Electricity Act, 1947, s. 13.—40 Halsbury's Statutes 427.

The " authorised undertakers " referred to are the bodies specified in Sched. II to that Act (40 Halsbury's Statutes 489).

The beginning of the year.—For definition of " year", see s. 144 (1), *post*.

British Electricity Authority ; Area Electricity Board.—See the notes to s. 85, *ante*.

Standard amount.—For definition, see s. 96 (3), *ante*.

North of Scotland District.—For definition, see s. 144 (7), *ante*.

Payments by North of Scotland Hydro-Electric Board for benefit of local authorities

99. Amount of payments by Hydro-Electric Board. [4062]

General note.—This section applies only to Scotland.

General provision as to payments for benefit of local authorities

100. Provision as to making and division of payments for benefit of local authorities.—(1) The sums falling to be paid under the preceding provisions of this Part of this Act for the benefit of local authorities in England and Wales shall be paid to the Minister, and the sums falling to be paid under the said provisions for the benefit of local authorities in Scotland shall be paid to the Secretary of State. [4063]

(2) The sums so paid to the Minister for any year shall, subject to the provisions of this Part of this Act relating to liabilities of the Railway Assessment Authority and the Anglo-Scottish Railways Assessment Authority, be distributed by him, at such times as he may determine, in the manner following, that is to say—

(*a*) the sums shall first be allocated among the rating authorities in England and Wales in proportion to the rateable values for their respective areas for that year ;

(*b*) in the case of the council of a county borough, the amount so allocated to that council shall be paid to that council;

(*c*) in the case of any other rating authority, the amount so allocated to that authority shall be paid as to one-third thereof to that authority and as to two-thirds thereof to the council of the county of which the area of that authority forms part. [4064]

(3) The sums so paid to the Secretary of State for any year shall be distributed by him according to their respective rateable valuations among the rating authorities—

(*a*) throughout Scotland;

(*b*) in that part of Scotland which is not included in the North of Scotland District; and

(*c*) in the said District,

according as the said sums represent sums paid to the Secretary of State by the British Transport Commission, the British Electricity Authority and the North of Scotland Hydro-Electric Board. [4065]

General note.—In the case of authorities in England and Wales, sums payable for the benefit of local authorities are to be paid to the Minister of Health. Subject to provision for the liabilities of the Railway Assessment Authority and Anglo-Scottish Railways Assessment Authority, they are to be distributed at times determined by the Minister, being allocated among rating authorities in proportion to their rateable values for the year; the full amount will be paid to county borough councils and, in the case of other rating areas, one-third will go to the rating authority and two-thirds to the county council.

As to commencement of this section, see the notes to ss. 89 and 92, *ante*.

The sums falling to be paid, etc.—See ss. 85 (1) and 93 *et seq.*, *ante*.

The Minister.—The Minister of Health (s. 144 (1), *post*).

Year.—For definition, see s. 144 (1), *post*.

Subject to the provisions, etc.—See s. 88 (2), *ante*.

Be distributed, etc.—As to the treatment of sums so distributed, see s. 141 (1), *post*.

Rating authority.—See the notes to s. 33, *ante*.

Rateable values, etc.—For the meaning of this term, see s. 144 (2), *post*.

101. Application of payments under Part V to councils in Scotland. [4066]

General note.—This section applies only to Scotland.

102. Treatment of payments for benefit of local authorities.—(1) Any payments made under this Part of this Act by the British Transport Commission, the British Electricity Authority or the North of Scotland Hydro-Electric Board shall, if and so far as it is so prescribed, be taken into account for any purposes of this or any other Act as if they were paid on account of rates, and in computing the product of a penny rate, but, save as aforesaid, shall not be deemed to be payments on account of rates. [4067]

(2) Where, under any statutory provision other than this Act, any amount falls to be calculated by reference to the rateable value for any area, the Minister or, as respects Scotland, the Secretary of State, may by regulations provide that, for the purposes of that statutory provision, the rateable value for the area of any local authority who receive any payment from the sums paid for the benefit of local authorities under this Part of this Act shall be deemed to be increased by an amount calculated, by reference to the payments so made to that authority, in such manner as may be prescribed by the regulations. [4068]

General note.—Payments made for the benefit of local authorities under this Part of the present Act are not deemed to be payments on account of rates but, so far as prescribed, are to be taken into account for the purposes of this Act and other Acts as if paid on account of rates, and in computing the product of a penny rate. Pursuant to sub-s. (1), *supra*, and s. 110, *post*, the Minister of Health has made the Transport and Electricity Authorities' Payments (Rate Product) Regulations, 1948 (S.I. 1948 No. 2194), which came into operation on September 30, 1948. The short effect of these is given in the notes to s. 110, *post*.

As to commencement of this section, see the notes to ss. 89 and 92, *ante*.

Any payments, etc.—See ss. 93 *et seq.*, *ante*.

Prescribed.—*I.e.* by regulations (see s. 110 (*e*), *post*). See also *supra*.

Rates; statutory provision; local authority.—For meaning, see s. 144 (1), *post*.

Rateable value for any area.—For meaning, see s. 144 (2), *post.*
The Minister.—The Minister of Health (s. 144 (1), *post*).
Regulations.—See s. 142 (1), *post.*
Who receive any payment, etc.—See s. 100, *ante.*

103. Power of British Electricity Authority to require contributions from Area Electricity Boards.—Section forty-one of the Electricity Act, 1947 (which enables the British Electricity Authority to require Area Electricity Boards to contribute towards the satisfaction of certain obligations of the Authority) shall have effect in relation to the obligation imposed by this Part of this Act on that Authority to make payments for the benefit of local authorities, and accordingly in subsection (1) of that section the word " or " where it occurs at the end of paragraph (*c*) shall be omitted and after paragraph (*d*) there shall be inserted the words—

" or

(*e*) the making of payments under Part V of the Local Government Act, 1948, for the benefit of local authorities ". [4069]

General note.—This section amends the Electricity Act, 1947, s. 41 (40 Halsbury's Statutes 464), by including payments for the benefit of local authorities made by the British Electricity Authority under this Part of the present Act among those towards which the authority can require Area Electricity Boards to make contributions under that section.
As to commencement of this section, see the notes to s. 92, *ante.*
The obligation imposed, etc.—See ss. 85 (1) and 96 *et seq.*, *ante.*

Miscellaneous

104. Stabilisation of payments by British Transport Commission to Railway Freight Rebates Fund.—(1) The sums to be paid by the British Transport Commission and the bodies mentioned in Part I of the Third Schedule to the Transport Act, 1947, to the Railway Freight Rebates Fund under paragraph 2 of Part I of the Eleventh Schedule to the Local Government Act, 1929, shall, in the case of the year ending with the thirtieth day of September, nineteen hundred and forty-eight, be four million four hundred and twenty-five thousand pounds, and, in the case of each subsequent year, be three million four hundred and seventy-five thousand pounds, and references to the estimated rate relief and the actual rate relief in any year shall, in relation to those years, be construed accordingly. [4070]

(2) If, in the first of the said years, the amounts paid before the passing of this Act under the said paragraph 2 exceed or fall short of the amounts which would have been paid if this section had been in force at the beginning of that year, a sum equal to the difference shall on the passing of this Act be paid by way of adjustment out of the Fund to the British Transport Commission or by the British Transport Commission to the Fund, as the case may require. [4071]

(3) Save as provided in the preceding provisions of this section, no further payments shall be made after the passing of this Act under the said paragraph 2 either in respect of the aforesaid years or in respect of any earlier year. [4072]

(4) Nothing in this section affects the power conferred on the Minister of Transport by section eighty-seven of the Transport Act, 1947, as respects the termination of the system of rebates provided for by the Railway Freight Rebates Enactments, 1929 to 1943, and as respects the winding up of the Railway Freight Rebates Fund. [4073]

General note.—The payments to be made by the British Transport Commission and railway companies, etc., to the Railway Freight Rebate Fund under the Local Government Act, 1929, Sched. XI, Part I, para. 2 (10 Halsbury's Statutes 1001), are to be £4,425,000 in the year ending September 30, 1948, and £3,475,000 in subsequent years. Any difference between the first amount and any amount actually paid before the passing of this Act must be adjusted by payment between the British Transport Commission and the Fund. No other payments even in respect of any earlier years are to be made to the Fund under this provision. The Minister of Transport's power to determine the system of railway freight rebate and wind up the Fund is unaffected.

As to commencement of this section, see the notes to s. 89, *ante*.
Transport Act, 1947.—For Sched. III, Part I to this Act, see 40 Halsbury's Statutes 1012; and for s. 87 thereof, see 40 Halsbury's Statutes 983.
Local Government Act, 1929, *Sched. XI, Part I, para.* 2.—10 Halsbury's Statutes 1001.
Passing of this Act.—March 24, 1948.
British Transport Commission.—See the notes to s. 85, *ante*.
Railway Freight Rebates Enactments, 1929 *to* 1943.—These Acts comprise s. 136 of, and Sched. XI to, the Local Government Act, 1929 (10 Halsbury's Statutes 974, 1001); Railway Freight Rebates Act, 1936 (29 Halsbury's Statutes 719); and the Railway Freight Rebates Act, 1943 (36 Halsbury's Statutes 261). The collective title was conferred by s. 6 (3) of the Act of 1943 (36 Halsbury's Statutes 266).

105. Temporary grants by county councils to county district councils, parish councils, etc., in certain cases.—(1) The council of each county in England and Wales shall estimate in relation to each county district within the county the amount in the pound of the rate required to be levied in the district for the year 1947–48 in order to meet the expenditure of the council of that district for that year, being expenditure falling to be met out of rates levied in the district but not including expenditure incurred in meeting a precept (other than a precept from a joint authority of which the council of the district is a member) or in meeting a warrant issued under section twenty-three of the Metropolitan Police Act, 1829. [4074]

(2) The council of the county shall then estimate the amount in the pound of the rate which would have been required to be levied in the district for the said year for the said purposes in the following circumstances, that is to say, if—

(*a*) the product of a rate of one penny in the pound for that district for that year had been diminished by a sum ascertained as follows, that is to say, by dividing by two hundred and forty an amount equal to so much of the difference between the rateable value of the hereditaments in the district on the thirty-first day of March, nineteen hundred and forty-eight, and the rateable value for the district for the year 1948–49 as is due to the coming into effect of the provisions of this Part of this Act relating to railway or canal hereditaments and hereditaments occupied by the British Electricity Authority or an Area Electricity Board; and

(*b*) the expenditure of the council of the district had been diminished by an amount equal to any sum paid to the council of the district for the benefit of that council for the year 1948–49 under the preceding provisions of this Part of this Act. [4075]

(3) If in the case of any county district the amount estimated under subsection (2) of this section exceeds the amount estimated under subsection (1) thereof by more than twopence, the council of the county shall make to the council of that district grants for the year 1948–49 and the nine following years calculated in accordance with the provisions of this section. [4076]

(4) The amount of the grants to be made by the council of the county shall be as follows, that is to say—

(*a*) for the year 1948–49, the grant shall be a sum equal to the product of a rate of one penny in the pound for the district, as estimated for the purposes of subsection (2) of this section, multiplied by the number of pence in the amount by which the amount of the excess mentioned in subsection (3) of this section exceeds twopence;

(*b*) for the nine following years, the grants shall be respectively nine-tenths, four-fifths, seven-tenths, three-fifths, one-half, two-fifths, three-tenths, one-fifth and one-tenth of the grant for the year 1948–49. [4077]

(5) Any dispute as to whether any, and if so what, grant is to be made under this section to the council of a county district shall be determined by the Minister. [4078]

(6) The preceding provisions of this section shall apply in relation to—

(*a*) any rural parish in England or Wales having a separate parish council; and

(*b*) any group of rural parishes in England or Wales under a common parish council; and

(*c*) any rural parish in England or Wales without a separate parish council, not being a parish forming part of such a group or a parish coterminous with a rural district,

as it applies in relation to a county district, subject, however, to any necessary modifications, and in particular, in the case of such a parish as is mentioned in paragraph (*c*) of this subsection, to the modification that references to the council of the district shall be construed as references to the parish meeting or the representative body of the parish, as the context may require. [4079]

(7) Any payment under this section may, if the councils concerned so agree, be effected in whole or in part by making the appropriate deduction from the amount due under a precept. [4080]

(8) This section shall apply to the council of a county in Scotland in like manner as it applies to the council of a county in England and Wales subject to the following modifications:—

(*a*) for any reference to a county district there shall be substituted a reference to a small burgh and to the landward area of a county and any reference to the council of such a district shall in relation to the landward area be construed as a reference to the county council;

(*b*) the estimates required to be made under subsections (1) and (2) of this section shall in the case of a burgh or of the counties combined for the purposes mentioned in subsection (1) of section one hundred and eighteen of the Local Government (Scotland) Act, 1947, be made after consultation with the council of the burgh or of the separate county;

(*c*) for any reference to expenditure incurred in meeting a precept there shall be substituted a reference to expenditure on purposes for which small burghs are included in a county; for any reference to an amount due under a precept there shall be substituted a reference to a sum payable under a requisition issued under section two hundred and fourteen of the Local Government (Scotland) Act, 1947; and for the word "twopence" there shall be substituted the words "one and three-fifths pence";

(*d*) any reference to the making of grants to a council shall be construed in the case of the landward area of a county as a reference to the setting aside of a sum for behoof of the landward area;

(*e*) any reference to the landward area of a county shall be construed in the case of the aforesaid combined counties as a reference to the landward area of each of the separate counties, and the sums required to be set aside for behoof of the landward area of those separate counties shall be paid by the councils of the combined counties to the councils of the separate counties;

(*f*) the expenditure incurred by the council of a county in making grants under this section shall be deemed to be expenditure on functions for which small burghs are included in the county;

(*g*) any reference to an Area Electricity Board shall be construed as including a reference to the North of Scotland Hydro-Electric Board;

(*h*) for any reference to the Minister there shall be substituted a reference to the Secretary of State. [4081]

General note.—Each county council in England and Wales is to estimate the rate in the pound required to be levied in each county district for 1947–48 to meet the district council's expenditure falling to be met out of rates, excluding expenditure in meeting precepts (except from a joint authority of which the district council is a member) or in meeting a warrant under the Metropolitan Police Act, 1829, s. 23 (12 Halsbury's Statutes 751). It then estimates what that rate poundage would have been in that year if (*a*) the product of a penny rate had been diminished by the difference between the rateable value of the district on March 31, 1948, and for the year 1948–49 attributable to the derating of railway or canal and electricity hereditaments, divided by 240; (*b*) the council's expenditure had been diminished by any sum paid to it out of payments for the benefit of local authorities. If the second estimate exceeds the first by more than 2*d.* the county council must make grants to the district council for 1948–49 and the nine following years.

The grant will be, in 1948–49, the product of a penny rate multiplied by the number of pence by which this excess exceeds 2*d.*; and in following years that amount reduced progressively by one-tenth in each year. Disputes as to the grants are determined by the Minister. Payments may be made by deduction from amounts due under precept.

These provisions are applied to parish councils for rural parishes, common parish councils for groups of such parishes and parish meetings or the representative bodies of parishes for rural parishes not having a separate or common parish council.

As to commencement of this section, see the notes to ss. 89 and 92, *ante.*

County district.—See the notes to s. 144, *post.*

Rate; hereditaments.—For meanings, see s. 144 (1), *post.*

Years 1947–48 *and* 1948–49.—*I.e.* the periods of twelve months beginning with April 1, 1947 and April 1, 1948, and ending on March 31, 1948 and March 31, 1949, respectively (see s. 144 (1), (6), *post*).

Metropolitan Police Act, 1829, *s.* 23.—12 Halsbury's Statutes 751.

The product of a rate of one penny, etc.—For meaning, see s. 144 (4), *post.*

Rateable value, etc.—Cf. s. 144 (2), *post.*

The provisions of this Part of this Act, etc.—See ss. 85 *et seq.*, *ante.*

Under the preceding provisions, etc.—Cf. s. 100 (2), *ante.*

Grants.—As to their treatment, see s. 141, *post.*

Nine following years.—For definition of "year", see s. 144 (1), *post.*

The Minister.—The Minister of Health (s. 144 (1), *post*).

Sub-s. (6).—Cf. the Local Government Act, 1933, ss. 43 *et seq.* (26 Halsbury's Statutes 326 *et seq.*).

106. Duties of rating authorities.—Every rating authority in England and Wales shall give effect to any directions which may from time to time be given to them by the assessment committee in pursuance of any provisions of this Part of this Act requiring assessment committees to cause alterations to be made in valuation lists, and shall give to the assessment committee such information and other assistance in carrying out their duties under this Part of this Act as the committee may reasonably require. [4082]

General note.—Rating authorities must give effect to directions of assessment committees with respect to alterations to be made in valuation lists under this Part of the present Act and must give the committees any information and assistance required.

As to commencement of this section, which may be compared with s. 39 (2), *ante*, see the notes to ss. 89 and 92, *ante.*

Rating authority; assessment committee.—See the notes to s. 33, *ante.*

In pursuance of any provisions, etc.—See ss. 89 (4) and 92 (3), *ante.*

As to the effect of an alteration in the valuation list, see ss. 89 (7) and 92 (5), *ante.*

107. Amendment of Hydro-Electric Development (Scotland) Act, 1943, Sched. IV. [4083]

General note.—This section applies only to Scotland.

108. Assessor of Public Undertakings (Scotland). [4084]

General note.—This section applies only to Scotland.

109. Power to make orders varying Part V.—(1) Without prejudice to any other power to make orders conferred by this Part of this Act, the Minister, the Secretary of State, or the Minister and the Secretary of State acting jointly, according as England and Wales only, Scotland only or both England and Wales and Scotland are concerned, may by order do all or any of the following things, that is to say—

(*a*) direct that the provisions of this Act relating to railway or canal hereditaments shall apply also to other hereditaments occupied wholly or mainly for purposes of the British Transport Commission, or shall not apply to hereditaments to which they would apply but for the provisions of the order;

(*b*) make such consequential amendments in the provisions of this Part of this Act, and in the provisions of Part III of this Act, as may be consequential on the giving of any such direction as is mentioned in paragraph (*a*) of this subsection; and

(*c*) make such amendments, whether consequential or not, in any of the figures set out in any of the preceding provisions of this Part of this Act, as may be specified in the order. [4085]

(2) Any order under this section may be revoked or varied by a subsequent order made thereunder. [4086]

(3) Before any order is made under this section, a draft thereof shall be laid before each House of Parliament, and the order shall not be made until approved by resolution of each House of Parliament. [4087]

General note.—So far as England and Wales are concerned, the Minister is empowered to make orders, by statutory instrument subject to affirmative resolution procedure: (*a*) applying the provisions of the present Act as to railway or canal hereditaments or other hereditaments occupied wholly or mainly for purposes of the British Transport Commission, or excluding railway or canal hereditaments from the operation of those provisions; (*b*) making consequential amendments to this Part of the Act and to Part III thereof; and (*c*) amending any figure set out in this Part of the Act, and this not merely consequentially.

Sub-ss. (2) and (3), *supra*, are similar to s. 95 (2) and (3), *ante*, and in consequence the relevant notes to s. 95 are equally applicable to the present provisions.

As to commencement of this section, see s. 89 (1) and the notes to s. 89, *ante*.

The Minister.—The Minister of Health (s. 144 (1), *post*).

By order.—See s. 142 (2), *post*.

Direct that the provisions . . . relating to railway or canal hereditaments, etc.—This, in effect, confers a power to extend or narrow the scope of s. 86, and possibly also of s. 89 (3), *ante*.

Hereditaments.—For meaning, see s. 144 (1), *post*.

110. Power to make regulations for the purposes of Part V.—Without prejudice to any other power to make regulations conferred by this Part of this Act, the Minister and, as respects Scotland, the Secretary of State, may make regulations for carrying this Part of this Act into effect and in particular—

(*a*) for determining the manner in which, subject to the express provisions of this Part of this Act, any calculation or estimate is to be made for any of the purposes of this Part of this Act;

(*b*) for determining the times at which payments under this Part of this Act for the benefit of local authorities are to be made;

(*c*) for providing that the calculations or estimates by reference to which any such payments are made may be treated as either conclusive or provisional or conclusive for some purposes and provisional for other purposes and, so far as they are to be treated as provisional, for the making of further calculations or estimates based on information not previously available and for adjusting in the light thereof any payments already made;

(*d*) for modifying the operation of this Part of this Act in relation to any local authority (including a parish council or representative body of a parish not having a separate council) is and is so far as any such modification is required in relation to that authority in consequence of any alterations or combinations of authorities or alterations of boundaries;

(*e*) for prescribing anything which is to be prescribed. [4088]

General note.—This section, which is largely self-explanatory, confers upon the Minister, so far as England and Wales are concerned, a general power of making regulations for the four purposes listed in paras. (*a*) to (*d*), *supra*, and also for prescribing anything which falls to be prescribed under Part V of the Act. Under s. 102 (1), *ante*, and the present section the Minister has made the Transport and Electricity Authorities' Payments (Rate Product) Regulations, 1948 (S.I. 1948 No. 2194), which provide for account being taken of payments in lieu of rates by the British Transport Commission and the British Electricity Authority in estimating certain grants payable in respect of housing; in estimating the grants payable to local authorities under the Education Act, 1944 (37 Halsbury's Statutes 124); and for the purpose of determining the amount which may be demanded in any year by a catchment board or river board. Under this section alone the Minister has further made the local Government (Transport and Electricity Payments for 1949–50) Regulations, 1949 (S. R. & O., 1949, No. 1103).

As to commencement of the present section, see the notes to ss. 89 and 92, *ante*.

The Minister.—The Minister of Health (s. 144 (1), *post*).

May make regulations.—As to the conditions of exercise of this power, see s. 142 (1), *post*. Regulations are to be made by statutory instrument subject to the negation resolution procedure.

Payments . . . for the benefit of local authorities.—See ss. 93 *et seq.*, *ante*.

Local authority.—For definition, see s. 144 (1), *post*.

* * * * *

PART VII

MISCELLANEOUS

120. Provisions as to precepts.—(1) Subsections (2) to (4) of section nine of the Rating and Valuation Act, 1925 (which relate to precepts by county councils) shall, with the modifications specified in subsection (2) of this section, extend to London. [4089]

(2) The said modifications are as follows, that is to say—

(*a*) in subsection (2), for the words "nineteen hundred and twenty-nine", there shall be substituted the words "nineteen hundred and forty-eight"; and

(*b*) in sub-paragraph (i) of paragraph (*b*) of subsection (2), for the references to the general rate there shall, in relation to the City of London, be substituted references to the poor rate; and

(*c*) sub-paragraph (ii) of the said paragraph (*b*) (which contains transitional provisions inapplicable in the case of London) shall be deemed to be omitted; and

(*d*) the reference in subsection (3) of that section to the commencement of that Act shall be construed as a reference to the date of the passing of this Act; and

(*e*) the reference in paragraph (*a*) of subsection (4) to section eleven of that Act shall be construed as a reference to sections three and four of the Poor Rate Assessment and Collection Act, 1869. [4090]

(3) It is hereby declared that it is not necessary for a county council, before issuing a precept to a rating authority under section one hundred and eighty-three of the Local Government Act, 1933, or section one hundred and seventeen of the London Government Act, 1939, to make any county rate, and the County Rates Act, 1852, is hereby repealed. [4091]

(4) Nothing in this section shall affect the manner in which sums required for the purposes of the Metropolitan Police are raised. [4092]

General note.—This section applies broadly the precepting provisions applicable in the provinces under s. 9 of the Rating and Valuation Act, 1925 (14 Halsbury's Statutes 627). That section is not, however, applied in full, for sub-s. (1), which required precepts to be sent in future to rating authorities, and sub-s. (5), which required the authority issuing the precept to give reasonable information to rating authorities for the purpose of preparing their demand notes, are omitted. The three intervening subsections are amended to a small extent as found necessary. The county rate is now abolished.

In the absence of any provision to the contrary, this section and all other sections in this Part of the Act came into operation on the passing of the Act on March 24, 1948.

Rating and Valuation Act, 1925, *s.* 9.—For sub-ss. (2)–(4) thereof, as amended by Local Government Act, 1929, s. 137 and Sched. XII, Part I, see 14 Halsbury's Statutes 628 *et seq.*

Date of the passing of this Act.—March 24, 1948.

Poor Rate Assessment and Collection Act, 1869, *ss.* 3 *and* 4.—14 Halsbury's Statutes 546, 547.

Rating authority.—See the notes to s. 33, *ante*.

Local Government Act, 1933, *s.* 183.—26 Halsbury's Statutes 406.

London Government Act, 1939, *s.* 117.—32 Halsbury's Statutes 314.

County Rates Act, 1852.—14 Halsbury's Statutes 520.

Rules.—For rules under s. 9 (4) of the Rating and Valuation Act, 1925 (14 Halsbury's Statutes 631), as applied by this section, see the Product of Rates and Precepts (London) Rules, 1948 (S.I. 1948 No. 883), *post*.

As to the form of precepts under s. 9 (2) of the Act of 1925 (14 Halsbury's Statutes 628), as so applied, see the London County Council Form of Precept Rules, 1948 (S.I. 1948 No. 654), *post*.

121. Provisions as to precepts for expenses of Metropolitan Police.—(1) No warrant under section twenty-three of the Metropolitan Police Act, 1829, shall be issued by the Commissioner of Police in respect of any period beginning on or after the first day of April, nineteen hundred and forty-eight, but, for the purpose of providing money for meeting such expenses as may be authorised by or under any enactment or by the Secretary of State to be paid out of the Metropolitan Police Fund, being expenses for which provision is not otherwise made, the Receiver for the Metropolitan Police District, may with the consent of the Secretary of State, issue precepts to rating authorities in accordance with the subsequent provisions of this section. [4093]

(2) Except in relation to the expenses mentioned in the next succeeding subsection, precepts issued under this section shall be issued to all rating authorities with areas falling wholly or partly within the Metropolitan Police District, but where the area of a rating authority is only partly within that District, the precepts shall be so issued as to secure that the rate is levied only on that part of the area which is within that District. [4094]

(3) In relation to expenses of and incidental to the metropolitan police courts and the probation system within the metropolitan police court area respectively, precepts issued under this section shall be issued to all rating authorities with areas falling wholly or partly within the metropolitan police court area :

Provided that where only part of the area of a rating authority is within the metropolitan police court area, the precepts shall, except in any case where the Minister, on the application of the rating authority, by order directs that this proviso shall not apply, be so issued as to secure that the rate is levied only on that part. [4095]

(4) Subsections (2), (4) and (5) of section nine of the Rating and Valuation Act, 1925 (which relate to precepts by county councils), shall, both within and outside London, apply in relation to any such precept, but with the following modifications, that is to say,—

(*a*) for any reference to councils of counties there shall be substituted a reference to the Receiver ; and

(*b*) in subsection (2), for the words " twenty-nine " there shall be substituted the words " forty-eight " ; and

(*c*) sub-paragraph (ii) of paragraph (*b*) of the said subsection (2) shall be deemed to be omitted ; and

(*d*) the reference in paragraph (*a*) of subsection (4) to section eleven of that Act shall, in relation to rating authorities with areas in London, be construed as a reference to sections three and four of the Poor Rate Assessment and Collection Act, 1869. [4096]

(5) Notwithstanding anything in the preceding provisions of this section, one precept may be issued in respect of all the expenses mentioned in subsection (1) of this section, including as separate items contributions to each of the classes of expenses mentioned in subsections (2) and (3) of this section, and the preceding provisions of this section and the provisions of section nine of the Rating and Valuation Act, 1925, shall, with the necessary adaptations, have effect accordingly. [4097]

(6) The receipts of and incidental to the metropolitan police courts and the probation system within the metropolitan police court area respectively shall enure for the benefit of the rating authorities mentioned in subsection (3) of this section to the exclusion of those not so mentioned, and the precepts to be issued under this section shall be issued accordingly. [4098]

(7) Where the receipts of and incidental to the metropolitan police courts or the probation system within the metropolitan police court area respectively exceed the expenses of those courts or, as the case may be, of that

system, effect may, notwithstanding subsection (2) of section nine of the Rating and Valuation Act, 1925, be given to the provisions of the last preceding subsection by means of the issue of a precept under this section requiring a rate to be levied in the areas mentioned in the said subsection (3) or in a part of such an area of a lower amount in the pound than in the areas not so mentioned, or as the case may be, than in the other parts of that area. [4099]

(8) In respect of the year 1948–49, this section shall have effect as if in subsection (2) thereof the words " Except in relation to the expenses mentioned in the next succeeding subsection ", subsection (3) thereof and the three last preceding subsections were omitted. [4100]

(9) In this section the expression " metropolitan police court area " means the area consisting of the police court divisions for the time being constituted under the Metropolitan Police Courts Acts, 1839 and 1840. [4101]

General note.—Instead of the Commissioner of Police issuing a warrant, money for expenses payable out of the Metropolitan Police Fund is to be provided by means of precepts issued by the receiver for the Metropolitan Police District with the consent of the Home Secretary to the rating authorities. Precepts will be issued to all rating authorities in areas wholly or partly within the Metropolitan Police District or, in the case of expenses incidental to the metropolitan police courts and the probation system within the metropolitan police court area, to rating authorities with areas wholly or partly in that area. Where the rating area is only partly within the district or area, the precept will require the rate to be levied only within the part of its area within the said district or area.

As to commencement of this section, see the General note to s. 120, *ante*.

Metropolitan Police Act, 1829, *s.* 23.—12 Halsbury's Statutes 751.

Rating authority.—See the notes to s. 33, *ante*.

Metropolitan Police District.—See the Police Act, 1946, s. 16 (1) and Sched. IV (39 Halsbury's Statutes 631, 637).

Rating and Valuation Act, 1925.—For s. 9 thereof, as amended by the Local Government Act, 1929, s. 137 and Sched. XII, Part I, see 14 Halsbury's Statutes 627.

Poor Rate Assessment and Collection Act, 1869, *ss.* 3 *and* 4.—14 Halsbury's Statutes 546, 547.

Year 1948–49.—*I.e.* the year beginning with April 1, 1948, and ending on March 31, 1949 (s. 144 (1), (6), *post*).

Metropolitan Police Courts Acts, 1839 *and* 1840.—These are the Metropolitan Police Courts Act, 1839 (11 Halsbury's Statutes 249), and the Metropolitan Police Courts Act, 1840 (11 Halsbury's Statutes 261).

Rules.—For rules under s. 9 (4) of the Rating and Valuation Act, 1925 (14 Halsbury's Statutes 631), as applied by the present section, see the Product of Rates and Precepts (London) Rules, 1948 (S.I. 1948 No. 883), *post*; and as to the forms of precepts issued by virtue of this section, see the Metropolitan Police Precept Rules (S.I. 1948 No. 884), *post*.

122. Amendment of Rating and Valuation Act, 1925, s. 11.—Section eleven of the Rating and Valuation Act, 1925 (which relates to the rating of and the collection of rates by owners) shall have effect and shall be deemed always to have had effect as if it provided that the allowance to be made to owners under subsection (1) thereof shall be at the rate of ten per cent. of the amount payable, or such greater percentage not exceeding fifteen per cent. of that amount as the rating authority may by resolution of general application determine; and subsection (1) of section three of the Rating and Valuation Act, 1928 (which provides temporarily for such an increase in the said allowance) shall cease to have effect. [4102]

General note.—The provision in s. 3 of the Rating and Valuation Act, 1928 (14 Halsbury's Statutes 710), that the allowance which a rating authority in the provinces may make to an owner compulsorily rated under s. 11 (1) of the Rating and Valuation Act, 1925 (14 Halsbury's Statutes 632), shall be at the rate of 10 per cent. or a greater percentage not exceeding 15 per cent. of the rates payable as determined by any resolution of general application of the rating authority is re-enacted and made permanent. The above provision in the Act of 1928 applied originally only to the first new valuation lists under the Rating and Valuation Act, 1925 (14 Halsbury's Statutes 617), but was continued for the second lists, and was to have continued for the third lists under the Rating and Valuation Act, 1932, s. 1 (2) (25 Halsbury's Statutes 537) and the Rating and Valuation Act, 1937, s. 1 (2) (30 Halsbury's Statutes 735).

As to commencement of this section, see the General note to s. 120, *ante*.

Rating and Valuation Act, 1925, *s.* 11.—14 Halsbury's Statutes 632.

For another amendment of sub-s. (1) thereof, see s. 55 (1), *ante*.

Rating and Valuation Act, 1928, *s.* 3 (1).—14 Halsbury's Statutes 710.

For formal repeal, see s. 147 (1), (3) and Sched. II, Part V, *post*.

123. Explanation of "rating area" in relation to London.—It is hereby declared that any reference in any Act to a rating area is, in the case of any part of London outside the City of London, the Inner Temple and the Middle Temple, a reference to the whole of the metropolitan borough and not a reference to the parish, and subsection (2) of section seven of the Rating and Valuation (Apportionment) Act, 1928, shall be construed accordingly. [4103]

General note.—This provision brings the legal meaning of "rating area" in the Metropolis into line with that already applied in the provinces.

As to commencement of section, see the General note to s. 120, *ante*.

Rating and Valuation (Apportionment) Act, 1928, *s.* 7 (2).—14 Halsbury's Statutes 723.

124. Subjects to be valued by Assessor of Public Undertakings (Scotland). [4104]

General note.—This section applies only to Scotland.

* * * * *

PART VIII

GENERAL

140. Compensation to officers.—(1) The Minister shall by regulations provide for the payment by the appropriate authority, subject to such exceptions or conditions as may be specified in the regulations, of compensation to persons who are, or who, but for any war service in which they have been engaged, would be, officers or servants of any rating authority, any joint committee of rating authorities, any assessment committee, any county valuation committee, any council of a county, the quarter sessions for the County of London, the Central Valuation Committee, the Railway Assessment Authority or the Anglo-Scottish Railways Assessment Authority, who suffer loss of employment or loss or diminution of emoluments which is attributable to the coming into force of any Part of this Act. [4105]

(2) Any such regulations may include provision as to the manner in which and the persons to whom any claim for compensation under this section is to be made, and for the determination of all questions arising under the regulations. [4106]

(3) The appropriate authority referred to in subsection (1) of this section is—

(*a*) in the case of officers or servants of a rating authority, the rating authority;

(*b*) in the case of officers or servants of a joint committee of rating authorities, all the rating authorities represented on that committee in proportion to the rateable values of their rating areas on the thirty-first day of March, nineteen hundred and forty-eight;

(*c*) in the case of officers or servants of an assessment committee, the rating authority for the assessment area of that committee, or, where the assessment area consists of more than one rating area, all the rating authorities in that assessment area in proportion to the rateable values of their rating areas on the thirty-first day of March, nineteen hundred and forty-eight;

(*d*) in the case of officers or servants of a council of a county or of a county valuation committee, the council of the county;

(*e*) in the case of officers or servants of the quarter sessions for the County of London, the London County Council; and

(*f*) in the case of officers or servants of the Central Valuation Committee, the Railway Assessment Authority and the Anglo-Scottish Railways Assessment Authority, the Minister. [4107]

(4) In this section, the expression " war service " means service in any of His Majesty's forces and such other employment as may be prescribed by regulations of the Minister. [4108]

General note.—This section provides for the payment of compensation to persons affected by the coming into force of any Part of this Act, and deals with a number of specific points. Pursuant to this section the Minister of Health has made the Local Government (Compensation) Regulations, 1948 (S.I. 1948 No. 1458), as amended *post*.

In the absence of any provision to the contrary, this section and all other sections in this Part of the Act came into operation on the passing of the Act on March 24, 1948.

The Minister.—The Minister of Health (s. 144 (1), *post*).

Regulations.—As to the mode of exercise of regulation-making powers, see s. 142 (1), *post*.

Rating authority; assessment committee; county valuation committee; Central Valuation Committee.—See the notes to s. 33, *ante*.

Railway Assessment Authority; Anglo-Scottish Railways Assessment Authority.—See the notes to s. 88, *ante*.

Rateable value, etc.—See s. 144 (2), *post*.

Rating area.—For definition, see s. 144 (1), *post*; and see also s. 123, *ante*.

141. Payments to councils to be for general expenditure.—(1) Any sums received under Part I or Part V of this Act,—

(*a*) by the council of a county in England or Wales, shall be receipts for general county purposes;

(*b*) by the council of a county borough, of any other borough (including a metropolitan borough) or of an urban district, shall be receipts for the benefit of the whole of the borough or district;

(*c*) by the council of a rural district, shall be receipts in respect of general expenses; and

(*d*) by the council of a rural parish or of a group of rural parishes, or by a parish meeting or the representative body of a parish, shall be receipts in respect of expenses in relation to which a precept is issuable in respect of the whole of the parish or group of parishes. [4109]

(2) The reference in subsection (1) of this section to sums received by any council includes a reference to sums the payment whereof is effected by making a deduction from the amount due under a precept. [4110]

Commencement of section.—See the General note to s. 140, *ante*.

Receipts for general county purposes.—See the Local Government Act, 1933, ss. 180 and 181 (26 Halsbury's Statutes 404, 405), and the London Government Act, 1939, ss. 115 and 118 (32 Halsbury's Statutes 313, 315).

Receipts for the benefit of the whole of the borough or district.—See the Local Government Act, 1933, ss. 185 and 188 (26 Halsbury's Statutes 407, 408), and the London Government Act, 1939, s. 121 (32 Halsbury's Statutes 316).

Receipts in respect of general expenses.—See the Local Government Act, 1933, ss. 190 and 191 (26 Halsbury's Statutes 409, 410).

Receipts in respect of expenses, etc.—See the Local Government Act, 1933, s. 193 (26 Halsbury's Statutes 411).

142. Provisions as to statutory instruments under this Act.—(1) Any power to make regulations conferred by this Act shall be exercisable by statutory instrument, and any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament:

Provided that this subsection shall not apply where, under any of the preceding provisions of this Act, a power to make regulations is expressed to be exercisable by statutory instrument and either—

(*a*) the instrument is required to be laid before Parliament after it is made; or

(*b*) a draft of the instrument is required to be laid before Parliament. [4111]

(2) Any power to make orders conferred by this Act shall be exercisable by statutory instrument. [4112]

General note.—Sub-s. (1), *supra*, relates to regulations, and sub-s. (2) to orders. Both are to be made by statutory instrument but there are variations of machinery to secure adequate parliamentary control over the different types of regulation.

As to commencement, see the General note to s. 140, *ante*.

Statutory instrument.—See the Statutory Instruments Act, 1946 (39 Halsbury's Statutes 783), which came into full operation on January 1, 1948 (S.I. 1948 No. 3; title STATUTES AND STATUTORY RULES AND ORDERS, *post*).

Subject to annulment.—That is to say, the negative resolution procedure will normally apply to regulations under the Act. As to the laying of documents subject to annulment, see the Statutory Instruments Act, 1946, s. 5 (39 Halsbury's Statutes 786) and the Laying of Documents before Parliament (Interpretation) Act, 1948 (title STATUTES AND STATUTORY RULES AND ORDERS, *post*).

A draft . . . is required to be laid.—This refers to cases where the affirmative resolution procedure is to apply. To this procedure the provisions of ss. 4–7 of the Statutory Instruments Act, 1946 (39 Halsbury's Statutes 785 *et seq.*), have no application.

143. Expenses.—(1) There shall be paid out of moneys provided by Parliament—

(*a*) the remuneration of, and any expenses incurred by, valuation officers in carrying out their functions under Part III of this Act, including the remuneration and expenses of persons, whether in the service of the Crown or not, employed to assist valuation officers in the exercise of their said functions;

(*b*) any administrative expenses incurred by the Minister or the Secretary of State under this Act and any compensation payable by the Minister thereunder in the case of officers or servants of the Central Valuation Committee;

(*c*) any expenses incurred by the Minister of Works as a consequence of the passing of this Act, including, in particular, any expenses incurred by him under or by reason of any provision of this Act relating to the acquisition of premises. [4113]

(2) Any expenses incurred under this Act by the common council of the City of London shall be defrayed out of the general rate authorised to be levied by the council. [4114]

Commencement of section.—See the General note to s. 140, *ante*.
Valuation officers.—See s. 33 (3), *ante*.
The Minister.—The Minister of Health (s. 144 (1), *post*).
Any compensation payable, etc.—See s. 140, *ante*, and the notes thereto.
Central Valuation Committee.—See the notes to s. 33, *ante*.

144. Interpretation.—(1) In this Act, except so far as the contrary is expressly provided or the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say,—

"Minister" means the Minister of Health;

"local authority" means the council of a county, county borough, metropolitan borough or county district, or the Common Council of the City of London;

"year" means a period of twelve months beginning with the first day of April;

"rating area", "rate", "owner", "hereditament" and "clerk" have (in relation to London as well as the remainder of England and Wales) the meanings assigned to them by section sixty-eight of the Rating and Valuation Act, 1925;

"garden" includes a park;

"railway" includes a light railway and a tramway authorised to be constructed by any special Act, other than a light railway or tramway laid wholly or mainly along a public highway and used wholly or mainly for the carriage of passengers;

"inland waterway" includes any such waterway, whether natural or artificial;

"statutory provision" means a provision, whether of a general or special nature, contained in, or in any document made or issued under, any Act, whether of a general or special nature. [4115]

(2) Any reference in this Act to the rateable value for an area for a year shall be construed as a reference to the total of rateable values shown on the first day of that year in the valuation list in force on that day for that area, or, where there is more than one rating area in that area, to the aggregate of the totals of rateable values shown as aforesaid in the valuation lists for all the rating areas within the area:

Provided that—

(*a*) where any alteration required to be made under Part V of this Act in the said lists is made after the date as from which, under the said Part V, it has effect, account shall be taken thereof for the purposes of this subsection as if it had been made in the lists as in force on that date:

(*b*) as respects any rating area in London, the references in this subsection to the first day of the year shall, in relation to the first year in which the first new valuation list made under Part III of this Act is in force, and previous years, be construed as references to the sixth day of April in that year. [4116]

(3) Any reference in this Act to the product of a rate of a specified sum in the pound for any area shall be construed as a reference to the aggregate of the product of a rate of one penny in the pound for all the rating areas within the area multiplied by the number of pence in the said sum. [4117]

(4) The product of a rate of one penny in the pound for a rating area shall, for the purposes of this Act, be taken to be the product of a penny rate for that area as ascertained or estimated for the purpose of subsection (2) of section nine of the Rating and Valuation Act, 1925:

Provided that—

(*a*) in the case of an area in London, the product of a penny rate for the area shall, as respects years as respects which the said subsection (2) does not extend to London, be taken to be the product of a penny rate for the area as ascertained or estimated by the district auditor in accordance with the principles for the time being applicable outside London to the ascertainment and estimation of the product of a penny rate for the purposes of the said section nine;

(*b*) nothing in this subsection detracts from the provisions of this Act enabling the Minister to make regulations as respects the way in which payments for the benefit of local authorities under Part V of this Act are to be treated. [4118]

(5) Any reference in this Act to the aggregate gross charge to rates for any year for any area shall be construed as a reference to the total of the amounts required to be paid by virtue of all the rates made by all the authorities in the area for the year or any part thereof, calculated as if, in the case of each hereditament, the amount payable were that ascertained by applying the poundage of the rate to the rateable value of the hereditament, without any allowance or deduction. [4119]

(6) In this Act, the expression 1947–48 means the year ending on the thirty-first day of March, nineteen hundred and forty-eight, and any corresponding expression in which two years are similarly mentioned means the year ending on the thirty-first day of March in the second mentioned of those two years. [4120]

(7) In this Act, the expression "the North of Scotland District" means, as respects any period up to and including the vesting date within the meaning of the Electricity Act, 1947, the North of Scotland District as existing

on that date for the purposes of that Act, and, as respects any subsequent period, means that District as for the time being existing for the purposes of that Act. [4121]

(8) Any references in this Act to a local authority in a county shall be construed as including only local authorities whose areas form part of the county. [4122]

(9) Any reference in this Act to the alteration of a valuation list or draft valuation list includes a reference to the insertion in the list or draft list, or the omission from the list or draft list, of any hereditament, and references to the alteration of the valuation list with respect to a hereditament shall be construed accordingly. [4123]

(10) Except so far as the context otherwise requires, any reference in this Act to any other enactment shall be construed as a reference to that enactment as amended, extended or applied by or under any other enactment, including this Act. [4124]

Commencement of section.—See the General note to s. 140, *ante*.

County district.—*I.e.* a non-county borough, urban district or rural district (Local Government Act, 1933, s. 1 (1); 26 Halsbury's Statutes 306).

Rating and Valuation Act, 1925.—"Rating area", "rate", "owner", "hereditament" and "clerk" are defined in s. 68 (1) of that Act (14 Halsbury's Statutes 686), as follows:

"'Rating area' means the area of a rating authority."

"'Rate' means a rate the proceeds of which are applicable to local purposes of a public nature and which is leviable on the basis of an assessment in respect of the yearly value of property, and includes any sum which, though obtained in the first instance by a precept, certificate or other instrument requiring payment from some authority or officer is, or can be ultimately raised out of a rate as before defined, but does not include—

(*a*) any rate which is assessed under any commission of sewers, or in respect of any drainage, wall, embankment or other work for the benefit of the land; or

(*b*) any rate of the description commonly known as a church rate, a tithe rate, or a rector's rate, or any other rate of a similar character; or

(*c*) any rate which is leviable by the conservators of a common; or

(*d*) any rate payable by consumers for a supply of water; or

(*e*) any rate of the description commonly known as a garden rate or square rate, if levied by any persons other than a rating authority:

Provided that nothing contained in the foregoing definition of the expression 'rate' shall affect the construction of the expression 'usual tenant's rates' in this Act, and that expression shall be construed as if this Act had not been passed."

"'Owner' means any person for the time being receiving the rack-rent of the lands or premises in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive that rent if the lands or premises were let at a rack-rent."

"'Hereditament' means any lands, tenements, hereditaments or property which are or may become liable to any rate in respect of which the valuation list is by this Act made conclusive."

"'Clerk', in relation to any authority or body, includes any officer of the authority or body authorised by them to act on their behalf either generally or in relation to any particular matter."

Other than a light railway, etc.—The light railways and tramways thus excluded are identical with those mentioned in s. 86 (3), *ante*.

Rating and Valuation Act, 1925, s. 9 (2).—14 Halsbury's Statutes 628.

As respects which the said sub-s. (2) *does not extend to London.*—The subsection is extended to London by s. 120, *ante*.

The provisions of this Act enabling the Minister, etc.—See s. 102 (2), *ante*.

Electricity Act, 1947.—40 Halsbury's Statutes 409. The vesting date within the meaning of that Act was April 1, 1948 (see s. 14 (1) of that Act; 40 Halsbury's Statutes 524; and the Electricity (Vesting Date) Order, 1948 (S.I. 1948 No. 217), title ELECTRICITY SUPPLY, *ante*).

145. Application to Scotland. [4125]

146. Application to Isles of Scilly.—The provisions of this Act shall, in relation to the Isles of Scilly, have effect subject to such modifications as the Minister may by order direct, and any order under this section may be revoked or varied by any subsequent order. [4126]

Commencement of section.—See the General note to s. 140, *ante*.

The Minister.—The Minister of Health (s. 144 (1), *ante*).

By order.—See the Isles of Scilly (Local Government) Order, 1948 (S.I. 1948 No. 2733). See also s. 142 (2), *ante*.

147. Repeals.—(1) Subject to the provisions of this section, the enactments specified in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule. [4127]

* * * * *

(3) The repeal of the enactments specified in Part II of the said Schedule shall have effect as from such day or days as the Minister may by order appoint and different days may be appointed for different enactments, and different purposes of the same enactment, and for different rating areas. [4128]

(4) The repeal of the enactments specified in Part III of the said Schedule shall have effect as from the first day of April, nineteen hundred and forty-eight. [4129]

(5) The repeal of the enactments specified in Part IV of the said Schedule shall have effect as from the first day of April, nineteen hundred and forty-eight, but shall not apply in relation to any warrant issued by the Commissioner of Police of the Metropolis under any of the said enactments in respect of any period ending before the said day. [4130]

(6) The repeal of the enactments specified in Part V of the said Schedule shall have effect as from the passing of this Act:

Provided that—

(*a*) the repeal of such of the said enactments as relate to expenses of members of local authorities and other bodies shall not affect any expenses incurred before the date of the passing of this Act; and

(*b*) the repeal of subsection (4) of section one hundred and seventeen of the London Government Act, 1939, shall not affect any precept of the London County Council in respect of any period beginning before the first day of April, nineteen hundred and forty-eight. [4131]

The Minister.—The Minister of Health (s. 144 (1), *ante*).
By order.—See the Local Government Act, 1948 (Appointed Days) Order, 1949 (S.I. 1949 No. 434).
Rating areas.—For meaning, see s. 144 (1), *ante*; and see also s. 123, *ante*.
Passing of the Act.—March 24, 1948.
Local authorities.—For meaning, see s. 144 (1), *post*.
London Government Act, 1939, s. 117 (4).—32 Halsbury's Statutes 314.

148. Short title and extent.—(1) This Act may be cited as the Local Government Act, 1948. [4132]

(2) This Act shall not extend to Northern Ireland. [4133]

SCHEDULES

Section 70

FIRST SCHEDULE

MINOR AMENDMENTS CONSEQUENTIAL ON PART III

1. In subsection (1) of section six of the Rating Act, 1874, for the words "assessment committee" there shall be substituted the words "valuation officer as defined for the purposes of Part III of the Local Government Act, 1948."

2. Subsection (4) of section one of the Rating and Valuation Act, 1925 (which authorises the appointment of additional members of parish councils and parish meetings to act as members of rating authorities for rural rating areas) shall cease to have effect.

3. In subsection (1) of section twenty-four of the Rating and Valuation Act, 1925, the words "under this Part of this Act" shall be omitted; in subsection (2) of that section, for the words "rating authority or assessment committee, as the case may require" there shall be substituted the words "valuation officer"; and in subsection (7) of that section, for the words "under this Part of this Act" there shall be substituted the words "with respect to a valuation list" and for the words

" assessment committee " there shall be substituted the words " valuation officer." [4134]

General note.—This Schedule has effect by virtue of s. 70 (2), *ante*, which is in Part III of the Act, and must, therefore, be taken as coming into operation with that subsection; see s. 72 (1), *ante*.

Rating Act, 1874, *s.* 6 (1).—14 Halsbury's Statutes 586.

Rating and Valuation Act, 1925, *ss.* 1 (4) *and* 24 (1), (2), (7).—14 Halsbury's Statutes 618, 650.

SECOND SCHEDULE

ENACTMENTS REPEALED

* * * * *

PART II

Repeals consequential upon Part III of this Act

Session and Chapter	Enactment Repealed	Extent of Repeal
17 Geo. 2, c. 3.	The Poor Rate Act, 1743.	The whole Act.
6 & 7 Will. 4, c. 96.	The Parochial Assessments Act, 1836.	The whole Act.
11 & 12 Vict. c. 110.	The Poor Law Amendment Act, 1848.	The whole Act.
13 & 14 Vict. c. 101.	The Poor Law Amendment Act, 1850.	The whole Act.
25 & 26 Vict. c. 103.	The Union Assessment Committee Act, 1862.	The whole Act.
27 & 28 Vict. c. 39.	The Union Assessment Committee Amendment Act, 1864.	The whole Act, except sections six and thirteen.
30 & 31 Vict. c. 102.	The Representation of the People Act, 1867.	Section seven.
31 & 32 Vict. c. 122.	The Poor Law Amendment Act, 1868.	Section twenty-eight.
32 & 33 Vict. c. 41.	The Poor Rate Assessment and Collection Act, 1869.	In section thirteen, the words " the valuation lists and "; section seventeen; and, in section eighteen, the words " with the allowance of the rate by the justices ".
32 & 33 Vict. c. 67.	The Valuation (Metropolis) Act, 1869.	Sections six to forty-four; in section forty-five, the words from " shall be deemed to have been duly made " to " incorporated herewith and " and the words from " and of the fact " to " have been so inserted "; and sections forty-six to fifty, and fifty-five to seventy-four.
38 & 39 Vict. c. 33.	The Metropolis Management Act, 1875.	Sections two to four.
44 & 45 Vict. c. 20.	The Poor Rate Assessment and Collection Act, 1869, Amendment Act, 1882.	Section four.
47 & 48 Vict. c. 5.	The Valuation (Metropolis) Amendment Act, 1884.	The whole Act.
51 & 52 Vict. c. 41.	The Local Government Act, 1888.	Subsection (10) of section forty-two and section forty-four.

Session and Chapter	Enactment Repealed	Extent of Repeal
7 Edw. 7, c. cxl.	The City of London (Union of Parishes) Act, 1907.	Sections fourteen and twenty-nine.
15 & 16 Geo. 5, c. 90.	The Rating and Valuation Act, 1925.	Subsection (4) of section one; section five; in subsection (8) of section eleven, the words "and for the purposes of the provisions of Part II of this Act relating to objections, appeals and proposals"; section fourteen; sections sixteen to nineteen; section twenty-three; sections twenty-five to forty-seven; subsections (1) to (3) of section fifty-three; in subsection (1) of section fifty-four, the words "of assessment committees and" and the word "respectively"; in subsection (1) of section fifty-five, the words "assessment committees and county valuation committees", and the words "valuation officers"; section fifty-seven; subsection (4) of section sixty-four; and the First, Fourth and Fifth Schedules.
18 & 19 Geo. 5, c. 8.	The Rating and Valuation Act, 1928.	Section four.
18 & 19 Geo. 5, c. 44.	The Rating and Valuation (Apportionment) Act, 1928.	Subsection (2) of section one; in subsection (2) of section seven, the definition of "assessment area"; and, in the Second Schedule, sections twenty-nine, thirty, thirty-eight and forty-four.
19 & 20 Geo. 5, c. 17.	The Local Government Act, 1929.	Section fifteen; in section eighteen, paragraphs (*f*) and (*h*); and section seventy.
20 & 21 Geo. 5, c. 28.	The Finance Act, 1930 ..	Section thirty-two.
22 & 23 Geo. 5, c. 33.	The Rating and Valuation (No. 2) Act, 1932.	The whole Act.
1 & 2 Geo. 6, c. 19.	The Rating and Valuation (Postponement of Valuations) Act, 1938.	The whole Act.
1 & 2 Geo. 6, c. 63.	The Administration of Justice (Miscellaneous Provisions) Act, 1938.	Subsection (2) of section four.
1 & 2 Geo. 6, c. 65.	The Rating and Valuation (Air-Raid Works) Act, 1938.	Subsection (3) of section one.
2 & 3 Geo. 6, c. 40.	The London Government Act, 1939.	Paragraph (*b*) of subsection (2) of section sixty-six and subsection (4) of section sixty-eight.
3 & 4 Geo. 6, c. 12.	The Rating and Valuation (Postponement of Valuations) Act, 1940.	The whole Act.

General note.—The repeal of most of the enactments specified in this Part of the Schedule, which must be read in conjunction with s. 147 (1), (3), *ante*, has (subject to certain savings) effect as from February 1, 1950, but later days have been appointed as respects s. 7 of the Representation of the People Act 1867 (*infra*) and s. 23 of the Rating and Valuation Act, 1925 (*infra*); see the Local Government Act, 1948 (Appointed Days) Order, 1949 (S.I. 1949 No. 434).

Poor Law Amendment Act, 1850.—12 Halsbury's Statutes 931.

Union Assessment Committee Act, 1862.—14 Halsbury's Statutes 531.

Union Assessment Committee Amendment Act, 1864.—14 Halsbury's Statutes 540.

Representation of the People Act, 1867, *s.* 7.—7 Halsbury's Statutes 404.

Poor Rate Assessment and Collection Act, 1869, *ss.* 13, 17, 18.—14 Halsbury's Statutes 549, 551.

Valuation (Metropolis) Act, 1869, *ss.* 6–44, 45, 46–50, 55–74.—14 Halsbury's Statutes 554–569, 571–575, 577–582.

Metropolis Management Act, 1875, *ss.* 2–4.—14 Halsbury's Statutes 591.

Poor Rate Assessment and Collection Act, 1869, *Amendment Act*, 1882, *s.* 4.—14 Halsbury's Statutes 596.

Valuation (Metropolis) Amendment Act, 1884.—14 Halsbury's Statutes 596.

Local Government Act, 1888, *ss.* 42 (10), 44.—10 Halsbury's Statutes 722, 724.

City of London (Union of Parishes) Act, 1907, *ss.* 14, 29.—14 Halsbury's Statutes 605, 611.

Rating and Valuation Act, 1925, *ss.* 1 (4), 5, 11 (8), 14, 16–19, 23, 25–47, 53 (1)–(3), 54 (1), 55 (1), 57, 64 (4), *Scheds. I, IV and V.*—14 Halsbury's Statutes 617, 625, 635, 638, 640–644, 649, 652–672, 676, 677, 678, 684, 690, 696, 699.

Rating and Valuation Act, 1928, *s.* 4.—14 Halsbury's Statutes 711.

Rating and Valuation (Apportionment) Act, 1928, *ss.* 1 (2), 7 (2), *Sched. II*, *ss.* 29, 30, 38, 44.—14 Halsbury's Statutes 714, 723, 728.

Local Government Act, 1929, *ss.* 15, 18, *paras.* (*f*), (*h*), 70.—10 Halsbury's Statutes 892, 894, 929.

Finance Act, 1930, *s.* 32.—23 Halsbury's Statutes 146.

Rating and Valuation (No. 2) Act, 1932.—25 Halsbury's Statutes 538.

Rating and Valuation (Postponement of Valuations) Act, 1938.—31 Halsbury's Statutes 613, 614.

Administration of Justice (Miscellaneous Provisions) Act, 1938, *s.* 4 (2).—31 Halsbury's Statutes 426.

Rating and Valuation (Air-Raid Works) Act, 1938, *s.* 1 (3).—31 Halsbury's Statutes 614.

London Government Act, 1939, *ss.* 66 (2), *para.* (*b*), 68 (4).—32 Halsbury's Statutes 292, 293.

Rating and Valuation (Postponement of Valuations) Act, 1940.—33 Halsbury's Statutes 361.

PART III

Repeals consequential upon Part V of this Act

Session and Chapter	Short Title	Extent of Repeal
17 & 18 Vict. c. 91.	The Lands Valuation (Scotland) Act, 1854.	In section twenty from the beginning of the section to the words "such companies"; and sections twenty-one and twenty-two.
30 & 31 Vict. c. 80.	The Valuation of Lands (Scotland) Amendment Act, 1867.	Sections three and four; and in section nine, the words from "except that," to "items of this Act."
57 & 58 Vict. c. 36.	The Valuation of Lands (Scotland) Acts Amendment Act, 1894.	In section two the words from "in place of" where first occurring to "its undertaking; and ".
19 & 20 Geo. 5, c. 17.	The Local Government Act, 1929.	In the Eleventh Schedule, subparagraph (2) of paragraph 17.
20 & 21 Geo. 5, c. 24.	The Railways (Valuation for Rating) Act, 1930.	Sections one to twenty-one; in section twenty-two, subsections (1) to (3), the proviso to subsection (4), subsections (6) and (8), and subsection (9) except the definition of the expression "Lands Valuation Appeal Court"; section twenty-three; in section twenty-four the words from "and shall be construed," to the end of the section; and the Schedules.

Session and Chapter	Short Title	Extent of Repeal
23 & 24 Geo. 5, c. 14.	The London Passenger Transport Act, 1933.	Section ninety-two.
1 Edw. 8 & 1 Geo. 6, c. 2.	The Railway Freight Rebates Act, 1936.	In sub-paragraph (*h*) of paragraph 1 of the Schedule, the words from "and at the end of the said paragraph" to the end of the sub-paragraph.
8 & 9 Geo. 6, c. 34.	The Hydro-Electric Undertakings (Valuation for Rating) (Scotland) Act, 1945.	The whole Act.
9 & 10 Geo. 6, c. 61.	The Railways (Valuation for Rating) Act, 1946.	The whole Act.
10 & 11 Geo. 6, c. 49.	The Transport Act, 1947.	Section thirty-four. [4136]

General note.—The repeal of the enactments specified in this Part of the Schedule, which must be read in conjunction with s. 147 (1), *ante*, took effect on April 1, 1948 (s. 147 (4), *ante*).

Local Government Act, 1929, *Sched. XI, para.* 17 (2).—10 Halsbury's Statutes 1001.

Railways (Valuation for Rating) Act, 1930, *ss.* 1–21, 23, 24, *Scheds. I to IV.*—23 Halsbury's Statutes 455–477, 478, 479–483.

London Passenger Transport Act, 1933, *s.* 92.—26 Halsbury's Statutes 834.

Railway Freight Rebates Act, 1936, *Sched., para.* 1 (*h*).—29 Halsbury's Statutes 721.

Railways (Valuation for Rating) Act, 1946.—39 Halsbury's Statutes 719.

Transport Act, 1947, *s.* 34.—40 Halsbury's Statutes 966.

PART IV

Repeals consequential upon changes as to Metropolitan Police Fund precepting powers

Session and Chapter	Short Title	Extent of Repeal
10 Geo. 4, c. 44.	The Metropolitan Police Act, 1829.	Sections twenty-three to thirty-three.
20 & 21 Vict. c. 64.	The Metropolitan Police Act, 1857.	Sections eleven to fourteen.
24 & 25 Vict. c. 124.	The Metropolitan Police (Receiver) Act, 1861.	Section seven.
31 & 32 Vict. c. 67.	The Police Rate Act, 1868.	The whole Act.
32 & 33 Vict. c. 67.	The Valuation (Metropolis) Act, 1869.	In section forty-five, the words "the metropolitan police rate".
9 Edw. 7, c. 40.	The Police Act, 1909 ..	Section two.
9 & 10 Geo. 5, c. 46.	The Police Act, 1919 ..	In section seven the words "so much of section twenty-three of the Metropolitan Police Act, 1829, as amended by any subsequent enactment, as limits the annual sum to be provided for the purposes of the metropolitan police and".
15 & 16 Geo. 5, c. 90.	The Rating and Valuation Act, 1925.	Subsection (6) of section sixty-four.
19 Geo. 5, c. 17.	The Local Government Act, 1929.	Paragraph 5 of the Tenth Schedule. [4137]

General note.—The repeal of the enactments specified in this Part of the Schedule, which must be read in conjunction with s. 147 (1), *ante*, took effect on April 1, 1948, but such repeal does not apply in relation to any warrant issued by the Commissioner of Police of the Metropolis under any of these enactments in respect of any period ending before that day (s. 147 (5), *ante*).

Metropolitan Police Act, 1829, *ss.* 23 *to* 33.—12 Halsbury's Statutes 751 *et seq.*
Metropolitan Police Act, 1857, *ss.* 11 *to* 14.—12 Halsbury's Statutes 818–819.
Metropolitan Police (*Receiver*) *Act*, 1861, *s.* 7.—12 Halsbury's Statutes 826.
Police Rate Act, 1868.—12 Halsbury's Statutes 829.
Valuation (*Metropolis*) *Act*, 1869, *s.* 45.—14 Halsbury's Statutes 569.
Police Act, 1909, *s.* 2.—12 Halsbury's Statutes 858.
Police Act, 1919, *s.* 7.—12 Halsbury's Statutes 869.
Rating and Valuation Act, 1925, *s.* 64 (6).—14 Halsbury's Statutes 684.
Local Government Act, 1929, *Sched. X*, *para.* 5.—10 Halsbury's Statutes 996.

PART V

Repeals consequential upon other provisions of this Act

Session and Chapter	Short Title	Extent of Repeal
15 & 16 Vict. c. 81.	The County Rates Act, 1852.	The whole Act.
32 & 33 Vict. c. 67.	The Valuation (Metropolis) Act, 1869.	In section forty-five, the words "county rate" and the words "the County Rates Act, 1852, and".
29 & 30 Vict. c. 78.	The County Rate Act, 1866.	The whole Act.
3 Edw. 7, c. 33.	The Burgh Police (Scotland) Act, 1903.	In section forty-four, paragraph 3.
7 Edw. 7, c. 53.	The Public Health Acts Amendment Act, 1907.	Paragraphs (*d*), (*e*) and (*h*) of subsection (1) of section seventy-six.
15 & 16 Geo. 5, c. 71.	The Public Health Act, 1925.	Subsections (1) to (4) of section fifty-six and the proviso to subsection (1) of section seventy.
18 & 19 Geo. 5, c. 8.	The Rating and Valuation Act, 1928.	Subsection (1) of section three.
20 & 21 Geo. 5, c. 44.	The Land Drainage Act, 1930.	In Part II of the First Schedule, sub-paragraph (*b*) of paragraph 12.
23 & 24 Geo. 5, c. 51.	The Local Government Act, 1933.	In section two hundred and sixty-seven the words "other than a parish council", and section two hundred and ninety-four.
26 Geo. 5 & 1 Edw. 8, c. 49.	The Public Health Act, 1936.	The proviso to subsection (1) of section two hundred and twenty-six.
26 Geo. 5 & 1 Edw. 8, c. 50.	The Public Health (London) Act, 1936.	The proviso to subsection (1) of section one hundred and seventy-two.
26 Geo. 5 & 1 Edw. 8, c. 51.	The Housing Act, 1936 ..	Subsection (4) of section one hundred and fifteen.
1 Edw. 8 & 1 Geo. 6, c. 36.	The Local Government (Members' Travelling Expenses) Act, 1937.	The whole Act.

Session and Chapter	Short Title	Extent of Repeal
1 Edw. 8 & 1 Geo. 6, c. 46.	The Physical Training and Recreation Act, 1937.	In section ten, in subsection (5) the words from "Provided that," to the end of the subsection.
2 & 3 Geo. 6, c. c.	The London County Council (General Powers) Act, 1939.	Section seventy-three.
2 & 3 Geo. 6, c. 40.	The London Government Act, 1939.	Subsection (4) of section one hundred and seventeen, and section one hundred and sixty-three.
6 & 7 Geo. 6, c. 16.	The Agriculture (Miscellaneous Provisions) Act, 1943.	In section seven the words "Subparagraph (*b*) of paragraph 12 of Part II of the First Schedule to the Land Drainage Act, 1930 and", the words "of a Catchment Board", the word "respectively" and the word "each".
9 & 10 Geo. 6, c. 48.	The Housing (Financial and Miscellaneous Provisions) Act, 1946.	Subsections (2) and (3) of section eight.
9 & 10 Geo. 6, c. 50.	The Education Act, 1946	Section eleven.
10 & 11 Geo. 6, c. 43.	The Local Government (Scotland) Act, 1947.	In section seventy-four in subsection (5) the words from "so however," to the end of the subsection; section three hundred and thirty-eight and the Twelfth Schedule. [4138]

General note.—The repeal of the enactments specified in this Part of the Schedule, which must be read in conjunction with s. 147 (1), *ante*, took effect subject to certain transitional provisions, on the passing of the Act on March 24, 1948 (s. 147 (6), *ante*).

County Rates Act, 1852.—14 Halsbury's Statutes 520.

Valuation (Metropolis) Act, 1869, *s.* 45.—14 Halsbury's Statutes 569.

County Rate Act, 1866.—14 Halsbury's Statutes 543.

Public Health Acts Amendment Act, 1907, *s.* 70 (1) (*d*), (*e*), (*h*).—13 Halsbury's Statutes 938.

Public Health Act, 1925, *ss.* 56 (1) *to* (4), 70 (1).—13 Halsbury's Statutes 1139, 1147.

Rating and Valuation Act, 1928, *s.* 3 (1).—14 Halsbury's Statutes 710.

Land Drainage Act, 1930, *Sched. I, Part II, para.* 12 (*b*).—23 Halsbury's Statutes 585.

Local Government Act, 1933, *ss.* 267 *and* 294.—26 Halsbury's Statutes 448, 462.

Public Health Act, 1936, *s.* 226 (1).—29 Halsbury's Statutes 472.

Public Health (London) Act, 1936, *s.* 172 (1).—30 Halsbury's Statutes 539.

Housing Act, 1936, *s.* 115 (4).—29 Halsbury's Statutes 649.

Local Government (Members' Travelling Expenses) Act, 1937.—30 Halsbury's Statutes 384.

London County Council (General Powers) Act, 1939, *s.* 73.—32 Halsbury's Statutes 496.

London Government Act, 1939, *ss.* 117 (4) *and* 163.—32 Halsbury's Statutes 314, 334.

Agriculture (Miscellaneous Provisions) Act, 1943, *s.* 7.—36 Halsbury's Statutes 8.

Housing (Financial and Miscellaneous Provisions) Act, 1946, *s.* 8 (2), (3).—39 Halsbury's Statutes 647.

Education Act, 1946, *s.* 11.—39 Halsbury's Statutes 128.

ORDERS, CIRCULARS AND MEMORANDA

RATING AND VALUATION (FORM OF PRECEPT—COUNTY COUNCILS) RULES, 1948

S.I. 1948 *No.* 652

March 30, 1948

The Minister of Health, after consultation with such local authorities and associations of local authorities as appeared to him to be desirable, in exercise of the powers conferred upon him by section 58 of the Rating and Valuation Act, 1925, and of all other powers enabling him in that behalf, hereby makes the following Rules :—

1.—(1) The Interpretation Act, 1889, shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

(2) These Rules shall not apply to any precept issued by the London County Council.

(3) In these Rules, " equivalent in terms of a rate in the pound." means in relation to any sum and any area the poundage of the rate which would be levied on that area under precept of the County Council if that sum formed the subject of a separate precept.

(4) These Rules may be cited as the Rating and Valuation (Form of Precept—County Councils) Rules, 1948, and shall come into operation on the first day of April, 1948. [4139]

2. Every precept issued by a County Council under section 9 (2) of the Rating and Valuation Act, 1925, in respect of any period beginning on or after the first day of April, 1948, shall be in the form set out in the Schedule hereto or in a form substantially to the like effect. [4140]

3. Every precept issued by a County Council in accordance with the foregoing Rule shall show:—

(i) the rate in the pound which the County Council require the rating authority to levy as part of the general rate ;

(ii) the rate in the pound which the County Council require the rating authority to levy as an additional item of the general rate in respect of each part of the rating area on which any expenses are chargeable separately, indicating the part so charged and the purpose of the charge ;

(iii) in the case of an amount which is not required to be expressed in the precept in terms of a rate in the pound, the amount and purpose of the sum demanded and the area charged. [4141]

4.—(1) There shall be included in every such precept a statement in the form set out in the Schedule hereto or in a form substantially to the like effect, showing, in the manner for which the form provides,

(*a*) the equivalent in terms of a rate in the pound of the gross estimated expenditure less any income specifically applicable thereto, in respect of each service specified in the form and in respect of such other of their principal services, if any, as the County Council think fit ;

(*b*) the equivalent in terms of a rate in the pound of—

(i) the sums payable to county district councils under section 9 of the Local Government Act, 1948 ; and

(ii) any temporary grants payable to county district councils, etc., under section 105 of the Local Government Act, 1948;

(*c*) the equivalent in terms of a rate in the pound of any Exchequer Equalisation Grants and Exchequer Transitional Grants receivable by the County Council under the Local Government Act, 1948;

(*d*) the equivalent in terms of a rate in the pound of the sums receivable by the County Council under section 100 of the Local Government Act, 1948,

and distinguishing by an asterisk, in the manner indicated in the form, each such service towards the cost of which a grant payable to the County Council by any Government Department is specifically applicable.

(2) In calculating the amount to be shown for the purposes of any service or group of services, there shall be included any sums required for repayment of, or for interest on, moneys borrowed for that service or group of services. [4142]

5. Except as regards any precept issued in respect of any period ending on or before the 31st day of March, 1948, the Rating and Valuation (Forms of Precept—County Councils) Rules, 1930, are hereby revoked. [4143]

SCHEDULE

Form of County Council Precept

Administrative County of.....

To the Rating Authority for the { Borough / Urban District / Rural District } of .....

The Council of the above-mentioned County hereby give you notice that in respect of the financial [half-year] [year] beginning on the first day of ....., 19..., they will require from you the proceeds of the rates specified below [subject to such adjustment as may be necessary to give effect to any payment due to the rating authority under sections 9 and 105 of the Local Government Act, 1948]§;

AND they do accordingly hereby require you to levy the said rates as part of the general rate or as additional items of that rate, as the case may require, and to make payments on account thereof to†
as follows:—

£.....on or before the.....day of.....19...
£.....on or before the.....day of.....19...
£.....on or before the.....day of.....19...
£.....on or before the.....day of.....19...

[being the net amounts payable on account by the rating authority after deduction of the estimated amounts payable by the County Council to the rating authority under sections 9 and 105 of the Local Government Act, 1948] § and to pay the balance thereof within 14 days after the date on which the total amount due shall have been ascertained in accordance with the provisions of section 9 of the Rating and Valuation Act, 1925, and of the Rules made thereunder.

---

§ Omit these words if there is no agreement for such an adjustment of the precept.

† Insert name and address of payee and any necessary directions.

Rates to be levied on the whole of the rating area

General County purposes at.....in the pound.

Special County purposes at.....in the pound.

Total.....in the pound.

Rates to be levied on part only of the rating area

Part of rating area chargeable	Service	Amount in the Pound
		s. d.

‡AND they do also give you notice that in respect of the above-mentioned period they will require from you the sums of money specified in the third column of the following table in respect of the services specified in the second column of that table, the cost of which is chargeable on that part only of your rating area specified in the first column of that table.

‡AND they do accordingly hereby require you to pay the said sums to† .....on or before the.....day of.....19...

Part of rating area chargeable	Service	Sum
		£

Dated this.....day of.....19...

(Signature).....

Clerk of the County Council.

STATEMENT

The following statement shows, in respect of each of the under-mentioned services of the County Council the cost of which is chargeable over the whole of the rating area, the equivalent, in terms of a rate in the pound, of the gross estimated expenditure on the services *less* any estimated income from Government Grants or other sources (not being rates) specifically applicable thereto. In the case of the services marked * Government Grants specifically applicable thereto are receivable.

† Insert name and address of payee and any necessary directions.

‡ The two paragraphs marked ‡ and the table following them may be omitted where the precept is wholly on a poundage basis.

SERVICES	Amount in the Pound for General County Purposes		Amount in the Pound for Special County Purposes	
	s.	d.	s.	d.
*Education				
*Public Health (including health services under the National Health Service Act, 1946)				
*Services for aged, infirm and handicapped persons				
*Care of deprived children				
*Police				
*Fire Service				
*Highways and Bridges				
Other services and expenses (including provision for general balance)				
.....				
.....				
Total of above items				
Add the equivalent in terms of a rate in the pound of—				
(1) amounts payable to county district councils under section 9 of the Local Government Act, 1948			—	—
(2) Temporary grants payable to county district councils, etc., under section 105 of the Local Government Act, 1948 ..			—	—
Total (including additions) ..				
Deduct the equivalent in terms of a rate in the pound of—				
(1) Any Exchequer Equalisation and Transitional Grants receivable by the County Council under Part I of the Local Government Act, 1948			—	—
(2) Amount receivable by the County Council under section 100 of the Local Government Act, 1948			—	—
(3) The proceeds of local taxation licence duties			—	—
(4) Other income or credits of the County Council, if any, not allocated to specific services (including appropriations from general balance)				
Total deductions				
NET TOTALS				

[4144]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Rules, but is intended to indicate their general purport.)

The Rules prescribe, for use by county councils, other than the London County Council, a new form of precept to meet alterations made in relation to local government finance and the law of Rating by the Local Government Act, 1948.

RATING AND VALUATION (FORMS OF DEMAND NOTE) RULES, 1948

S.I. 1948 *No.* 653

March 30, 1948

The Minister of Health, after consultation with such local authorities and associations of local authorities as appeared to him to be desirable, in exercise of the powers conferred upon him by section 58 of the Rating and Valuation Act, 1925, and of all other powers enabling him in that behalf hereby makes the following Rules :—

1. The Interpretation Act, 1889, shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament. [4145]

2.—(1) These Rules may be cited as the Rating and Valuation (Forms of Demand Note) Rules, 1948, and shall come into operation on the first day of April, 1948.

(2) In these Rules,—

"demand note" does not include a demand note issued in respect of any rating period beginning before the first day of April, 1948 ;

"the Act" means the Rating and Valuation Act, 1925 ;

"equivalent in terms of a rate in the pound" means in relation to any sum the poundage of the rate which it would be necessary to levy to produce that sum and for this purpose the product of a rate of a penny in the pound shall be a sum estimated in the manner prescribed by Rule 6 of the Rating and Valuation Act (Product of Rates and Precepts) Rules, 1938. [4146]

3.—(1) Every demand note for a general rate made by a rating authority outside London shall incorporate form A, form B or form C in the Schedule hereto, as the case may be, or a form substantially to the like effect, modified, where necessary, to meet the case of a rate made payable in instalments.

(2) Every demand note for a special rate shall incorporate form D in the Schedule hereto, or a form substantially to the like effect, modified, where necessary, to meet the case of a rate made payable in instalments.

(3) Subject to the provisions of Rule 4 the rating authority shall in preparing any demand note enter in the several columns particulars in accordance with the headings thereto. [4147]

4.—(1) As regards hereditaments in respect of which an allowance may be claimed under paragraph (*a*) of subsection (1) or under subsection (2) of section 11 of the Act the rating authority,—

(*a*) in any case where the amount due from an owner in respect of a group of two or more hereditaments is shown as one total in the rate book, shall, in lieu of entering the particulars as specified in form A, form B, form C, or form D (as the case may be) in the columns appearing upon the demand note, enter those particulars in a schedule in respect of each such group to be attached to the demand note and shall enter on the demand note a reference to such schedule and the total amount of rates shown by the schedule to be due; and

(*b*) in any other case shall, in preparing the demand note, insert on the form prescribed by Rule 3 information with respect to the allowance which may be claimed.

(2) The schedule referred to in paragraph (1) (*a*) of this Rule shall embody such one of the forms of statement J, K, or L, prescribed in the Rate Accounts (Rural District Councils) Order, 1926, and the Rate Accounts (Borough and Urban District Councils) Order, 1926, as may be appropriate.

(3) The rating authority may, if they see fit, make use of a schedule in the manner provided by paragraph (1) of this Rule in any case where a person undertakes to pay the rates in respect of two or more hereditaments but is not entitled to claim any allowance referred to in the said paragraph. [4148]

5. A demand note or the schedule attached thereto in accordance with the provisions of Rule 4, as the case may be, shall contain such a brief description of the hereditament or hereditaments to which it relates as may be reasonably necessary for the purposes of identification. [4149]

6. A demand note shall also include,—

(i) information with regard to the place and mode of payment; and

(ii) in a rating area in which a resolution under section 8 of the Act (as to discount for prompt payment) is in force, information as to the effect of the resolution (including the date after which payment must be made in full). [4150]

7. A rating authority may include in a demand note for rates a demand for any water rate, rent or charge, or other rate, rent or charge payable to them, and may combine in one demand note demands for a general rate and for a special rate, provided that such combined demand note shall be so framed as to include all the information which by the Act and these Rules would be required to be given to ratepayers if separate demand notes were issued. [4151]

8. There shall be included in every demand note a statement in the form set out in the Schedule hereto appropriate to that demand note, or in a form substantially to the like effect, showing, in the manner for which that form provides—

(1) the equivalent in terms of a rate in the pound of the gross estimated expenditure less any income specifically applicable thereto, in respect of—

(*a*) each service or group of services for which a separate fund account is kept by the rating authority,

(*b*) each of the services separately set out in a precept received from any authority,

(*c*) each of the services specified in the form which is not included under the preceding categories (*a*) and (*b*), and in respect of which expenditure is to be incurred, and

(*d*) the other services of the rating authority, specifying such of them, if any, as they think fit,

distinguishing by an asterisk, in the manner indicated in the form, each service towards the cost of which a grant payable to the rating authority or County Council or other precepting authority by a Government Department is specifically applicable ; and

(2) the equivalent in terms of a rate in the pound of—

(i) any Exchequer Equalisation and Exchequer Transitional Grants receivable by the County Council under the Local Government Act, 1948,

(ii) the sums receivable by the rating authority and the County Council, respectively, under section 100 of the Local Government Act, 1948, and

(iii) the sums receivable by the rating authority under section 9 of the Local Government Act, 1948. [4152]

9. For the purposes of the last preceding Rule the following provisions shall have effect :—

(1) The expression " separate fund account " includes—

(*a*) in relation to expenses chargeable on part only of a rating area, the separate account or accounts of such expenses,

(*b*) in relation to any service for which by law separate accounts are required to be kept, the separate revenue account kept therefor.

(2) In calculating the amount to be shown for the purposes of any service or group of services, there shall be included any sums required for repayment of, or for interest on, moneys borrowed for that service or group of services.

(3) Where the aggregate amount in the pound which would otherwise have been levied by the rating authority has been varied in order to give effect to any differential rating requirements to which effect has to be given by the rating authority, a note shall be made on the statement showing the extent of, and reason for, such variation. [4153]

10. The Rating and Valuation (Forms of Demand Note) Rules, 1930, except as regards demand notes for any rate in respect of any rating period beginning before the first day of April, 1948, are hereby revoked. [4154]

SCHEDULE

FORM A

(COUNTY BOROUGH COUNCIL)

County Borough of.....

Demand Note for General Rate

Mr.....[or occupier].

(Address) .....

.....

The Council of the..... demand payment of a General Rate at.....pence in the pound [including .....pence for additional items*], made in respect of the financial [half-year] [year] ending on the.....day of.....19..., and of the arrears (if any) of former rates*, now due from you as below :—

Number in Rate Book	Description of Hereditament and Situation (if other than that specified in the address above)	Net Annual Value (where it differs from Rateable Value)	Rateable Value	Amount of Rate
		£	£	£ s. d.
	Arrears (if any) of former rates * ..		.. ..	
			Total ..	

Cheques, money orders and postal orders should be made payable to the..... Council of.....and crossed. They should not be made payable to any individual officer.

By order of the Council.

.....
(Authorised Officer.)

* These words may be omitted if not required.

FORM A.—Statement

Rate Services

The following statement shows how the rate in the pound demanded is made up. It sets out the rate in the pound which would be required to meet the net expenses of each of the principal services, after allowing for specific Government Grants towards the expenses of the services marked * but without allocation to particular services of the Government Grants and other moneys receivable under the Local Government Act, 1948.

These Government Grants and other moneys under the Act of 1948, being in aid of local government expenses generally, cannot be allocated to any particular service. They reduce by the amount shown the total rate in the pound which would otherwise be demanded.

SERVICES ADMINISTERED BY THE TOWN COUNCIL :—

	s. *d.*	*s.* *d.*
*Education		
*Public Health (including health services under the National Health Service Act, 1946)		
*Services for aged, infirm and handicapped persons		
*Care of deprived children		
*Housing		
*Police		
*Fire Service		
*Highways and Bridges		
.....undertaking		
Other services and expenses (including provision for general balance)		
Deduct in respect of—	*s.* *d.*	
.....undertaking		
Other credits (not being Government Grants and moneys) including appropriations from general balance		

SERVICES ADMINISTERED BY PRECEPTING AUTHORITIES, viz. :—

Assessment Committee.....	
.....Joint Board	
.....	
Total	
Deduct—	
The equivalent in terms of a rate in the pound of any Exchequer Equalisation and Transitional Grants receivable by the Council under Part I of the Local Government Act, 1948	
The equivalent in terms of a rate in the pound of the amount receivable under section 100 of the Local Government Act, 1948.....	
The equivalent in terms of a rate in the pound of the proceeds of Local Taxation Licences	
Rate in the pound payable by ratepayer	

FORM B

(BOROUGH COUNCIL OR URBAN DISTRICT COUNCIL)

Borough [or Urban District] of.....

Demand Note for General Rate

Mr.....[or occupier].

(Address) .....

.....

The Council of the ..... demand payment of a General Rate at.....pence in the pound [including .....pence for additional items*] made in respect of the financial [half-year] [year] ending on the.....day of.....19..., and of the arrears (if any) of former rates*, now due from you as below :—

Number in Rate Book	Description of Hereditament and Situation (if other than that specified in the address above)	Net Annual Value (where it differs from Rateable Value)	Rateable Value	Amount of Rate
		£	£	£ s. d.
	Arrears (if any) of former rates *			
			Total ..	

Cheques, money orders and postal orders should be made payable to the..... Council of.....and crossed. They should not be made payable to any individual officer.

By order of the Council.

.....

(Authorised Officer)

FORM B.—Statement

Rate Services

The following statement shows how the rate in the pound demanded is made up. It sets out the rate in the pound which would be required to meet the net expenses of each of the principal services, after allowing for specific Government Grants towards the expenses of the services marked * but without allocation to particular services of the Government Grants and other moneys receivable under the Local Government Act, 1948.

These Government Grants and other moneys under the Act of 1948, being in aid of local government expenses generally, cannot be allocated to any particular service. They reduce by the amount shown the total rate in the pound which would otherwise be demanded.

* These words may be omitted if not required.

SERVICES ADMINISTERED BY THE (BOROUGH) (URBAN DISTRICT) COUNCIL :—	s. d.	s. d.
*Housing		
Public Health		
Highways and bridges		
.....undertaking		
Other services and expenses (including provision for general balance)		
Deduct in respect of—	s. d.	
.....undertaking		
Other credits (not being Government Grants and moneys) including appropriations from general balance		

SERVICES ADMINISTERED BY THE COUNTY COUNCIL :—		
(a) *General County Purposes* :—		
*Education		
*Public Health (including health services under the National Health Service Act, 1946)		
*Services for aged, infirm and handicapped persons		
*Care of deprived children		
*Police		
*Fire Service		
*Highways and Bridges		
Other services and expenses (including provision for general balance)		
Amounts payable to county district councils under section 9 of the Local Government Act, 1948		
Temporary grants payable to county district councils, etc., under section 105 of the Local Government Act, 1948		
Deduct in respect of credits of the County Council (not being Government Grants and moneys)		
(b) *Special County Purposes* :—		†
Deduct in respect of credits of the County Council (not being Government Grants and moneys)		

SERVICES ADMINISTERED BY PRECEPTING AUTHORITIES OTHER THAN THE COUNTY COUNCIL, viz. :—		
Assessment Committee		
.....Joint Board		
Total		
Deduct—The equivalent in terms of a rate in the pound of—		
(a) Any Exchequer Equalisation and Transitional Grants receivable by the County Council under Part I of the Local Government Act, 1948		§
(b) Amount receivable by County Council under section 100 of the Local Government Act, 1948		§
(c) Amount receivable by (Borough) (Urban District) Council under section 9 of the Local Government Act, 1948		
(d) Amount receivable by (Borough) (Urban District) Council under section 100 of the Local Government Act, 1948		
Rate in the pound payable by Ratepayer		

† The rate in the pound actually called for by the County Council for General County Purposes is the difference between the amount marked †, and the total of the amounts marked §, namely, ...*s.* .....*d.*

FORM C

(RURAL DISTRICT COUNCIL)

Rural District Council of.....

Demand Note for General Rate

Mr.....[or occupier].

(Address) .....

.....

The Rural District Council of..... demand payment of a General Rate at.....pence in the pound [including .....pence for additional items*], made in respect of the financial [half-year] [year] ending on the.....day of.....19..., and of the arrears (if any) of former rates*, now due from you as below :—

Number in Rate Book	Description of Hereditament and Situation (if other than that specified in the address above)	Net Annual Value (where it differs from Rateable Value)	Rateable Value	Amount of Rate
		£	£	£ s. d.
	Arrears (if any) of former rates *			
			Total ..	

Cheques, money orders and postal orders should be made payable to the Rural District Council of.....and crossed. They should not be made payable to any individual officer.

By order of the Council.

.....

(Authorised Officer.)

FORM C.—Statement

Rate Services

The following statement shows how the rate in the pound demanded is made up. It sets out the rate in the pound which would be required to meet the net expenses of each of the principal services, after allowing for specific Government Grants towards the expenses of the services marked * but without allocation to particular services of the Government Grants and other moneys receivable under the Local Government Act, 1948.

These Government Grants and other moneys under the Act of 1948, being in aid of local government expenses generally, cannot be allocated to any particular service. They reduce by the amount shown the total rate which would otherwise be demanded.

* These words may be omitted if not required.

SERVICES ADMINISTERED BY THE RURAL DISTRICT COUNCIL :—

	s. d.	s. d.
(a) *General Expenses :—*		
*Housing		
Public Health		
Sewerage		
Water Supply		
Other services and expenses (including provision for general balance)		———
Deduct in respect of :—	s. d.	
.....		
Other credits of the Rural District Council (not being Government Grants and moneys) including appropriations from general balance		
(b) *Special expenses payable out of General Rate : (Principal services to be specified.)*	———	———
_____		
_____		
Deduct in respect of—		———
.....		
Other parochial credits.....		

SERVICES ADMINISTERED BY THE COUNTY COUNCIL :— ——— ———

(a) *General County Purposes :—*		
*Education		
*Public Health (including health services under the National Health Service Act, 1946)		
*Services for aged, infirm and handicapped persons ..		
*Care of deprived children		
*Police		
*Fire Service		
*Highways and Bridges		
Other services and expenses (including provision for general balance)		
.....		
.....		
Amounts payable to county district councils under section 9 of the Local Government Act, 1948...		
Temporary grants payable to county district councils, etc., under section 105 of the Local Government Act, 1948.....		———
Deduct in respect of credits of the County Council (not being Government Grants and moneys)		
(b) *Special County Purposes :—*	———	†
.....		
.....		
Deduct in respect of credits of the County Council (not being Government Grants and moneys)	———	———

SERVICES ADMINISTERED BY PRECEPTING AUTHORITIES OTHER THAN THE COUNTY COUNCIL, VIZ. :—

Parish Council (or Parish Meeting) .....
Assessment Committee .....
.....Joint Board.....
Total .. .. ——— ———

Deduct.—The equivalent in terms of a rate in the pound of—

(*a*) Any Exchequer Equalisation and Transitional Grants receivable by the County Council under Part I of the Local Government Act, 1948 .....§

(*b*) Amount receivable by the County Council under section 100 of the Local Government Act, 1948 .....§

(*c*) Amount receivable by the Rural District Council under section 9 of the Local Government Act, 1948 .....

(*d*) Amount receivable by the Rural District Council under section 100 of the Local Government Act, 1948 ..... ——— ———

Rate in the pound payable by Ratepayer ..... ═══

† The rate in the pound actually called for by the County Council for General County Purposes is the difference between the amount marked †, and the total of the amounts marked §, namely, ...*s.* .....*d.*

FORM D

(RURAL DISTRICT COUNCIL)

Rural District Council of.....

Demand Note for Special Rate

Parish of .....
(or other area subject to the Special Rate)

Mr.....[or occupier].

(Address) .....

The Rural District Council of.....
demand payment of a Special Rate made in respect of the financial [half-year] [year] ending on the.....day of.....19..., and of the arrears (if any) of former rates*, now due from you as below :—

The Rate is made at.....pence in the pound upon the rateable value of hereditaments as shown below, except that it is made upon one-quarter only of that rateable value in the case of land covered with water, and, so far as they may be liable to rates, tithe, tithe rent charge, land used as a canal or as a towing path for a canal, or as a railway constructed under the powers of any Act of Parliament for public conveyance.

Number in Rate Book	Description of Hereditament and Situation (if other than that specified in the address above)	Net Annual Value (where it differs from Rateable Value)	Rateable Value	Amount of Rate
		£	£	£ s. d.
	Arrears (if any) of former rates *			
	Total			

Cheques, money orders and postal orders should be made payable to the Rural District Council of.....and crossed. They should not be made payable to any individual officer.

By order of the Council.

.....
(Authorised Officer.)

* These words may be omitted if not required.

FORM D.—Statement

Rate Services

The following statement shows how the rate in the pound demanded is made up. It sets out the rate in the pound required to meet the net expenses of each of the services.

SERVICES ADMINISTERED BY THE RURAL DISTRICT COUNCIL :—

	s. *d.*	*s.* *d.*
.....		
.....		
Deduct in respect of Special Rate credits—		
.....	*s.* *d.*	

SERVICES ADMINISTERED BY THE PARISH COUNCIL PARISH MEETING OR OTHER PRECEPTING AUTHORITY :—

.....	
Rate in the pound payable by Ratepayer	

[4155]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Rules, but is intended to indicate their general purport.*)

The Rules prescribe a new form of demand note to be used by rating authorities outside London. It is designed to meet alterations in relation to local government finance and the law of Rating made by the Local Government Act, 1948.

LONDON COUNTY COUNCIL FORM OF PRECEPT RULES, 1948

S.I. 1948 *No.* 654

March 30, 1948

Whereas by subsection (2) of section 9 of the Rating and Valuation Act, 1925 (which relates to precepts by county councils) as extended, with modifications, to London by section 120 of the Local Government Act, 1948, provision is made with respect to precepts to be issued by the London County Council in respect of any period beginning on or after the first day of April, 1948 :

Now therefore the Minister of Health, after consultation with such local authorities and associations of local authorities as appeared to him to be desirable, in exercise of the powers conferred upon him by section 58 of the Rating and Valuation Act, 1925, and of all other powers enabling him in that behalf, hereby makes the following Rules :—

1.—(1) The Interpretation Act, 1889, shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

(2) In these Rules—

" equivalent in terms of a rate in the pound " means in relation to any sum and any area the poundage of the rate which would be levied

on that area under precept of the County Council if that sum formed the subject of a separate precept ;

" County Council " means the London County Council.

(3) These Rules may be cited as the London County Council Form of Precept Rules, 1948, and shall come into operation on the 1st day of April, 1948. [4156]

2. Every precept issued by the County Council in respect of any period beginning on or after the first day of April, 1948, shall be in the form set out in the Schedule hereto or in a form substantially to the like effect. [4157],

3. Every precept issued by the County Council in accordance with the foregoing Rules shall show :—

(i) the rate in the pound which the County Council require the rating authority to levy as part of the general rate ;

(ii) the rate in the pound which the County Council require the rating authority to levy as an additional item of the general rate in respect of each part of the rating area on which any expenses are chargeable separately, indicating the part so charged, and the purpose of the charge. [4158]

4.—(1) There shall be included in every such precept a statement in the form set out in the Schedule hereto, or in a form substantially to the like effect, showing, in the manner for which the form provides,

(*a*) the equivalent in terms of a rate in the pound of the gross estimated expenditure less any income specifically applicable thereto, in respect of each service specified in the form and in respect of such other of their principal services, if any, as the County Council think fit ;

(*b*) the equivalent in terms of a rate in the pound of any Exchequer Equalisation and Exchequer Transitional Grants receivable by the County Council under the Local Government Act, 1948 ;

(*c*) the equivalent in terms of a rate in the pound of the sums receivable by the County Council under Part V of the Local Government Act, 1948 ;

and distinguishing by an asterisk, in the manner indicated in the form, each such service towards the cost of which a grant payable to the County Council by any Government Department is specifically applicable.

(2) In calculating the amount to be shown for the purposes of any service or group of services, there shall be included any sums required for repayment of, or for interest on, moneys borrowed for that service or group of services. [4159]

5. Except as regards any precept issued in respect of any period ending on or before the 31st day of March, 1948, the London County Council Precept Order, 1930, is hereby revoked. [4160]

SCHEDULE

Form of County Council Precept

Administrative County of London

To the Council of the Metropolitan Borough of .....

The Council of the Administrative County of London hereby give you notice that in respect of the financial [half-year] [year] beginning on the first day of ....., 19..., they will require from you the proceeds of the rates

specified below subject to such adjustment as may be necessary to give effect, in relation to the Metropolitan Borough, to provisions of any scheme made by the Minister of Health under section 10 of the Local Government Act, 1948 ;

AND they do accordingly hereby require you to levy the said rates as part of the general rate or as additional items of that rate, as the case may require, and to make payments on account thereof to the Treasurer of the said County as follows, being the amounts of the separate instalments due under the precept [reduced] [increased] by the appropriate proportion of the net sum estimated to be payable [to] [by] the Borough Council during the [half-year] [year] in consequence of the aforesaid scheme :

£.....on or before the.....day of.....19...
£.....on or before the.....day of.....19...
£.....on or before the.....day of.....19...
£.....on or before the.....day of.....19...
£.....on or before the.....day of.....19...
£.....on or before the.....day of.....19...

and to pay the balance thereof within 14 days after the date on which the total amount due under the precept shall have been ascertained in accordance with the provisions of subsections (2) and (4) of section 9 of the Rating and Valuation Act, 1925, as applied to London and of the Rules made thereunder.

Rates to be levied on the whole of the rating area

General County purposes at.....in the pound.

Special County purposes at .....in the pound.

Total.....in the pound.

Rates to be levied on part only of the rating area

Part of rating area chargeable	Service	Amount in the Pound
		s. d.

Given under the Seal of the London County Council this day of , nineteen hundred and

Sealed by Order—

Clerk of the London County Council.

STATEMENT

The following statement shows, in respect of each of the under-mentioned services of the County Council the cost of which is chargeable over the whole of the rating area, the equivalent, in terms of a rate in the pound, of the gross estimated expenditure on the services *less* any estimated income from Government Grants or other sources (not being rates) specifically applicable thereto. In the case of the services marked * Government Grants specifically applicable thereto are receivable.

SERVICES	Amount in the Pound for General County Purposes		Special County Purposes	
	s.	d.	s.	d.
*Education				
*Public Health (including health services under the National Health Service Act, 1946)				
*Services for aged, infirm and handicapped persons.				
*Care of deprived children				
*Fire Service				
*Housing				
Main Drainage				
*Highways, Bridges and Street Improvements				
Other services and expenses (including provision for general balance)				
.....				
.....				
.....				
Total of above items				
Deduct— the equivalent in terms of a rate in the pound of—				
(1) Any Exchequer Equalisation and Transitional Grants receivable by the County Council under Part I of the Local Government Act, 1948			—	—
(2) Amount receivable by the County Council under section 100 of the Local Government Act, 1948			—	—
(3) The proceeds of local taxation licence duties			—	—
(4) Other income or credits of the County Council, if any, not allocated to specific services (including appropriations from general balance)				
Total deductions				
NET TOTALS				

[4161]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Rules, but is intended to indicate their general purport.*)

The Rules prescribe a new form of precept to be used by the London County Council. It is designed to meet alterations made in relation to local government finance and the law of Rating by the Local Government Act, 1948.

FORM OF DEMAND NOTE (LONDON) RULES, 1948

S.I. 1948 *No.* 655

March 30, 1948

The Minister of Health, after consultation with such local authorities and associations of local authorities as appeared to him to be desirable, in exercise of the powers conferred upon him by section 58 of the Rating and Valuation Act, 1925, as applied to London by the Second Schedule to the Rating and Valuation (Apportionment) Act, 1928, and of all other powers enabling him in that behalf, hereby makes the following Rules :—

1. These Rules may be cited as the Form of Demand Note (London) Rules, 1948, and shall come into operation on the 1st day of April, 1948. [4162]

2.—(1) The Interpretation Act, 1889, shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

(2) In these Rules—

" County Council " means the London County Council ;

" demand note " does not include a demand note issued in respect of any rating period beginning before the first day of April, 1948 ;

" equivalent in terms of a rate in the pound " means in relation to any sum the poundage of the rate which it would be necessary to levy to produce that sum and for this purpose the product of a rate of a penny in the pound shall be the product of a penny rate as estimated for the purpose of subsection (2) of section 9 of the Rating and Valuation Act, 1925, as extended to London by section 120 of the Local Government Act, 1948. [4163]

3. Every demand note for a general rate made by a rating authority in London shall incorporate the form A set out in the Schedule hereto, or a form substantially to the like effect, modified, where necessary, to meet the case of a rate made payable in instalments and, subject to the provisions of Rule 4, the rating authority shall enter thereon the specified particulars and information with regard to the place and mode of payment. [4164]

4.—(1) As regards hereditaments in respect of which an allowance may be claimed under section 3 or section 4 of the Poor Rate Assessment and Collection Act, 1869, the rating authority—

(*a*) in any case where the amount due from an owner in respect of a group of two or more hereditaments is shown as one total in the rate book, shall, in lieu of entering the particulars numbered (i), (ii) and (iii) in form A on the demand note, enter those particulars in a schedule in respect of each such group to be attached to the demand note and shall enter on the demand note a reference to such schedule and the total amount of rates shown by the schedule to be due, and

(*b*) in any other case shall, in preparing the demand note, insert on the form prescribed by Rule 3 information with respect to the allowance which may be claimed.

(2) The schedule referred to in paragraph (1) (*a*) of this Rule shall embody the form C set out in the Schedule hereto, or a form substantially to the like effect.

(3) The rating authority may, if they see fit, make use of a schedule in the manner provided by paragraph (1) of this Rule in any case where a person undertakes to pay the rates in respect of two or more hereditaments but is not entitled to claim any allowance referred to in the said paragraph. [4165]

5. There shall be included in every demand note a statement in the form B set out in the Schedule hereto, or in a form substantially to the like effect, showing, in relation to expenditure and income chargeable upon or attributable to the rating area to which the demand note relates, in the manner for which the form provides—

(1) the equivalent in terms of a rate in the pound of the gross estimated expenditure less any income specifically applicable thereto, in respect of—

(*a*) each service or group of services for which a separate fund account is kept by the rating authority ;

(*b*) each of the services separately set out in a precept received from any authority ;

(*c*) each of the services specified in the form which is not included under the preceding categories (*a*) and (*b*), and in respect of which expenditure is to be incurred ; and

(*d*) the other services of the rating authority, specifying such of them, if any, as they think fit,

distinguishing by an asterisk, in the manner indicated in the form, each service towards the cost of which a grant payable to the rating authority or precepting authority by a Government Department is specifically applicable ; and

(2) the equivalent in terms of a rate in the pound of—

(*a*) any Exchequer Equalisation and Transitional Grants receivable by the County Council under the Local Government Act, 1948 ;

(*b*) the sums receivable by the rating authority and the County Council, respectively, under Part V of the Local Government Act, 1948 ;

(*c*) the sums receivable from or payable to, as the case may be, the County Council in consequence of the scheme made under section 10 of the Local Government Act, 1948. [4166]

6. For the purposes of the last preceding Rule the following provisions shall have effect—

(1) In calculating the amount to be shown for the purposes of any service or group of services there shall be included any sums required for repayment of, or for interest on, moneys borrowed for that service or group of services.

(2) Where the aggregate amount in the pound which would otherwise have been levied by the rating authority has been varied in order to give effect to any differential rating requirements to which effect has to be given by the rating authority, a note shall be made on the statement showing the extent of, and reason for, such variation.

(3) The expression " separate fund account " includes :—

(*a*) in relation to expenses chargeable on part only of a rating area, the separate account or accounts of such expenses ;

(*b*) in relation to any service for which by law separate accounts are required to be kept, the separate revenue account therefor. [4167]

7. A rating authority may include in a demand note for a general rate a demand for any other rate, rent or charge payable to them. [4168]

8. Except as regards demand notes for any rate in respect of any rating period beginning before the first day of April, 1948, the Form of Demand Note (London) Rules, 1930, are hereby revoked. [4169]

SCHEDULE

FORM A

Metropolitan Borough of

Demand Note for General Rate

Mr. .....

Address .....

.....

.....

(i) Assessment Number .....

(ii) Rateable Value £.....

(iii) Situation (if other than that specified in the address) .....

.....

The Council of the Metropolitan Borough of.....demand payment of a General Rate made the.....day of..... 19....., at.....pence in the pound [including.....pence for additional items*] estimated to meet expenses which will be incurred before the .....day of.....next [and of the arrears (if any) of former rates†] now due from you as follows :—

	£	s.	d.
Amount of Rate at.....s. .....d. in the pound			
[Arrears (if any) of former rates†]	£	s.	d.
Total amount due ..	£	s.	d.

Cheques, money orders and postal orders should be made payable to the .....Council, and crossed. They should not be made payable to any individual officer.

By order of the Council.

.....
(Authorised Officer).

See back of this demand note for details showing how the rate in the pound demanded is made up.

* These words may be omitted if unnecessary. † These words may be omitted.

FORM B

STATEMENT OF RATE SERVICES

	Amount in the £
Services of—	s. d.
Borough Council (for details, see below)	
London County Council (for details, see below)	
Metropolitan Police (for details see below)	
....	
Total	
Deduct the equivalent in terms of a rate in the pound of—	s. d.
(*a*) The Exchequer Equalisation and Transitional Grants, if any, receivable by the County Council under Part I of the Local Government Act, 1948	
(*b*) Amount receivable by the County Council under Part V of the Local Government Act, 1948	§
(*c*) Amount receivable by the Borough Council under Part V of the Local Government Act, 1948	§
Total of above deductions	
[*Add*] [*Deduct*] the equivalent in terms of a rate in the pound of the amount [payable] [receivable] by the Borough Council in consequence of any scheme made under section 10 of the Local Government Act, 1948	
Rate in the pound payable by Ratepayer	

Purposes	Amount in the £	Purposes	Amount in the £
EXPENSES OF BOROUGH COUNCIL :—	*s. d.*	EXPENSES OF THE LONDON COUNTY COUNCIL :—	*s. d.*
Removal of refuse		(*a*) *General County Purposes*	
Cleansing of streets ..		*Education	
*Maintenance of streets ..		*Public Health (including health services under the National Health Service Act, 1946)	
Public Lighting		*Services for aged, infirm and handicapped persons	
Sewerage		*Care of deprived children	
Baths and Washhouses ..		*Fire Service	
*Other Public Health ..		*Housing	
*Housing		Main Drainage	
Public Libraries		*Highways, Bridges and Street Improvements	
.....Undertaking		Other services and expenses (including provision for general balance)	
Other Services and Expenses (including provision for general balance)		Total	
Total		*Deduct* in respect of :—	
Deduct in respect of :—		.....Undertaking	
.....Undertaking		Other credits of the Borough Countil (not being Government Grants or payments) including appropriations from general balance	
Other credits of the Borough Countil (not being Government Grants or payments) including appropriations from general balance		*Deduct* County Council credits (not being Government Grants or payments) including appropriations from general balance	
Total required by Borough Council after deductions		*Total required for General County Purposes after deductions	‡
		(*b*) *Special County Purposes*	
EXPENSES OF METROPOLITAN POLICE :—		*Housing	
*Police		Other Services and Expenses (including provision for general balance)	
Police Courts		Total	
*Probation system		*Deduct* County Council credits (not being Government Grants or payments) including appropriations from general balance	
Total		Total required for Special County Purposes after deductions	
Deduct credits in respect of :—			
Total required for Metropolitan Police purposes after deductions			

NOTES.—1. The above statement shows how the rate in the pound demanded is made up. It sets out the rate in the pound which would be required to meet the net expenses of each of the principal services, after allowing for the specific Government grants in aid of those services marked *. The Government Grants and other moneys receivable under the Local Government Act, 1948, are not specifically allocated to particular services, but are in aid of local government expenses generally. They reduce by the amount shown in the total rate in the pound which would otherwise be demanded.

2. The rate in the pound actually required for general county purposes is *s.* *d.* being the difference between the amount marked ‡ and the total of the amounts marked §, namely, *s.* *d.*

FORM C

SCHEDULE TO DEMAND NOTE WHERE ALLOWANCES CLAIMED

Assessment Numbers	Situation of hereditaments	Rateable Values	Full Rates		
		£	£	*s.*	*d.*
		TOTAL ..			

Allowance at.....per cent., claimable under the Poor Rate Assessment and Collection Act, 1869, £..... [4170]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Rules, but is intended to indicate their general purport.*)

The Rules prescribe, for use by rating authorities in London, a new form of demand note to meet alterations made in relation to local government finance and the law of Rating by the Local Government Act, 1948.

LOCAL GOVERNMENT ACT, 1948 (APPOINTED DAYS) (NO. 1) ORDER, 1948

S.I. 1948 *No.* 823

April 22, 1948

Whereas it is provided by subsection (1) of section 72 of the Local Government Act, 1948, that Part III of the said Act shall come into effect on such day as the Minister of Health may by order appoint, and that different days may be appointed for different purposes, different rating areas and different provisions of the said Part:

Now, therefore, the Minister of Health, in pursuance of the said provision, hereby makes the following order:—

1. This order may be cited as the Local Government Act, 1948 (Appointed Days) (No. 1) Order, 1948. [4171]

2. The several provisions contained in Part III of the Local Government Act, 1948, set out in the first column of the Table subjoined hereto, which make provision in relation to the matters indicated in respect thereof in the second column of the said Table, shall come into effect in the rating areas specified therefor in the third column of the said Table on the first day of May, 1948.

Table

1 Provisions of Local Government Act, 1948	2 Subject Matter	3 Rating areas in which provisions are brought into effect
Section 71 ...	Regulations for the purpose of Part III.	All rating areas in England and Wales.
Sections 45, 46 and 47.	Local valuation panels, and local valuation courts constituted from members thereof.	All rating areas in England and Wales other than the Isles of Scilly.
Section 67 ..	Removal of certain disqualifications.	
Subsection (3) of section 72.	Amendment of provision relating to revision of valuation lists in London.	All rating areas in London.

[4172]

* * * * *

PRODUCT OF RATES AND PRECEPTS (LONDON) RULES, 1948

S.I. 1948 *No.* 883

April 26, 1948

Whereas by section 120 of the Local Government Act, 1948, the provisions of subsections (2) to (4) of section 9 of the Rating and Valuation Act, 1925 (which relate to precepts by county councils), are extended, with modifications, to London save with respect to precepts issued by the Receiver for the Metropolitan Police District;

And whereas by section 121 of the said Act of 1948 the provisions of subsections (2), (4) and (5) of the said section 9 are applied, with modifications, both within and outside London in relation to precepts issued by the said Receiver:

Now, therefore, the Minister of Health, after consultation with such local authorities and associations of local authorities as appeared to him to be desirable, in exercise of the powers conferred upon him by subsection (4) of section 9 as extended and applied as aforesaid, and by section 58 of the said Act of 1925, and of all other powers enabling him in that behalf, hereby makes the following Rules:—

1.—(1) The Interpretation Act, 1889, shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

(2) These Rules may be cited as the Product of Rates and Precepts (London) Rules, 1948, and shall come into operation on the first day of May, 1948.

(3) These Rules shall apply in relation to any precept issued by a precepting authority to a rating authority in London in respect of any period beginning on or after the first day of April, 1948, and the Rating and Valuation Act (Product of Rates and Precepts) Rules, 1938, shall not apply to any such precept.

(4) In these Rules, unless the context otherwise requires—

"the Act" means the Rating and Valuation Act, 1925;

"rate" means a general rate, except that as respects precepts issued by the London County Council to the Common Council of the City of London it means the poor rate;

"precepting authority" means the London County Council, the Receiver for the Metropolitan Police District, and any other authority issuing precepts to which the provisions of subsection (2) of section 9 of the Act for the time being apply;

"product of a penny rate" means the amount produced by a rate of one penny in the pound;

"poundage" means in relation to any rate the amount assessed by that rate (including any additional item thereof) in respect of each pound of rateable value;

"gross rate income" means in relation to a rating area, or part of a rating area, and in relation to a financial year, the total of the gross amounts appearing in the rate book as assessed in respect of hereditaments in that area, or part of an area, by the rate or rates (including additional items) made in respect of that year, or any portion thereof, increased by—

(*a*) the amounts of any payments receivable in respect of that year under section 133 of the Lands Clauses Consolidation Act, 1845, and of any contributions made by the Crown in lieu of rates; and

(*b*) any amounts found during that year to be recoverable whether by virtue of section 44 or section 47 of the Valuation (Metropolis) Act, 1869, or by virtue of section 42, section 89 or section 90 of the Local Government Act, 1948, or otherwise, or in respect of rates previously written off as irrecoverable;

"cost of collection" means—

(i) in relation to a rating area as a whole, the net cost of making, collecting and recovering rates during a financial year, including a proper proportion of such expenses as are attributable in part to the matters aforesaid and in part to the making, collection or recovery of other rates, or to other matters, but not including any proportion of any allowances made to owners or occupiers, or any expenses incurred in connection with the revision of valuation lists; and

(ii) in relation to a part of a rating area, the sum which bears to the cost of collection in the rating area the same proportion as the total rateable value of that part of the area bears to the total rateable value of the whole area at the commencement of the financial year;

"net cost of making, collecting and recovering rates" includes any sums properly payable by the rating authority under section 1 of the Local Government Staffs (War Service) Act, 1939, to or in respect of any person whose remuneration would, had he continued to be employed by the rating authority, have been chargeable as part of such net cost;

"loss on collection" means, in relation to a rating area or part of a rating area, and in relation to a financial year, the total amount written off during that year in the rate book as irrecoverable in respect of hereditaments in that area or part, whether in respect of a current rate or in respect of arrears of any previous rate, including all allowances, commissions, and abatements and all refunds made to owners or occupiers in respect of over-payments of a current rate or any previous rate;

"precept" means a precept which requires a rating authority in London to levy a rate of a specified poundage;

" financial officer " means the chief officer charged with the duty of keeping the accounts of a rating authority. [4173]

2. The financial officer of every rating authority in London shall as soon as may be after the close of a financial year calculate in accordance with the directions hereinafter contained the product of a penny rate during that year in the rating area and, where a precept is issuable by a precepting authority in respect of a portion only of the rating area, the product of a penny rate during that year in such portion. [4174]

3. Subject as hereinafter provided, the product of a penny rate in any rating area or in any portion thereof, as the case may be, shall be calculated by deducting from the gross rate income of the financial year the cost of collection and the loss on collection, and by dividing the remainder (which sum is hereinafter referred to as " the total rate product ") by the number of pence representing the total poundage of the rate or rates :

Provided that if the poundage of the rate or rates of the financial year is not the same throughout the area or portion, as the case may be, the financial officer shall in the first instance calculate the product of a penny rate separately for each part in which a different poundage has been levied, and the product of a penny rate in the area or portion shall be taken to be the sum of the products of penny rates in the several parts comprised therein. [4175]

4. The amount due under a precept shall be taken to be the product of a penny rate in the rating area or in that portion thereof which is included in the area of the precepting authority, as the case may be, multiplied by the number of pence specified in the precept. [4176]

5. The financial officer of every rating authority in London shall as soon as may be after the close of a financial year ascertain, in accordance with the provisions of the last preceding Rule, the total amount due in respect of that financial year under the precepts issued by a precepting authority to the rating authority ; and, if the total amount so ascertained to be due exceeds the aggregate of the instalments required by such precepts to be paid on account thereof, the rating authority shall, save as hereinafter provided, forthwith pay the balance to the precepting authority :

Provided that the rating authority, subject to their obligation to pay in full the aggregate of the instalments required by the precepts, may defer payment of any sum not exceeding that which bears to the total amount due under the precepts the same proportion as the amount of arrears carried forward at the close of the financial year to which the precepts relate and for the time being still outstanding bears to the total rate product for that financial year. [4177]

6.—(1) The estimate of the product of a penny rate in the next ensuing financial year which a rating authority in London is required to transmit to a precepting authority before the first day of February in each calendar year shall be made in accordance with the principles of these Rules as to the method of ascertaining the product of a penny rate.

(2) The financial officer in so framing the estimate shall take the latest ascertained figures available for the rating area or portion thereof, as the case may be, and shall modify those figures to such extent as appears to him to be necessary having regard to any alteration in total rateable value which may reasonably be anticipated and to any other material circumstances. [4178]

7. There shall be included in the accounts to be submitted by a rating authority in London to the district auditor the calculations required by these Rules for the determination of the product of a penny rate in the rating area, or in any part thereof during the financial year and of the amount due under

any precept issued to the authority in respect of that year, or any part thereof; and the auditor's certificate allowing the accounts shall be construed as a certificate that, subject to any amendments made by him, such calculations have been properly and correctly made, and any necessary consequential adjustments shall be made in the accounts between the rating authority and the precepting authority. [4179]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Rules, but is intended to indicate their general purport.)

The Rules prescribe the method of ascertaining the product of a rate of a penny in the pound for the purpose of, and the amount due under, precepts issued on a poundage basis to rating authorities in London. They are necessitated by the extension to London by the Local Government Act, 1948, of the poundage basis of precepting. The principal precepting authorities concerned are the London County Council and the Receiver for the Metropolitan Police District.

METROPOLITAN POLICE PRECEPT RULES, 1948

S.I. 1948 *No.* 884

April 26, 1948

Whereas by section 121 of the Local Government Act, 1948, the provisions of subsections (2), (4) and (5) of section 9 of the Rating and Valuation Act, 1925 (which relate to precepts by county councils), are applied, with modifications, both within and outside London in relation to precepts issued by the Receiver for the Metropolitan Police District:

Now, therefore, the Minister of Health, after consultation with such local authorities and associations of local authorities as appeared to him to be desirable, in exercise of the powers conferred upon him by section 9, as applied as aforesaid, and section 58 of the said Act of 1925 and of all other powers enabling him in that behalf, hereby makes the following Rules:—

1.—(1) The Interpretation Act, 1889, shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

(2) These Rules may be cited as the Metropolitan Police Precept Rules, 1948, and shall come into operation on the first day of May, 1948.

(3) In these Rules,

"Receiver" means the Receiver for the Metropolitan Police District;

"equivalent in terms of a rate in the pound" means in relation to any sum and any area the poundage of the rate which would be levied on that area under precept of the Receiver if that sum formed the subject of a separate precept. [4180]

2. Every precept issued by the Receiver under section 121 of the Local Government Act, 1948, in respect of any period beginning on or after the first day of April, 1948, shall be in the form set out in the Schedule hereto or in a form substantially to the like effect. [4181]

3. Every precept issued by the Receiver in accordance with the foregoing Rule shall show:—

(i) the rate in the pound which the Receiver requires the rating authority to levy as part of the general rate;

(ii) the rate in the pound which the Receiver requires the rating authority to levy as an additional item of the general rate in respect of each part of the rating area on which any expenses are chargeable separately, indicating the part so charged, and the purpose of the charge ;

(iii) the equivalent in terms of a rate in the pound of the gross estimated expenditure, less any income specifically applicable thereto, in respect of the services specified in the form, collectively for the financial year ending on the thirty-first day of March, 1949, and separately for any subsequent financial year, and distinguishing by an asterisk, in the manner indicated in the form, each such service towards the cost of which a grant payable by a Government Department is specifically applicable. [4182]

SCHEDULE

Form of Precept

METROPOLITAN POLICE DISTRICT

To the Rating Authority for the {Metropolitan Borough / Borough / Urban District / Rural District} of .....

The Receiver for the Metropolitan Police District, with the consent of the Secretary of State, hereby gives you notice that in respect of the financial [half-year] [year] beginning on the first day of..... 19..., he will require from you the proceeds of the rates specified below ;

AND he does accordingly hereby require you to levy the said rates as part of the general rate or as an additional item of that rate, as the case may require, and to make payments on account thereof to† as follows :—

£.....on or before the.....day of.....19...
£.....on or before the.....day of.....19...
£.....on or before the.....day of.....19...
£.....on or before the.....day of.....19...

And to pay the balance thereof within 14 days after the date on which the total amount due shall have been ascertained in accordance with the provisions of subsection (2) of section 9 of the Rating and Valuation Act, 1925, and of the Rules made under that section and applicable to precepts issued to rating authorities by the Receiver.

Rates to be levied on the whole of the rating area

Services	Amount in the Pound§
	s. *d.*
*Metropolitan Police	
Metropolitan Police Courts	
*Probation System	
Total	
Less credits, if any, in respect of	
Net total ..	

Rates to be levied on part only of the rating area

Part of rating area chargeable	Service	Amount in the Pound§
		s. *d.*

Dated this ..... day of ....., 19...

Signature .....

Secretary, Office of the Receiver for the Metropolitan Police District.

[4183]

† Insert name and address of payee and any necessary directions.

§ The amounts shown are the equivalent, in terms of a rate in the pound, of the gross estimated expenditure on the services specified (including any sums required for repayment of, or for interest on, moneys borrowed for those services) less the estimated income from Government Grants or other sources (not being rates) specifically applicable thereto. In the case of the services marked * Government Grants specifically applicable thereto are receivable.

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Rules, but is intended to indicate their general purport.)

The Rules prescribe a new form of precept devised to meet the new method prescribed by the Local Government Act, 1948, for the levying of the expenses of the Metropolitan Police.

LOCAL GOVERNMENT (COMPENSATION) REGULATIONS, 1948

S.I. 1948 *No.* 1458

June 30, 1948.

The Minister of Health in exercise of the powers conferred on him by section 140 of the Local Government Act, 1948, hereby makes the following regulations :—

PART I

Citation and Interpretation

1. These regulations may be cited as the Local Government (Compensation) Regulations, 1948, and shall come into operation on the fifth day of July, 1948. [4184]

2. In these regulations, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

"accrued pension", in relation to a pensionable officer who has suffered loss of employment, means

(*a*) if the pension scheme to which the officer was last subject before losing his employment provided benefits in which he had no right

to participate but had reasonable expectations of participating, such proportion of the benefit of which he had reasonable expectations as the compensating authority considers equitable, having regard to his age, the length of his employment at the date of loss and all the other circumstances of the case; and

(*b*) in any other case the pension to which he would have become entitled in respect of his pensionable service according to the method of calculation, as modified by paragraph 17 of the schedule to these regulations, prescribed by the pension scheme to which he was last subject before losing his employment, if at the date on which he ceased to be subject thereto he had attained normal retiring age and complied with any requirement of the said scheme as to a minimum period of qualifying service or contribution,

and includes the annual value as ascertained by an actuary of any contingent right under the scheme in respect of widow's pension or any other benefit which might have become payable to his widow or to his legal personal representatives on his death had he not lost his employment, but does not include any part of such pension as aforesaid which is attributable to any remuneration enjoyed, whether before or after the material date, in consequence of an increase between the 24th day of October, 1947, and the material date in the remuneration of any employment, if it can be shown that the increased remuneration was not granted in the ordinary course of that employment or in consideration of the person's assumption of increased responsibilities or new duties in connexion with the discharge of the existing functions of the body employing him;

"accrued incapacity pension" has the same meaning as "accrued pension" except that the reference to a person's having attained normal retiring age shall be construed as a reference to his having become incapable of discharging efficiently the duties of his employment by reason of permanent ill-health or infirmity of mind or body;

"accrued retiring allowance", in relation to a pensionable officer who has suffered loss of employment, means any lump sum payment to which he would have become entitled in respect of his pensionable service according to the method of calculation, as modified by paragraph 17 of the schedule to these regulations, prescribed by the pension scheme to which he was last subject before losing his employment, if at the date on which he ceased to be subject thereto he had attained normal retiring age and complied with any requirement of the said scheme as to a minimum period of qualifying service;

"the Act" means the Local Government Act, 1948;

"actuary" means a Fellow of the Institute of Actuaries or of the Faculty of Actuaries in Scotland;

"compensating authority" means—

(*a*) in the case of officers of a rating authority, the rating authority;

(*b*) in the case of officers of a joint committee of rating authorities, such one of the rating authorities represented on that committee as may be agreed between them or, in default of agreement, as may be determined by the Minister;

(*c*) in the case of officers of an assessment committee, the rating authority for the assessment area of that committee, or where the assessment area consists of more than one rating area, such one of the rating authorities in that assessment area as may be agreed between them or, in default of agreement, as may be determined by the Minister;

(*d*) in the case of officers of a council of a county or of a county valuation committee, the council of the county;

(*e*) in the case of officers of the quarter sessions for the County of London, the London County Council; and

(*f*) in the case of officers of the Central Valuation Committee, the Railway Assessment Authority and the Anglo-Scottish Railways Assessment Authority, the Minister;

"emoluments" means all salary, wages, fees and other payments paid or made to an officer as such for his own use, and includes the money value of any apartments, rations or other allowances in kind appertaining to his employment, but does not include payments for overtime or any allowances payable to him to cover the cost of providing office accommodation or clerical or other assistance, or any travelling or subsistence allowance or other moneys to be spent, or to cover expenses incurred by him, for the purposes of his employment, and also does not include any remuneration enjoyed, whether before or after the material date, in consequence of an increase between the 24th day of October, 1947, and the material date in the remuneration of any employment, if it can be shown that the increased remuneration was not granted in the ordinary course of that employment or in consideration of the person's assumption of increased responsibilities or new duties in connexion with the discharge of the existing functions of the body employing him;

"existing officer" means a person who immediately before the material date:—

(*a*) devoted the whole of his time, and had so devoted it for a period of not less than eight years before the material date after attaining the age of eighteen years without a break of more than twelve months at any one time, to employment under the Crown or in the local government service in Great Britain, or to employment by any authority or body functions of which cease or have ceased in consequence of the coming into force of any Part of the Act, or to employment under an officer engaged in any such employment as aforesaid for the purposes of the functions of the employing authority or body or to any combination of such employments, or who would so have devoted his time but for any previous loss of employment which was attributable to the coming into force of any Part of the Act [provided that any war service undertaken on ceasing to follow any of the said employments or any combination thereof shall be deemed to be a continuation of that employment or combination of employments]; and

(*b*) was employed for at least part of his time for the purposes of any rating authority, any joint committee of rating authorities, any assessment committee, any county valuation committee, any council of a county, the quarter sessions for the County of London, the Central Valuation Committee, the Railway Assessment Authority or the Anglo-Scottish Railways Assessment Authority;

"material date", in relation to a person who has suffered loss of employment or diminution of the emoluments of any employment, means the date on which functions of the employing authority or body ceased in consequence of the coming into force of any Part of the Act;

"net emoluments", in relation to an officer who suffers loss of employment or diminution of emoluments, means the annual rate of his emoluments immediately before such loss or diminution, after deducting therefrom the like percentage thereof as the percentage of his emoluments which he was then liable to contribute under any pension scheme associated with his employment:

Provided that—

(*a*) if, for the purposes of the foregoing definition, account is required to be taken of any fees payable to a person as part of his emoluments, the amount thereof shall be taken to be the annual average of the fees paid to him during the three years immediately preceding the loss of employment or diminution of emoluments, or, if the fees were payable in respect of a shorter period, such shorter period; and

(*b*) any amount by which the annual rate of his emoluments exceeds £4,000 shall be disregarded; and

(*c*) if the officer was not a pensionable officer, no deduction shall be made on account of pension contributions.

" normal retiring age " means, in relation to an officer in whose case an age of compulsory retirement applied by virtue of any pension scheme associated with the employment he has lost or the emoluments of which have been diminished or by virtue of the conditions of that employment, that age, and, in any other case, the age of sixty-five years if the officer is a male, or sixty years if the officer is a female;

" office " means any place, situation or employment, and the expression " officer " shall be construed accordingly;

" pensionable officer ", in relation to an officer who has suffered loss of employment, means an officer who immediately before the material date was subject to a pension scheme;

" pension scheme " means a scheme for the payment of superannuation benefits to a person as part of the terms and conditions of any employment held by him;

" service " in relation to a person means any period of whole-time or part-time employment in Great Britain, after attaining the age of eighteen years, under the Crown or in the local government service, or under any authority or body functions of which cease or have ceased in consequence of the coming into operation of any Part of the Act, or under an officer engaged in any such employment as aforesaid for the purposes of the functions of the employing authority or body, and includes any period of war service undertaken on the person's ceasing to hold any such employment as aforesaid but does not include employment of which account has been taken, or is required to be taken, in calculating the amount of any superannuation benefits to which the person has become entitled;

" tribunal " means such referee or board of referees appointed by the Minister of Labour and National Service, after consultation with the Lord Chancellor, as has jurisdiction in respect of the district in which a claimant for compensation is or was last employed;

" war service " means war service within the meaning of the Local Government Staffs (War Service) Act, 1939, or employment for war purposes within the meaning of the Superannuation Schemes (War Service) Act, 1940. [4185]

General note.—The words in square brackets in paragraph (*a*) of the definition of " existing officer " were added by the Local Government (Compensation) (Amendment) Regulations, 1949 (S.I. 1949 No. 489).

3. The Interpretation Act, 1889, shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [4186]

PART II

Compensation of Officers who suffer Loss of Employment or Diminution of Emoluments which is attributable to the passing of the Act

4. Subject to the provisions of the next succeeding regulation, every person who was an existing officer and who suffers loss of employment or

diminution of emoluments which is attributable to the passing of the Act shall be entitled to have his case considered for the receipt of compensation under these regulations, such compensation to be determined in accordance with the provisions of the schedule hereto. [4187]

5. Nothing in the last preceding regulation shall entitle a person to have his case considered for compensation unless—

(*a*) the cause of the claim to compensation arises not later than ten years after the material date, and the claim is made not later than two years after the date on which the cause of claim arises; and

(*b*) (i) his office is abolished and he is not offered a reasonably comparable office under the Crown or in the local government service; or

(ii) his appointment is determined because his services are not required or because his duties are diminished (no misconduct being established); or

(iii) his emoluments are diminished:

Provided that for the purposes of this regulation a person shall not be deemed to have been offered an office which is not reasonably comparable with an office which is abolished by reason only of the fact that the duties of the office offered are duties in relation to the administration of a different service from that in connexion with which his office was held or are duties which involve a transfer of his employment from one place to another within England or Wales. [4188]

6. If a person who has claimed compensation under these regulations is aggrieved by the refusal of the compensating authority to accept his claim or by their failure to come to a decision on his claim within three months after the date on which it was received by them, or by a decision that no compensation should be paid to him or by the amount of compensation awarded, he may, within three months after the refusal or failure or after the date on which he received notice of the decision, as the case may be, refer the matter to the tribunal, and the tribunal shall consider any matter so referred in accordance with the provisions of these regulations and determine accordingly whether any, and if so what, compensation ought to be awarded to the claimant, and the compensating authority shall give effect to the decision of the tribunal. [4189]

7.—(1) Any compensation to which an officer becomes entitled under these regulations shall be paid by the compensating authority and shall be payable to, or in trust for, the person who is entitled to receive it, and shall not be assignable.

(2) Any sum payable as compensation to a person by a local authority shall be recoverable as a debt due from the authority.

(3) Where the compensating authority is a rating authority represented on a joint committee of rating authorities or is a rating authority whose rating area is included in an assessment area consisting of more than one rating area, the other rating authorities concerned shall contribute towards the payment of any compensation payable by the compensating authority in proportion to the rateable values of their rating areas on the 31st day of March, 1948. [4190]

PART III

Officers on War Service on the Material Date

8.—(1) Any person (hereinafter referred to as an "officer on war service") who is engaged in war service immediately before the material date and who, if he had continued to be employed until the material date in the capacity in which he was employed before becoming engaged in war service, would have been an existing officer, shall be deemed to be an existing officer

within the meaning of these regulations, and if at the date on which he ceased to be so employed he was subject to a pension scheme, and his war service or any part thereof would be reckonable for the purposes of that scheme if he again became subject thereto on the termination of his war service, he shall also be deemed to be a pensionable officer within the meaning of these regulations.

(2) The expression " the material date," in relation to an officer on war service, means the date on which functions of the authority or body by whom he was employed before becoming engaged in war service ceased in consequence of the coming into force of any Part of the Act. [4191]

9. Subject to the provisions of the next succeeding regulation, if an officer on war service ceases to be engaged in war service and in consequence of the Act—

(*a*) is not given or offered by his former employer re-employment in his former office, or in any reasonably comparable office; or

(*b*) is so re-employed with reduced emoluments,

he shall be deemed for the purposes of these regulations, in the former case, to have suffered loss of employment which is attributable to the Act owing to the abolition of his office at the date of the refusal to re-employ him, and, in the latter case, to have suffered diminution of emoluments which is attributable to the Act. [4192]

10. No person shall, by virtue of the last preceding regulation, be entitled to have his case considered for compensation for any loss suffered by him by reason of his not being re-employed as therein mentioned unless within a period of two months after the date on which he ceased to be engaged in war service he gives notice in writing that he is available for employment to the authority or body by whom he was employed before becoming engaged in war service or, if that authority or body ceases to exist by virtue of the Act, to the compensating authority in relation to officers of the first mentioned authority or body:

Provided that if the person is prevented from giving notice within the said period by his sickness or other reasonable cause, the notice may be given as soon as reasonably may be after the expiration of that period. [4193]

11. For the purpose of ascertaining the net emoluments of a person to whom regulation 9 applies such person shall be deemed to have continued to follow his former employment until the cause of claim arose and to have been entitled to the emoluments thereof. [4194]

12. In relation to a pensionable officer to whom sub-paragraph (*a*) of regulation 9 applies, the expression " accrued pension " means the pension to which he would have become entitled according to the method of calculation, as modified by paragraph 17 of the schedule to these regulations, prescribed by the pension scheme to which he was subject before becoming engaged in war service, if at the date on which he ceased to be engaged in war service he had been serving in his civil capacity and had attained normal retiring age, having complied with any requirement of the said pension scheme as to a minimum period of qualifying service. [4195]

SCHEDULE

DETERMINATION OF COMPENSATION

I. *General*

1. A person desiring to make a claim for compensation under these regulations shall make his claim in a form approved by the Minister for the purpose, and shall deliver his claim to the compensating authority. The claim shall be accompanied by a statutory declaration as to the truth of the statements contained therein.

2.—(1) Where the compensating authority are a local authority, a claimant, if so required by the local authority, by notice sent through the clerk of the authority, shall attend at a meeting of the authority, or of any committee appointed by the authority for the purpose, and answer all questions asked by any member of the authority or committee touching the matters set forth in his claim, and shall further produce all books, papers and documents in his possession or under his control relating to the claim.

(2) Where the compensating authority is the Minister, a claimant, if so required by the Minister, shall attend before a person appointed by him for the purpose, and answer all questions asked by that person touching the matters set forth in his claim, and shall further produce all such books, papers and documents as aforesaid.

(3) A claimant required to attend at a meeting pursuant to sub-paragraph (1) of this paragraph or before a person appointed by the Minister pursuant to sub-paragraph (2) thereof may further be required to make a statutory declaration as to the truth of any of the answers given by him to questions asked on the occasion of such attendance touching the matters set forth in his claim.

(4) Such a claimant as aforesaid may be accompanied by a representative who shall be entitled to address the authority, committee or person before whom the claimant is required to attend touching the matters set forth in his claim.

II. *Compensation for Loss of Employment*

3. On receipt of a claim for compensation in respect of loss of employment, the compensating authority shall consider forthwith whether the claimant satisfies the conditions of eligibility for the payment of compensation set out in regulations 4 and 5 and if they are satisfied that these conditions are not fulfilled, shall reject the claim and advise the claimant in writing accordingly within one month after the receipt of the claim.

A. *Interim payments of Compensation*

4. If the compensating authority accept the claim, then, unless they are satisfied that the claimant has substantially made good his loss by virtue of having obtained other employment, they shall forthwith commence to make interim payments of compensation to the claimant subject to and in accordance with the provisions of the next succeeding paragraph, and shall continue to make such payments until, in accordance with paragraph 6 of this schedule, they decide whether any further compensation is payable to him under these regulations.

5.—(1) Interim compensation shall be payable as from the date of claim, and shall be at a rate not exceeding two-thirds of the net emoluments of the employment which the claimant has lost, less two-thirds of any unemployment benefit to which the claimant may be entitled, and less any sum to which the claimant may be entitled by way of compensation under the Re-instatement in Civil Employment Act, 1944.

(2) In determining the amount of interim compensation, the compensating authority shall have regard to any payments to which the claimant becomes entitled in consequence of the loss of his employment under any contract or arrangement with the authority or body by whom he was employed (other than payments by way of a return of contributions under a pension scheme).

(3) The payments shall be made at intervals equivalent to those at which the said emoluments were previously payable, and the payments shall be reduced or terminated if the claimant obtains other employment or the compensating authority are satisfied that he is not actively seeking employment or has unreasonably refused suitable employment which has been offered to him.

(4) If the claimant obtains other employment, he shall immediately notify the compensating authority in writing accordingly.

(5) The compensating authority may require, as a condition of making or continuing to make interim payments that the claimant should be registered for employment at an Employment Exchange or the Appointments Department of the Ministry of Labour and National Service, at the option of the claimant.

B. *Assessment of Compensation*

6. Having determined the amount of the interim payments (if any) to be made under the preceding provisions of this schedule to a claimant whose claim has been

accepted, the compensating authority shall, within a period of three months after the date of receipt of the claim, assess the just amount (if any) of the compensation payable under the succeeding provisions of this schedule, and shall forthwith notify the claimant in writing of their decision.

7.—(1) The compensating authority shall, within a period of two years after the date on which any decision is notified to a claimant under paragraph 6 of this schedule, or if the claimant has referred any such decision to the tribunal under regulation 6, within a period of two years after the date of the decision of the tribunal, review their decision or the decision of the tribunal, as the case may be, at intervals of not more than six months, and on any review the compensating authority may, in the light of any material change in the circumstances of the case, award compensation or increase or reduce the amount of any compensation awarded.

(2) If the claimant obtains other employment within the said period of two years, he shall immediately notify the compensating authority in writing accordingly.

(3) A claimant to whom a decision under paragraph 6 of this schedule has been notified may, within the like period as is mentioned in sub-paragraph (1) of this paragraph, require the compensating authority to review their decision or the decision of the tribunal, as the case may be, if he considers that there has been a material change in the circumstances of his case.

(4) The compensating authority shall forthwith notify the claimant in writing of their decision on any review under the preceding provisions of this paragraph, and if the claimant is aggrieved by such decision he may refer the matter to the tribunal within three months after the date on which he receives notice of the decision, and the tribunal shall determine any matter so referred, and the compensating authority shall give effect to the determination of the tribunal.

Compensation payable, subject to earlier cesser in certain cases, until normal retiring age

8. For the purpose of determining whether any compensation, apart from any interim compensation paid under paragraphs 4 and 5 of this schedule, is payable to any person for loss of employment, and if so the amount of the compensation to be paid, subject to the provisions of paragraph 11 of this schedule, until normal retiring age, the compensating authority shall have regard to—

(*a*) the conditions upon which his appointment was made ;
(*b*) the nature of his office ;
(*c*) the extent to which he has sought suitable alternative employment ; and
(*d*) all the other circumstances of his case :

Provided that no compensation shall be payable to such a claimant as is mentioned in proviso (i) to sub-paragraph (2) of the next succeeding paragraph if the security of tenure of the work or employment undertaken, obtained or offered as therein mentioned is substantially similar to that of the employment lost and the amount of the annual rate of the emoluments of the employment lost does not exceed the amount of the annual rate of the emoluments of the work or employment undertaken, obtained or offered as aforesaid by more than five per cent. of the first-mentioned amount.

9.—(1) Compensation for loss of employment shall be an annual sum calculated in accordance with the provisions of sub-paragraph (2) of this paragraph, and shall be payable, subject to the provisions of paragraph 11 of this schedule, until normal retiring age, as from the date of loss, if the claim was made within three months thereafter, and in any other case, as from the date on which the claim was made or from such earlier date not being more than three months before the date on which the claim was made, as the compensating authority may in their discretion allow.

Provided that if the loss occurred before the date of the coming into operation of these regulations, and the claim was made within three months after the said date, the compensation shall be payable as from the date of loss.

(2) The said annual sum shall, subject as hereinafter provided, be the aggregate of the following sums, namely—

(*a*) for every completed year of the claimant's service, one-sixtieth of the net emoluments of the employment he has lost ; and

(*b*) in the case of a claimant over the age of forty-five years at the date of loss, a further one-sixtieth of the said net emoluments for every completed year of service since he attained the age of forty-five :

Provided that—

(i) where the claimant has undertaken or obtained other work or employment in place of the employment he has lost or has been offered other suitable employment, the said annual sum shall be calculated by reference only to the amount (if any) by which the annual rate of the emoluments of the employment he has lost exceeds the annual rate of the emoluments of the work or employment undertaken, obtained or offered to him as aforesaid ;

(ii) if the said annual sum is required to be calculated in accordance with proviso (i) to this sub-paragraph, it shall be reduced or increased by such amount (if any) as the compensating authority think fit, having regard to the relative security of tenure of the employment lost and the work or employment undertaken, obtained or offered as aforesaid, so however that the said annual sum shall not by virtue of any such increase as aforesaid be greater than if it were calculated without reference to proviso (i) and this proviso ;

(iii) the said annual sum shall also be reduced by such an amount (if any) as the compensating authority think fit having regard to the matters to which they are required to have regard by the last preceding paragraph and to any compensation payable to the claimant under the Re-instatement in Civil Employment Act, 1944, or under or in pursuance of any other enactment ; and

(iv) the said annual sum shall in no case exceed two-thirds of the net emoluments of the employment which the claimant has lost.

10. There shall be deducted from any payments made under paragraph 9 of this schedule in respect of any period in respect of which interim payments have been made under paragraphs 4 and 5 the amount of such payments, so far as they do not exceed the payments due under paragraph 9 in respect of that period.

Compensation payable to pensionable officer on his becoming incapacitated or reaching pensionable age

11.—(1) If the claimant was a pensionable officer, and before attaining normal retiring age—

(*a*) he becomes incapacitated in circumstances in which if he had continued in the employment he has lost he would have become entitled to a pension under the pension scheme to which he was last subject before losing his employment ; or

(*b*) he attains an age at which had he continued to serve in the employment he has lost he would have become entitled to retire with a pension on the ground of having attained that age and completed a prescribed period of service,

and compensation is not then payable to him under these regulations, or compensation by way of annual sum equal to the amount of his accrued incapacity pension or his accrued pension, as the case may be, together with the annual value of his accrued retiring allowance (if any), would be greater than the annual amount of any compensation to which he may then be entitled under these regulations, he shall be entitled, if he so requests at any time thereafter by notice in writing to the compensating authority, as from the date on which the compensating authority receive such notice, in lieu of any compensation to which he would otherwise be entitled under these regulations—

(i) in the case mentioned in head (*a*) of this sub-paragraph, to an annual sum equal to the amount of his accrued incapacity pension, and a lump sum equal to the amount of his accrued retiring allowance (if any) ; and

(ii) in the case mentioned in head (*b*) of this sub-paragraph to an annual sum equal to the amount of his accrued pension and a lump sum equal to the amount of his accrued retiring allowance (if any) :

Provided that if in calculating the amount of compensation payable to a person who has given such notice as aforesaid, the compensating authority, by virtue of paragraph 19 of this schedule, have credited him with additional years of service or contributions, no account shall be taken for the purpose of the foregoing provision of any number of such additional years beyond the number of years which he could have served, had he not lost his employment, before the date on which such notice as aforesaid was received by the compensating authority.

(2) On receipt of a notice under the last preceding sub-paragraph, the compensating authority shall consider forthwith whether the person giving the notice is a person to whom that sub-paragraph applies, and within three months after the date of the receipt of the notice—

(*a*) if they are satisfied that he is not such a person, they shall notify him in writing accordingly ; and

(*b*) if they accept the notice, they shall assess the amount of compensation payable to the person, and notify him in writing accordingly,

and any such notification shall, for the purposes of these regulations, be deemed to be a notification by the authority of a decision on a claim to compensation.

(3) A compensating authority may require any such person as is mentioned in head (*a*) of sub-paragraph (1) of this paragraph, who gives a notice under that sub-paragraph, to submit himself to a medical examination by a registered medical practitioner selected by that authority, and, if they do so, they shall also offer the person an opportunity of submitting a report from his own medical adviser as a result of an examination by him, and the authority shall take that report into consideration, together with the report of the medical practitioner selected by them.

Compensation payable to a pensionable officer on attainment of normal retiring age

12. Subject as hereinafter provided, the compensation payable to a claimant who was a pensionable officer (not being a person to whom paragraph 11 has been applied) on his attaining normal retiring age shall be—

(*a*) an annual sum equal to the amount of his accrued pension ; and

(*b*) a lump sum equal to the amount of his accrued retiring allowance (if any).

Supplementary provisions as to compensation payable to pensionable officer

13.—(1) Where a claimant after suffering loss of employment, enters employment in which he participates in the benefits of the pension scheme associated with the employment he has lost, or becomes entitled to participate in any other pension scheme, in circumstances in which he is entitled to reckon for the purposes thereof service which falls to be taken into account for the purpose of assessing compensation under paragraph 11 or 12 of this schedule, no compensation under either of those paragraphs shall be payable unless the amount of the annual rate of the emoluments of the employment he has lost exceeds the amount of the annual rate of the emoluments to which he becomes entitled on entering such employment as aforesaid by more than five per cent. of the first-mentioned amount, and any compensation payable thereunder shall be calculated by reference only to the amount of the difference.

(2) If a claimant has unreasonably refused a suitable offer of such employment as is mentioned in the preceding sub-paragraph, he shall be deemed for the purposes of that sub-paragraph to have entered the employment so offered to him.

14.—(1) If the claimant was a person in respect of whose service a widow's pension might have become payable under the pension scheme to which he was last subject before losing his employment, then, if he so desires and informs the compensating authority by notice in writing accordingly when making his claim, he may surrender so much of any annual sum which may become payable to him as compensation under paragraph 11 or 12 of this schedule as represents the annual value of the contingent right in respect of widow's pension, in consideration of the payment by the compensating authority to the person who as his widow might

have become entitled to such widow's pension as aforesaid in the event of her surviving him—

(*a*) if he dies before attaining normal retiring age, and without having given notice pursuant to the provisions of paragraph 11 of this schedule, of an annual sum equal to the amount of the pension to which she would have become entitled had he, immediately before he died, become entitled to a pension under the pension scheme on the grounds of ill-health of an amount equal to the amount of his accrued incapacity pension, less the part thereof surrendered under the provisions of this paragraph and any part thereof surrendered under the provisions of paragraph 16 ; and

(*b*) if he dies on or after attaining normal retiring age, or after giving a notice pursuant to the provisions of paragraph 11 of this schedule, of an annual sum equal to the amount of the pension to which she would have become entitled in accordance with the method of calculation prescribed by the pension scheme had he, at the date on which he attained normal retiring age, or gave the said notice, become entitled to a pension under the pension scheme of an amount equal to the amount of his accrued pension or accrued incapacity pension, as the case may be, less the part thereof surrendered under the provisions of this paragraph and any part thereof surrendered under the provisions of paragraph 16.

(2) In the calculation of the amount of the annual sum payable to a widow under the preceding sub-paragraph, account shall be taken of any additional years of service or additional contributions credited to the claimant under paragraph 19 of this schedule :

Provided that no account shall be taken of any number of such additional years of service or contributions beyond the number of years which the claimant could have served before his death had he not lost his employment.

(3) Any sum payable to a widow under this paragraph shall cease to be payable or shall be suspended in any circumstances in which a widow's pension under the aforesaid pension scheme would have ceased to be payable or would have been suspended.

15. If under the pension scheme to which he was last subject before losing his employment, the claimant would have been entitled to surrender a proportion of any pension which might have become payable to him in favour of his spouse or any dependant, then, if he so desires and informs the compensating authority by notice in writing accordingly within one month after becoming entitled to compensation under paragraph 11 or 12 of this schedule, he may surrender a proportion of so much of the said compensation as is payable by way of an annual sum on the like terms and conditions and in consideration of the like payments by the compensating authority as if the said annual sum were a pension to which he had become entitled under the said pension scheme.

16.—(1) If the claimant was a person in respect of whose service a death benefit might have become payable to his legal personal representatives under the pension scheme to which he was last subject before losing his employment, then, if he so desires, and informs the compensating authority by notice in writing accordingly when making his claim, he may surrender so much of any annual sum which may become payable to him as compensation under paragraph 11 or 12 of this schedule as represents the annual value of the contingent right in respect of the said benefit, in consideration of the payment by the compensating authority to his legal personal representatives—

(*a*) if he dies before attaining normal retiring age, and without having given a notice pursuant to the provisions of paragraph 11 of this schedule, of a sum equal to the amount of any death benefit which would have become payable in accordance with the method of calculation, as modified by the next succeeding paragraph, prescribed by the pensions scheme to which he was last subject before losing his employment, had he died immediately before the date on which he lost his employment and complied with any requirement of the said scheme as to a minimum period of qualifying service ; or

(*b*) if he dies on or after attaining normal retiring age or after giving a notice pursuant to the provisions of paragraph 11 of this schedule, of a sum

equal to the amount of any such death benefit as aforesaid, less a sum equal to the aggregate amount of any payments made to him by way of compensation under paragraph 11 or 12 of this schedule.

(2) In the calculation of the amount of the sum payable under the preceding sub-paragraph, account shall be taken of any additional years of service or additional contributions credited to the claimant under paragraph 19 of this schedule:

Provided that no account shall be taken of any number of such additional years of service or contributions beyond the number of years which the claimant could have served before his death had he not lost his employment.

17. For the purposes of these regulations—

(*a*) the amount of any accrued pension or accrued incapacity pension, if the number of years of service by reference to which the pension is to be calculated is less than any minimum number of years of qualifying service prescribed by the pension scheme, shall, notwithstanding any minimum benefit prescribed by the pension scheme, not exceed such proportion of such minimum benefit as the number of years of pensionable service bears to the minimum number of years of qualifying service; and

(*b*) if the amount of any death benefit falls to be ascertained, by virtue of any pension scheme, wholly or partly by reference to the emoluments or average emoluments of a pensionable officer, and the number of years of his pensionable service is less than any minimum number of years of qualifying service prescribed by the pension scheme for the receipt of a death benefit, the said amount shall not exceed such proportion of the emoluments or average emoluments of the officer as the number of years of pensionable service bears to the minimum number of years of qualifying service.

18. If under the pension scheme to which the claimant was last subject before suffering loss of employment the amount of any pension to which he might have become entitled might have been increased at the discretion of the authority administering the pension scheme or of any other body, the compensating authority may increase the compensation payable under paragraph 11 or 12 of this schedule by an annual sum not exceeding the amount by which his accrued incapacity pension or accrued pension might have been increased or the annual value of the payments which might have been made to him by way of addition to or supplementation of his accrued pension.

19. If the claimant had attained the age of forty years at the date on which he lost his employment, the compensating authority in calculating the amount of the compensation payable to him under paragraph 11 or 12 of this schedule may credit him with additional years of service or additional contributions not exceeding one year of service or one year's contributions for each completed year between the date on which he attained the age of forty years and the date on which he lost his employment, but not in any case exceeding ten years or such number of years as the claimant could have served had he continued in his employment until attaining normal retiring age, whichever is the less.

20. In deciding whether to add any number of years under the last preceding paragraph, the compensating authority shall have regard to the considerations set out in paragraph 8 of this schedule, and also to the claimant's rights under any pension scheme associated with any employment which he may have obtained in place of the employment he has lost.

21.—(1) Compensation shall not be payable or shall cease to be payable under paragraph 11 or 12 of this schedule to a person who has received any sum by way of a return of contributions under the pension scheme to which he was last subject on his ceasing to be subject thereto, unless forthwith on receiving such sum he pays to the compensating authority an amount equivalent thereto, such amount to be held by the compensating authority subject to the condition that if the pension scheme made no provision for death benefit and he dies before he has received in the aggregate by way of compensation under paragraph 11 or 12 of this schedule a sum equal to the amount so paid as aforesaid to the compensating authority, together with compound interest thereon, calculated at the rate of 2½ per cent. per annum, with half-yearly rests, up to the date of his death, as from

the first day of April or the first day of October following the half year in which the amount was paid, there shall be paid to his legal personal representatives the difference between the aggregate amount received by way of compensation and the said sum :

Provided that—

(*a*) if a sum becomes payable to his widow on his death under paragraph 14 of this schedule and on her death or re-marriage the sum ceases to be payable, and the aggregate amount of the payments which were made to her or her husband under these regulations is less than a sum equal to the amount so paid to the compensating authority by her husband as aforesaid on account of contributions, after the addition thereto of interest thereon as aforesaid, there shall be paid to her or her legal personal representatives the difference between the aggregate amount of the payments made to her or her husband as aforesaid and the said sum ;

(*b*) this paragraph shall not apply to a person to whom paragraph 13 of this schedule applies, and in the event of a claimant becoming such a person after having made a payment under this paragraph, the amount of the sum so paid shall be returned to him by the compensating authority ; and

(*c*) this paragraph shall not apply to a person who has been an officer on war service to whom regulation 9 applies, and who received a return of contributions before ceasing to be engaged in war service.

(2) A person to whom paragraph 11 or 12 of this schedule may become applicable shall on or before the date on which compensation may become payable to him thereunder be entitled, if he so desires and informs the compensating authority in writing accordingly, to receive from the compensating authority in lieu of any such compensation—

(*a*) if the person nas paid any sum to the compensating authority under sub-paragraph (1) of this paragraph, an amount equivalent thereto, together with interest thereon, calculated in the manner provided by the pension scheme as from the date of payment of the said sum ; and

(*b*) if the person has not received a return of contributions under the pension scheme, and if, being entitled to such a return he has relinquished that right, an amount equivalent to the amount of such contributions together with interest thereon, calculated in manner provided by the pension scheme ;

and any liability of the compensating authority under paragraph 14 or 16 of this schedule shall cease in the event of his giving such notice as aforesaid.

Compensation payable to non-pensionable officer after attainment of normal retiring age

22.—(1) If the claimant was not a pensionable officer, the compensating authority may, on his attaining normal retiring age, if they are satisfied that he would in the normal course have continued in the employment he has lost for a substantial period beyond that age, continue to pay compensation to him for the remainder of his life at half its former rate.

(2) If the claimant was not a pensionable officer and suffers loss of employment on or after attaining normal retiring age, the compensating authority may, if they are satisfied that he would in the normal course have continued in the employment he has lost for a further substantial period, pay compensation to him for the remainder of his life at half the rate to which he would have been entitled under paragraph 9 of this schedule had he not attained normal retiring age at the date on which he lost his employment.

III. *Compensation for diminution of emoluments*

23. On receipt of a claim for compensation for diminution of the emoluments of any employment the compensating authority shall within a period of three months after the date of receipt of the claim decide whether any compensation is payable and, if so, the amount of that compensation, and shall forthwith notify the claimant in writing of their decision.

24. A decision under the last preceding paragraph shall be subject to review in like manner as a decision under paragraph 6 of this schedule :

Provided that—

(*a*) no review shall take place after the date on which the claimant loses that employment, except a review as at that date ; and

(*b*) while the claimant continues to hold that employment, there shall be no limit to the period within which a review may take place.

25. In determining whether compensation is payable and, if so, the amount of that compensation, the compensating authority shall have regard to the conditions upon which the claimant's appointment was made, the nature of his office, and all the other circumstances of the case. No compensation shall be payable where the diminution is less than five per cent. of the net emoluments of the claimant.

26. Compensation for diminution of emoluments shall be an annual sum payable as from the date of loss, if the claim was made within three months thereafter, and in any other case as from the date on which the claim was made, or from such earlier date, not being more than three months before the date on which the claim was made, as the compensating authority may in their discretion allow.

27. Compensation to a person for diminution of the emoluments of any employment shall be payable for the same period or periods as compensation for loss of employment and shall not during any period exceed a sum bearing the same proportion to the maximum amount of compensation which could have been awarded in respect of that period had he lost his employment as the amount by which his net emoluments are diminished bears to their amount before diminution :

Provided that the compensation shall cease if the person voluntarily relinquishes his employment without the consent of his employer otherwise than on reaching pensionable age.

28. A person entitled to compensation for diminution of emoluments shall have the like rights in relation to such compensation as are conferred by paragraphs 14, 15 and 16 upon a person entitled to compensation for loss of employment.

IV. *Miscellaneous*

29. Any dispute as to who are the compensating authority for the purposes of these regulations shall, in default of agreement, be determined by the Minister :

Provided that if the Minister is a party to the dispute, the matter shall be determined by the Treasury.

30.—(1) A notification of a decision by a compensating authority to a claimant for compensation under these regulations shall contain a statement directing the attention of the claimant to his right, if he is aggrieved by the decision, to refer the matter to the tribunal, and giving him the address of the office to which the reference should be sent.

(2) The proceedings on any reference under these regulations to the tribunal shall not be deemed to be an arbitration to which anything in the Arbitration Acts, 1889 to 1934, applies.

(3) On any such reference the tribunal may, if it thinks fit, appoint a person having special knowledge or experience in relation to the subject matter of the reference to sit with the tribunal as an assessor.

31. For the purpose of determining the amount of any compensation payable in respect of the loss of a whole-time office or of any two or more offices which in the aggregate involved the whole-time employment of an officer, any previous period of part-time employment shall be treated as though it were whole-time employment for a proportionately reduced period.

32. For the purpose of making any calculation under these regulations in respect of the service of an officer all periods of his service shall be aggregated, and if the aggregated service includes a fraction of a year, that fraction shall, if it equals or exceeds six months, be treated as a year, and in any other case be disregarded.

33. If in determining the amount of any compensation payable to a person under these regulations account is taken of any employment prior to the first world war and that person was temporarily absent from that employment during

that war whilst serving in His Majesty's Forces or the Forces of the Allied or Associated Powers, either compulsorily or with the sanction or permission of the authority in whose employment he was immediately before such temporary absence, such period of temporary absence shall be reckoned as a period of service :

Provided that, in the case of a person who after the 11th day of November, 1918, voluntarily extended his term of service in such Forces, no period of absence during any such extension shall be reckoned.

34.—(1) Where a person to whom compensation is payable under these regulations for loss of employment has become or becomes entitled to a pension in respect of the employment he has lost otherwise than on losing such employment or where a person to whom compensation is payable under these regulations for loss of employment or diminution of emoluments has become or becomes entitled to a pension in respect of any employment the remuneration of which was payable out of public funds and which he had obtained in place of the employment he had lost or in place of or in addition to the employment the emoluments of which were diminished, and in calculating the amount of such pension account is taken of any service which was taken into account in calculating the compensation payable, then, if the compensation does not exceed such part of the pension as is attributable solely to that service, the compensation shall cease to be payable, and if it exceeds such part of the pension as aforesaid, it shall be reduced by an amount equal to that part.

(2) Where a claimant's widow to whom an annual sum is payable under paragraph 14 or 28 of this schedule has become or becomes entitled to a widow's pension in respect of any employment of her husband the remuneration of which was payable out of public funds and which he had obtained in place of the employment he had lost or in place of or in addition to the employment the emoluments of which were diminished, and any part of such widow's pension is attributable to service of her husband of which account was taken in calculating his accrued pension or accrued incapacity pension by reference to which the said annual sum was calculated, then if the said annual sum does not exceed such part of the pension as is attributable solely to that service, the said annual sum shall cease to be payable, and if it exceeds such part of the pension as aforesaid, it shall be reduced by an amount equal to that part.

(3) Where a claimant's legal personal representatives to whom a sum is payable on the claimant's death under paragraph 16 or 28 of this schedule have become entitled to receive a death benefit under a pension scheme associated with any employment of the claimant the remuneration of which was payable out of public funds and which he had obtained in place of the employment he had lost or in place of or in addition to the employment the emoluments of which were diminished, and as one of the factors in the calculation of the amount of such benefit account fell to be taken of any service which fell to be taken into account as one of the factors in the calculation of the said sum, the said sum shall be reduced by an amount equal to such proportion of the amount of the death benefit as the number of years of the said service bears to the total number of years of service of which account fell to be taken as aforesaid in the calculation of the death benefit.

(4) Where any compensation, annual sum or lump sum is reduced in accordance with the foregoing provisions of this paragraph, such compensation, annual sum or lump sum shall be further reduced by an amount equal to such part thereof (if any) as is attributable to any additional years of service or contributions credited in accordance with paragraph 19 of this schedule and by an amount equal to such part thereof (if any) as is attributable to any minimum benefit prescribed by a pension scheme.

(5) This paragraph shall not apply to or in respect of a person in whose case paragraph 18 of this schedule has been applied, except to the extent to which the amount of the pension, widow's pension or death benefit to which the person, his widow or his legal personal representatives have become or becomes entitled as aforesaid is attributable to annual emoluments of a greater amount than the amount of the annual emoluments to which the person became entitled on entering the employment referred to in that paragraph.

(6) This paragraph shall not apply to or in respect of a person to whom compensation is or was payable for diminution of emoluments and who has become entitled to a pension in respect of employment which he had obtained in place of

the employment the emoluments of which were diminished or whose widow has become entitled to a widow's pension or whose legal personal representatives have become entitled to a death benefit in respect of such employment, except to the extent to which the amount of the pension, widow's pension or death benefit is attributable to annual emoluments of a greater amount than the amount of the annual emoluments of the person's former employment after their diminution.

35.—(1) If a person receiving compensation for loss of employment obtains other employment in place of the employment he has lost and the remuneration thereof is payable out of public funds, he shall not, so long as he holds that employment, be entitled to receive any greater sum by way of compensation in respect of such loss than would make up the amount, if any, by which the net emoluments of that employment fall short of the net emoluments of the employment he has lost.

(2) If a person receiving compensation for diminution of the emoluments of any employment loses that employment in circumstances in which he does not become entitled to compensation in respect of that loss and thereupon or thereafter he obtains in place of that employment other employment the remuneration of which is payable out of public funds, he shall not, so long as he holds that employment, be entitled to receive any greater sum by way of compensation than would make up the amount (if any) by which the net emoluments of that employment fall short of the net emoluments of the former employment before diminution.

36.—(1) If a person becomes subject to the provisions of either of the two last preceding paragraphs he shall immediately notify the compensating authority in writing accordingly.

(2) A person who has become subject to the provisions of the last preceding paragraph shall also notify the compensating authority in writing of any increase in the remuneration of the employment he has obtained in place of the employment he lost.

37.—(1) Notwithstanding the preceding provisions of this schedule, if the annual sum which has been or might be awarded under those provisions does not exceed twenty-six pounds, the compensating authority may at their discretion discharge their liability in respect thereof by the payment of a lump sum representing the capital value of the annual sum, and if any lump sum has been or might be awarded in addition to such annual sum under the provisions of paragraph 12 of this schedule, the compensating authority may likewise discharge their liability in respect thereof by an immediate lump sum payment.

(2) If the annual sum which has been or might be so awarded exceeds twenty-six pounds and the claimant is not entitled to any lump sum in respect of accrued retiring allowance under these regulations, the compensating authority, if so requested by the claimant, may discharge their liability in respect of one quarter thereof by the payment of a lump sum representing the capital value of one quarter of the annual sum :

Provided that if the remaining three-quarters thereof does not exceed twenty-six pounds the compensating authority may discharge their liability as aforesaid in respect of the whole of the said sum.

(3) Any lump sum payable under the preceding provisions of this paragraph shall be of such amount as shall be certified by an actuary to be appropriate. [4196]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations provide for the payment of compensation to persons losing employment or remuneration as a result of the transfer of rating and valuation functions under the Local Government Act, 1948.

To be eligible for compensation a claimant must have had eight years' full time service in central or local government and to have been employed immediately before the date of transfer of functions under the Act by a body from

whom they are transferred, e.g. *a rating authority* (*see definition of "existing officer" in regulation* 2). *If he has not refused a reasonably comparable post* (*regulation* 5) *he can receive an interim award of compensation of two-thirds of his net emoluments payable for a period of up to three months whilst his award is assessed but subject to reduction if he gets other employment or unemployment insurance benefit or if he fails to look for or take other suitable employment* (*paragraphs* 4 *and* 5 *of the Schedule*). *Compensation will be payable to him up to normal retiring age, and will be an annual sum based on a percentage of his net emoluments and the length of his service* (*paragraph* 9). *The amount may be adjusted by reference to the factors mentioned in paragraphs* 8 *and* 9 (e.g. *any other emoluments which have or could have been obtained*), *and will be subject to review for a period of two years. If pensionable in his old employment, the claimant, on reaching retiring age will be entitled to a payment equivalent to his accrued pension rights. In the assessment of this payment, account will be taken of any rights in respect of incapacity pension, widow's pension, or death benefit that may have been provided for by the pension scheme* (*paragraphs* 11, 12, 14, 15 *and* 16). *These rights may be increased in the case of an officer over* 40 *on displacement to take account of his loss of opportunity to earn more pension* (*paragraph* 19). *If he was not pensionable, compensation will cease on his reaching normal retiring age, unless it is clear that he would have been allowed to continue in his employment for a substantial period after that age, in which case compensation will be paid to him for the rest of his life at half the previous rate* (*paragraph* 22). *Overlap with pension or remuneration from public funds is avoided* (*paragraphs* 13, 34 *and* 35). *A claimant who is aggrieved by a decision of a compensating authority may appeal to referees appointed by the Minister of Labour and National Service, after consultation with the Lord Chancellor* (*regulation* 6).

Circular 68/48

To County Councils
County Borough Councils
For information to :
County District Councils
Metropolitan Borough Councils
Assessment Committees
Common Council of the City of London.

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.
10*th May*, 1948

SIR,

LOCAL GOVERNMENT ACT, 1948

Valuation Panels

As foreshadowed in Circular 65/48, the Minister of Health has made an Order, a copy of which is enclosed, under section 72 of the Act, bringing sections 45, 46 and 47 into operation as from 1st May, 1948.

2. Section 45 places on the council of every county and county borough the duty of making a scheme for the constitution of one or more local valuation panels for the county or borough or for the county or borough in combination with other areas. Subsection (4) envisages that the schemes shall be submitted within a period of nine months and I am to ask that schemes should be submitted before 1st February, 1949, and if possible well before then, so that the panels may be ready to function as soon as the new valuation machinery can be brought into force which it is hoped will be in the early part of next year. After the scheme has been approved members will have to be appointed and arrangements made for staffing and accommodation.

3. While the Minister appreciates that the needs of different areas will vary he is anxious that the schemes will provide that the areas for which

panels are set up are as large as possible. Size alone, whether reckoned by population or by the number of hereditaments, is not the only criterion and no universal yardstick can be suggested. But in the majority of cases the Minister would expect one, or at most two, panels to be sufficient for the needs of an administrative county and also that in the majority of cases county boroughs should join with county councils in making combined schemes. The advantages to be secured from combined schemes are greater uniformity of decisions over a large area and a freer exchange of experience between members appointed by county councils and county borough councils respectively on a matter which is not of purely local concern. The Minister hopes, therefore, that on receipt of this circular county and county borough councils will get into touch with each other to discuss at an early stage the question of combination.

4. The draft model scheme enclosed may be of assistance in preparing schemes. The method proposed for the selection of valuation courts has been suggested as best expressing the intentions of Parliament as they appeared from the discussion during the passage of the Bill. The Minister would not expect that a scheme precisely on these lines would be satisfactory in all areas but he hopes that it will be possible to keep broadly to this form.

5. The Minister does not wish to suggest any hard and fast rules for the number of members to be appointed, but he suggests that while the membership should be sufficient to provide courts (each to consist of two members with the chairman or deputy chairman of the panel) to deal with appeals with reasonable expedition and without making unduly heavy calls on the time of individual members, the number of persons appointed should be kept as low as possible to reduce the risk of varying decisions and to secure the maximum of experience to each member. Disqualifications for membership are dealt with in section 46 (2) of the Act.

6. Section 45 (2) requires that when a scheme has been submitted to the Minister the council or councils concerned shall publish in one or more newspapers circulating in their areas a notice stating the fact and the place where a copy is available for inspection ; and a copy of the scheme must be sent to each rating authority in the county areas. Objections may be submitted to the Minister who may approve a scheme with or without modifications, and I am to suggest that in submitting objections to the Minister a rating authority should also send a copy to the county council. It would be convenient if the council(s) in sending copies of the scheme and in publishing the notice would intimate that any objections with respect to the scheme should be made to the Minister within one month after the date of the notice. A copy of the notice should be sent to the Minister at the time of publication. Two sealed copies of the scheme as made, preferably on foolscap size paper, should be submitted together with four unsealed copies.

7. The expenses of the panels will be defrayed by the Minister and further information as to the staffing of panels, rates of remuneration, etc., will be sent at a later date. Part VI of the Act applies to the travelling and subsistence allowances payable to members of valuation panels. The staff of a panel will fall for superannuation purposes under the Local Government Superannuation Act, 1937, the panel being deemed to be a local authority included in Part I of the First Schedule to that Act.

8. I am to say that the Minister regards the work of these panels as of the first importance. Parliament has decided that the actual work of valuation should be centralised, and the panels provide the link with the local interest in rating assessment which has existed hitherto. It cannot be too strongly stressed that the work of the valuation courts is entirely judicial and in no sense administrative and the Minister feels sure that in

making their appointments and in co-operating in the working of the new provisions local authorities will see the importance of maintaining this position.

I am, Sir, etc.

* * * * *

The Clerk of the Council
The Town Clerk.

Enclosure to Circular 68/48

LOCAL GOVERNMENT ACT, 1948

County of
County Borough(s) of

Joint Scheme for the constitution of (*a*) local valuation panel(s) and the selection therefrom of members of local valuation courts.

The Council of the administrative County of and the Council(s) of the County Borough(s) of and (hereinafter referred to collectively as " the Councils ") acting together in pursuance of the powers conferred upon them by subsection (1) of section 45 and paragraph (*b*) of subsection (3) of section 44 of the Local Government Act, 1948, hereby make the following joint scheme :—

1. There shall be a local valuation panel (hereinafter referred to as a " panel ") for each of the areas (hereinafter referred to as " panel areas ") specified in column 1 of the Schedule hereto, which panel areas comprise in the aggregate the whole of the respective areas of the Councils.

2. The total number of members of each panel shall be the number set out in column 2 of the said Schedule opposite the specification of the panel area and such number shall in each case include a Chairman and $\begin{pmatrix} \text{a} \\ \text{(two)} \end{pmatrix}$ deputy $\begin{pmatrix} \text{(Chairman).} \\ \text{(Chairmen).} \end{pmatrix}$

3. The Chairman and deputy Chairmen of each panel shall be appointed by the Councils or, in default of agreement, by the Minister of Health.

4. Of the first members of each panel, other than the Chairman and Deputy Chairmen, each one of the Councils mentioned in column 3 of the said Schedule opposite the specification of the panel area shall appoint the number set out in column 4 of the Schedule opposite the name of that Council.

5. The persons first appointed to be members of each panel and the first Chairman and Deputy Chairmen thereof shall come into office on [the 1st January, 1949].

6. The first appointed members of each panel shall continue in office until the 1st April, 1954, when one half of their number or, if that number is an odd number, one half of the next higher number (to be chosen by lot) shall retire.

7. The first appointed members who do not retire on the 1st April, 1954, shall continue in office until, and retire on, the 1st April, 1957.

8. The places of retiring members shall be filled from time to time by persons appointed by whichever of the Councils appointed their

respective predecessors and the term of office of such persons shall be six years.

9. The first appointed Chairman and Deputy Chairmen of each panel shall hold office as such until, and retire on, the 1st April, 1954.

10. The places of retiring Chairmen and Deputy Chairmen shall be filled from time to time by persons appointed as hereinbefore provided and each such person shall hold office until he retires from membership of the panel.

11. Any casual vacancy occurring in the office of Chairman, Deputy Chairman or member of a panel shall be filled in like manner as if an ordinary vacancy had occurred therein, and the person appointed to fill a casual vacancy shall retire from office on the day on which his predecessor would ordinarily have retired.

12. A Chairman, Deputy Chairman or member of a panel shall be eligible for re-appointment at the expiration of his term of office, if he is then qualified for membership of the panel, and may at any time resign his office.

13. The selection of the two members of a panel, other than the Chairman or a Deputy Chairman, required for the constitution of a local valuation court shall be made in accordance with the following provisions :—

(*a*) the panel area shall be divided into the divisions specified in column 2 of the Second Schedule hereto opposite the specification of the panel area in column 1 of that Schedule.

(*b*) every member of the panel, other than the Chairman and Deputy Chairmen, shall be allocated from time to time to one or other of the said divisions by the Councils or, in default of agreement, by the Minister, and the number of members to be allocated to each division shall be, and shall be maintained at, the figure shown in column 3 of the said Schedule opposite the specification of that division.

(*c*) the two members required as aforesaid upon any occasion shall be selected in rotation, by reference to seniority of age, from such of the members of the panel allocated to the division in which the court is to sit as are for the time being able to act :

Provided that if it is not practicable to secure the requisite number of members for any court in the manner above provided the Chairman of the panel may select any member or members of the panel to make good the deficiency.

14. This Scheme may be cited as the County of and the County Borough of joint Local Valuation Panel(s) Scheme, 1948.

GIVEN under the Seals of the

County Council.

County Borough Council.

[Space should be left for intimation that the Minister of Health has approved the Scheme]

SCHEDULES

FIRST SCHEDULE

(1) Panel Area	(2) Total number of Members	(3) Appointing Council	(4) Number of ordinary members to be appointed by the Councils severally

SECOND SCHEDULE

(1) Panel Area	(2) Divisions of Panel Area	(3) Number of ordinary members to be allocated to divisions

[4197]

CASES

Rates and rating—Railways—"Railway hereditament"—Hostel and canteen for railway staff—"Occupied as dwelling-house or hotel"—Railways (Valuation for Rating) Act, 1930 (*c.* 24), *s.* 1 (3).

For the purposes of the Railways (Valuation for Rating) Act, 1930, it is provided by s. 1 (3) of the Act that "'Railway hereditament' means . . . any hereditament occupied for the purposes of the undertaking. . . . Provided that no premises occupied as a dwelling-house, hotel or place of public

refreshment . . . shall be deemed to be, or to form part of, a railway hereditament."

A railway company provided for the use of its staff a hostel and canteen, with recreation, reading and writing rooms, and 256 sleeping cubicles each of which was completely separated from the rest and shut in by breeze block walls. The building of the hostel was necessitated by the lack of local accommodation for railway staff who were away from their home stations. The canteen was open to any employee of the company, approximately 52 per cent. of the meals being served to employees who were not occupying sleeping cubicles, but the rest of the premises was open only to men occupying cubicles. Only servants of the company who were away from their home stations were allowed to occupy the cubicles. The occupants had keys to their cubicles, and were charged one shilling a night. It was shown that most of the occupants dwelt in the hostel for substantial periods :—

Held : while the premises were not " occupied as a . . . hotel " within s. 1 (3), there was no justification for attaching to the words " premises occupied as a dwelling-house " a meaning other than their ordinary meaning, and the hostel was occupied by the company, through the occupants of the cubicles, as a dwelling-house.—RAILWAY ASSESSMENT AUTHORITY *v.* GREAT WESTERN RAIL. CO., [1948] A. C. 234 ; [1947] 2 All E. R. 794 ; [1948] L. J. R. 244 ; 112 J. P. 88 ; 63 T. L. R. 635 ; 92 Sol. Jo. 83 ; 46 L. G. R. 1, H. L. [4198]

Rates and rating—Assessment—Club—Members' club—Factors not to be taken into account—Profits from sale of liquor—Absence of alternative accommodation—Monopoly of club facilities.

A members' club owned and occupied certain premises which it had purchased and adapted in 1936, when they were valued for rating purposes at £120 gross. In 1946, in proposing an amendment to the valuation list by increasing the rateable value of the premises to £363 gross, the rating authority urged that there should be taken into consideration (i) that profits were made by the club in trading in alcoholic liquors (*i.e.* by sales in the bar to club members) ; (ii) that it was not, and would not be for some considerable time, possible for the club to find alternative accommodation ; and (iii) that existing clubs in the district had a virtual monopoly of providing club facilities. The valuers advising the assessment committee and the rating authority respectively agreed that apart from those considerations the proper valuation would be £265 gross :—

Held : (i) rent, not profit, was the measure of rateable value, and, while anticipated profit might in certain circumstances be relevant in fixing the rent, the profits from the sale of liquor in the present case was personal to the club and could be made wherever it was housed, and would not, therefore, affect the rent.

(ii) it would be unfair to take into consideration the fact that there were no other similar premises available without also taking into consideration the fact that there was only one hypothetical tenant likely to take the premises, and that, therefore, the club would not be at the mercy of the hypothetical owner, who could not, on that ground, increase the rent payable.

(iii) there was no reason to assume that the absence of any probability of other clubs being formed in the district would cause the club, being a members', and not a proprietary, club, to pay a higher hypothetical rent, and the consideration was irrelevant.—ABEREMAN EX-SERVICEMEN'S CLUB AND INSTITUTE *v.* ABERDARE URBAN DISTRICT COUNCIL, [1948] 1 K. B. 332 ; [1947] 2 All E. R. 877 ; [1948] L. J. R. 357 ; 112 J. P. 100 ; 64 T. L. R. 53 ; 92 Sol. Jo. 73 ; 46 L. G. R. 86, D. C. [4199]

Rates and rating—Valuation list—Amendment—Proposal—Specification of grounds for proposed amendment—Sufficiency—Rating and Valuation Act, 1925 (*c.* 90), *s.* 37 (2).

On March 13, 1947, a rating authority made a proposal for the amendment of their valuation list in respect of an industrial hereditament assessed therein, giving the grounds of the proposal as: "Existing assessment unfair, incorrect and insufficient." The amendment proposed was not stated. But on the column provided therefor in the form used were entered the words: "To be amended." Below the date appeared the words: "A further communication will be sent to you in due course." On October 3, 1947, a letter was sent by the rating authority to the occupier of the hereditament stating that the assessment proposed was: Net annual value £238, apportioned for industrial purposes £218 and for non-industrial purposes £20, the rateable values being £74, £54 and £20. The corresponding figures of the existing assessment were £97, £61, £36, and £51, £15 and £36:—

Held: the "proposal" of March 13, 1947, alone should be regarded and it was invalid because it did not indicate clearly what the rating authority were proposing.

R. v. *Thanet and District Assessment Committee and Kent County Valuation Committee, Ex parte Isle of Thanet Gas Light and Coke Co.*, [1939] 2 K. B. 640; [1939] 2 All E. R. 489, *applied.*—R. *v.* READING ASSESSMENT COMMITTEE, *Ex parte* MCCARTHY E. FITT, LTD., [1948] 1 All E. R. 194; 112 J. P. 127; 64 T. L. R. 191; 92 Sol. Jo. 142; 46 L. G. R. 190. [4200]

General note.—The circumstances of this case were distinguished in *R.* v. *Surrey (Mid-Eastern Area) Assessment Committee, Ex parte Merton and Morden Urban District Council,* [1948] 1 All E. R. 856, *post.*

Rates and rating—Exemptions—Scientific, literary and art societies—Laundries research association—Advice and assistance given to members—Scientific Societies Act, 1843 (*c.* 36), *s.* 1.

The British Launderers' Research Association was established for the promotion of research and other scientific work and also, *inter alia*, "to encourage and improve the education of persons engaged . . . in the laundering industry" and "to disseminate information by giving advice and by the appointment of advisory officers." The courses of instruction included the training of young men in how to run a laundry. There was a system of regular visits to the laundries of members with a view to investigating problems, a fee of £5 5*s.* a day, plus expenses, being charged, producing a revenue, with other fees for advice, of £359, and this had been extended to "development visits" made without charge to discuss with the member how he might make fuller use of the association and by direct observation of the processes and methods in use at his laundry to offer advice and assistance:—

Held: the giving to members of advice, assistance, instruction and training was not merely ancillary or incidental to the scientific purposes for which the association was established, but was a separate purpose of the association of a commercial nature, and, therefore, the association was not "instituted for purposes of science . . . exclusively," within the meaning of s. 1 of the Scientific Societies Act, 1843, and was not exempt from rates.

Per HUMPHREYS, J.: to bring itself within the exemption the society must have one purpose only, *viz.*, the purpose of promoting science. An institution which also contemplates some other, though altogether subsidiary, object cannot claim the benefit of the exemption, but, if the society is proved to have been instituted for the purpose of science exclusively, the society will not lose its right to exemption merely because, in the attainment

of that object, it is found convenient or useful to do acts or take steps which will benefit the members of the society in the pursuit of their trade or industry.

Principles enunciated in Inland Revenue Comrs. v. *Forrest* (1890), 15 App. Cas. 334, *applied*.—BRITISH LAUNDERERS' RESEARCH ASSOCN. *v.* CENTRAL MIDDLESEX ASSESSMENT COMMITTEE AND HENDON RATING AUTHORITY, [1948] 1 All E. R. 277; 112 J. P. 183; 92 Sol. Jo. 168; 46 L. G. R. 194; *affirmed on appeal*, [1949] 1 All E. R. 21, C. A. [4201]

Rates and rating—Rateable occupation—Liability for rates—Dwelling-house—Owner occupier removed to mental institution—Order of master in lunacy authorising wife to occupy house rent free on payment of rates—Wife not party to order, but continuing to occupy house with knowledge thereof.

The owner and occupier of a house became insane in 1944 and was removed to a mental institution, but his wife continued to reside in the house. On April 3, 1946, a master in lunacy made an order appointing the county public assistance officer receiver of the husband's estate and declaring (*inter alia*) that the wife should be allowed the use and occupation, rent free, of the house and furniture, but that she was to pay the rates and taxes out of her own money. The order was made without notice to the wife and she objected to some of its terms, but continued to live in the house. In the rate for the year ending March 31, 1947, the husband was rated as the occupier of the house, but on April 15, 1947, the rating authority amended the rate by adding the wife as joint occupier with the husband, and in the rate made on April 28, 1947, for the year ending March 31, 1948, the husband and wife were rated as joint occupiers :—

Held: although the order of the master in lunacy was not binding on the wife, since she was no party to it, her occupation of the dwelling-house after the date of the order must be regarded as rateable occupation, because she continued to occupy the house in the knowledge that the husband was not in occupation and was not to be treated as in occupation.—ROBINSON *v.* TAYLOR, [1948] 1 K. B. 562; [1948] 1 All E. R. 291; [1948] L. J. R. 1585; 112 J. P. 170; 64 T. L. R. 116; 92 Sol. Jo. 112; 46 L. G. R. 146; 41 R. & I. T. 62, D. C. [4202]

Rates and rating—Exemption—Lands belonging to a vicarage—Exemption from parochial taxes under Inclosure Act—Exemption from general rates imposed by Rating and Valuation Act, 1925—*Rating and Valuation Act*, 1925 (*c.* 90), *ss.* 2 (1), (2), (3), 64 (1) (*b*).

By a local Act, the Ramsbury Inclosure Act, 1777, it was provided that all the lands belonging to the vicarage of Ramsbury " shall be and for ever remain free from and discharged of all parochial taxes and duties whatsoever so long as the vicar for the time being " should perform the offices of the church for certain of the poor parishioners " without fee or reward." The question arose whether this exemption operated to exempt lands of the vicarage from the general rate levied under the Rating and Valuation Act, 1925, s. 2, and, if so, whether the exemption applied to land which had been let on a lease for 999 years to the rural district council :—

Held: a special exemption, expressed to be perpetual and granted by a local and personal Act to the owner of a particular piece of land, could not be abrogated or impaired by a subsequent statute unless it was addressed in plain language to land: *generalia specialibus non derogant*; there was no such special cancellation or abrogation in the Act of 1925, but, on the contrary, s. 64 (1) (*b*) preserved " any exemption from or privilege in respect of rating conferred by any local Act " on the occupiers of a particular hereditament; and the exemption conferred by the Act of 1777 still held good with regard to all the land belonging to the vicarage, including that let on the 999 years' lease.

Decision of the Divisional Court, [1947] 1 All E. R. 820, *affirmed*.—WILTSHIRE COUNTY VALUATION COMMITTEE *v.* MARLBOROUGH AND RAMSBURY RATING AUTHORITY AND ORCHARD; SAME *v.* BOYCE, [1948] 2 K. B. 125; [1948] 1 All E. R. 694; [1948] L. J. R. 1135; 112 J. P. 212; 64 T. L. R. 179; 92 Sol. Jo. 219; 46 L. G. R. 165, C. A. [4203]

Rates and rating—Valuation—Plant and machinery—"Unit basis"—"Contractor's theory"—Blast and melting furnaces and coke ovens—Obligation to repair—Movability—Tilting furnaces—Gas and blast mains—Rating and Valuation Act, 1925 (*c.* 90), *s.* 22 (1) (*b*)—*Plant and Machinery* (*Valuation for Rating*) *Order*, 1927 (*S. R. & O.*, 1927, *No.* 480), *Sched.*, *class* (4).

A rating authority made a proposal to raise the assessment of the respondent's iron and steel works to £80,327 net annual value and £20,082 rateable value, and the proposal was confirmed by the assessment committee. On appeal to Quarter Sessions the assessment was reduced to £58,000 net annual value and £14,500 rateable value. The rating authority and the assessment committee appealed against the substituted assessment on the grounds that the recorder was wrong (i) in reducing the assessment by £6,090 net annual value in respect of four blast furnaces, two fixed steel melting furnaces and sixty-nine coke ovens; (ii) in holding that five tilting melting furnaces, certain gas mains and hot and cold blast mains were not rateable. The tilting furnaces each resembled a large bath thirty feet long and eighteen feet wide weighing over three hundred tons. They were made of steel plates and joists, bolted, riveted and welded together on site, and were lined with brickwork to a considerable thickness. They rested by their own weight on steel rollers, resting on curved roller paths which were themselves supported on concrete piers. The gas and blast mains consisted of 13,000 ft. of steel piping made up of twenty foot lengths, bolted together on site, and resting on, but not attached to, steel vertical supports or metal bridge structures at a height of from ten feet to thirty-five feet from the ground. The external diameter of the mains varied from twenty inches to ninety-six inches, and the hot blast mains were lined with brickwork. It appeared from the Case, that the recorder accepted in their entirety the capital values contained in the valuation made on behalf of the rating authority, and he also accepted the percentages by which, adopting the "contractor's theory" of valuation, the net annual value proposed for the hereditament had been reached. The recorder, however, did not adhere to that theory of valuation when determining the value of the blast furnaces, melting furnaces and coke ovens because they were "short lived", but he adopted instead the "unit basis" of valuation, whereby he assumed a net annual value in respect of each unit. The rating authority argued that the works ought to have been valued as one entire hereditament, and to treat any particular plant as a separate hereditament was to err in law and, further, that as, in conformity with the Rating and Valuation Act, 1925, s. 22 (1) (*b*), the valuation on the "contractor's theory" must be assumed to take into account the obligation to repair and maintain the hereditament, including the short-lived plant, that obligation would be taken twice into account by the further reduction resulting from the method adopted by the recorder:—

Held: (i) it was clear from the Case that the recorder never had in mind more than one hereditament, but that, in arriving at the value of that hereditament, he preferred to consider the blast furnaces, melting furnaces and coke ovens on the "unit basis" rather than on the "contractor's theory", and, in so doing, he was not wrong in law.

(ii) the question whether the obligation to repair and maintain had been taken twice into account was one of fact, and the appeal could only succeed if it were shown that the recorder erred in law.

(iii) the recorder was wrong in applying the test of movability to decide the rateability of the tilting furnaces and gas and blast mains, and both the furnaces and the mains were " in the nature of a building or structure " within the meaning of class 4 of the schedule to the Plant and Machinery (Valuation for Rating) Order, 1927, and, therefore, rateable.

Observations of Lord ESHER, M.R., and LINDLEY, L.J., in *Tyne Boiler Works Co.* v. *Longbenton Overseers* (1886), 18 Q. B. D. 81, 91, 94, *applied.*—CARDIFF RATING AUTHORITY *v.* GUEST KEEN BALDWINS IRON AND STEEL CO., LTD., [1948] 1 All E. R. 830 ; 112 J. P. 262 ; 64 T. L. R. 314 ; 92 Sol. Jo. 298 ; 46 L. G. R. 267 ; *affirmed in principle, but appeal allowed in part,* [1949] 1 All E. R. 27, C. A. [4204]

Rates and rating—Valuation list—Amendment—Proposal—Specification of grounds for proposed amendment—" Person aggrieved "—Rating and Valuation Act, 1925 (*c.* 90), *s.* 37 (1), (2).

A rating authority made a proposal for the amendment of the valuation list by increasing the assessment of a hereditament which was treated as wholly industrial, stating in the proposal form : " The proposed amendment is supported upon the following grounds : That the present assessment is insufficient, incorrect and unfair." The existing assessment was stated, and notice was given that : " The precise assessment desired will be notified at a later date." The assessment committee declined to entertain the proposal on the ground that (*a*) the proposal was bad because it did not give the information required by the Rating and Valuation Act, 1925, s. 37 (2), and (*b*) the rating authority had not considered the particular premises, but had merely come to the general conclusion that industrial buildings of the type in question in the locality were assessed at too low figures, and, therefore, the authority could not be a " person aggrieved " within s. 37 (1) :—

Held : (i) it was not necessary to state on the proposal form the amount of the increase desired, nor was it necessary to indicate that the proposed amendment was not due to part of the premises being apportioned as non-industrial.

R. v. *West Norfolk Assessment Committee, Ex parte Ward* (1930), 94 J. P. 201, *followed.*

R. v. *Reading Assessment Committee, Ex parte McCarthy E. Fitt, Ltd.,* [1948] 1 All E. R. 194, *ante, distinguished.*

(ii) the conclusion that all properties of a particular type in its locality were, or might be, undervalued was sufficient to make the rating authority a " person aggrieved."—R. *v.* SURREY (MID-EASTERN AREA) ASSESSMENT COMMITTEE, *Ex parte* MERTON AND MORDEN URBAN DISTRICT COUNCIL, [1948] 1 All E. R. 856 ; 112 J. P. 291 ; 64 T. L. R. 316 ; 92 Sol. Jo. 298 ; 46 L. G. R. 279 ; 41 R. & I. T. 244. [4205]

Rating—Beneficial occupation—Structures erected for purpose of carrying out works contract—Temporary structures erected, and used, by contractors on site of aerodrome under construction—Rating and Valuation Act, 1925 (*c.* 90), *s.* 37 (10).

Contractors engaged on the construction of an aerodrome erected on a part of the site a number of buildings and other structures for the purpose of carrying out the contract. The structures comprised office accommodation for a supervisory staff of from seventy-five to a hundred persons and a workmen's canteen (erected in compliance with the requirements of the contract), garages, carpenters' shop, transport and weigh-bridge huts and concrete mixing plants. The construction of the aerodrome started in June, 1946, and was not expected to be finished before March, 1948, and it had not yet come into occupation. The structures in question were erected in June to October, 1946, and were in use :—

Held: the structures constituted a new hereditament which had come into occupation by the contractors; that the occupation was beneficial occupation since the contractors were occupying the site as licensees to enable them to carry out the contract; and, therefore, that they were in rateable occupation of the hereditament.

Observations of Lord RUSSELL OF KILLOWEN in *Westminster Corpn.* v. *Southern Rail. Co., Railway Assessment Authority and W. H. Smith & Son, Ltd.*, [1936] 2 All E. R. 322, 329, *applied.*—JOHN LAING & SON, LTD. *v.* KINGSWOOD ASSESSMENT AREA ASSESSMENT COMMITTEE, [1948] 2 K. B. 116; [1948] 1 All E. R. 943; [1948] L. J. R. 1619; 112 J. P. 304; 64 T. L. R. 407; 46 L. G. R. 321, D. C. [4206]

Rates and Rating—Valuation list—Amendment—Proposal—Specification of grounds for proposed amendment—Rating and Valuation Act, 1925 (*c.* 90), *s.* 37 (2) (*b*).

The Rating and Valuation Act, 1925, s. 37, provides: "(1) Any person (including the county valuation committee and any local authority) who is aggrieved by the incorrectness or unfairness of any matter in the valuation list for the time being in force . . . may make in manner provided by this section a proposal for the amendment of the list (in this section referred to as 'a proposal') . . . (2) Every proposal made under this section must—(*a*) be made in writing . . . (*b*) specify the grounds on which the proposed amendment is supported."

A rating authority made a written proposal for the consideration of the assessment committee, sending a copy to the occupier of the two hereditaments with which the proposal was concerned. The proposal stated that the rating authority was "aggrieved by the incorrectness or unfairness of the valuation and assessment of each hereditament in the valuation list." The Schedule stated the amounts of the existing and the proposed valuations, and opposite the words "Grounds of proposal" on the form used were the words "Revised assessments." It was contended that the proposal was invalid under s. 37 (2) because it did not specify the grounds on which the proposed amendments were supported:—

Held: the Schedule made clear the respect and extent to which it was alleged that the existing valuations were incorrect or unfair and, therefore, the proposal satisfied s. 37 (2) (*b*).

Upper Agbrigg Assessment Committee v. *Gartsides* (*Brookside Brewery*), *Ltd. and Bents Brewery Co., Ltd.*, [1945] 1 All E. R. 338, *distinguished.*

Per cur.: the authorities establish that the proposal must give sufficient information to enable the assessment committee to know (1) whether an increase or a decrease is asked for, it not being necessary for the producer to state in his proposal the precise figure to which the relevant valuation should be increased or reduced; (2) to which of the existing valuations in the rate book the proposal refers; and (3) what is the ground of complaint as to the existing valuation on that head. It is enough to state "incorrect or unfair" unless there is some unusual ground, in which case it ought to be specified.—R. *v.* WINCHESTER AREA ASSESSMENT COMMITTEE, *Ex parte* WRIGHT, [1948] 2 K. B. 455; [1948] 2 All E. R. 552; 112 J. P. 373; 64 T. L. R. 404; 92 Sol. Jo. 455; 46 L. G. R. 405, C. A. [4207]

Rates and rating—Recovery of rate—Distress—Application for issue of warrant—Defence—Allegation that assessment increased on defective proposal.

On an application for the issue of a distress warrant for non-payment of rates, the ratepayer cannot set up a defect in the proposal for the amendment of the valuation list, pursuant to which the increased rates were demanded.

Shillito v. *Hinchliffe*, [1922] 2 K. B. 236; 127 L. T. 367, *applied*.—EAST BARNET URBAN DISTRICT COUNCIL *v.* ALLEN TRENARRY (BARNET), LTD., [1948] 2 All E. R. 583; 112 J. P. 390. [4208]

Rates and rating—Assessment—Building occupied in part—Occupation by lodger or tenant—Owner occupying rest of house—Presumption that other occupant a lodger—Right to assess part separately—Rating and Valuation Act, 1925 (*c.* 90), *s.* 23 (1).

The owner of a house, who himself occupied three rooms and a kitchen-scullery on the ground floor and one room on the first floor, let to one M. two rooms and a kitchen-scullery on the first floor, with the right to use, in common with himself, the combined bathroom and W.C. on that floor, the upper landings, the entrance hall, the front and back doors and the yard and outside W.C., to get to which there was a right to go through the down-stairs rooms. The rent included payment for the use of the carpet on the stairs and in the hall and of linoleum in the rooms let, and the owner kept the hall and the landings clean:—

Held: the Rating and Valuation Act, 1925, s. 23 (1) did not give the rating authorities an unfettered discretion in such a case either to divide the house into two hereditaments for rating purposes or to rate it as one hereditament, but, the owner being resident on the premises, there was a presumption that M. was a lodger only, and, there being no evidence to show that the relationship of landlord and tenant had been created between the owner and M., the owner must be deemed to be in occupation of the whole house as a single hereditament and chargeable to rates as such.

Bradley v. *Baylis* (1881), 8 Q. B. D. 195, and *Kent* v. *Fittall*, [1911] 2 K. B. 1102, *applied*.—HELMAN *v.* HORSHAM AND WORTHING AREA ASSESSMENT COMMITTEE, [1949] 1 K. B. 62; [1948] 2 All E. R. 588; 112 J. P. 391; 64 T. L. R. 486; 92 Sol. Jo. 542; 46 L. G. R. 473. [4209]

REGISTRATION OF BIRTHS, DEATHS AND MARRIAGES

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ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL APPOINTING DECEMBER 15, 1947, FOR THE COMING INTO FORCE OF THE BIRTHS AND DEATHS REGISTRATION ACT, 1947

S. R. & O., 1947, *No.* 2463

November 13, 1947

His Majesty, in pursuance of sub-section (2) of section 2 of the Births and Deaths Registration Act, 1947 (which provides that the said Act shall come

into force on the 1st day of January, 1948, or such earlier date as His Majesty may, by Order in Council, appoint) and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, that the said Act shall come into force on the 15th day of December, 1947. [4210]

* * * * *

BIRTH CERTIFICATE (SHORTENED FORM) REGULATIONS, 1947

S. R. & O., 1947, *No.* 2501

November 17, 1947

General note.—As from the date of their coming into operation, these regulations are, in effect, supplemented by S. R. & O., 1947, No. 2675, *post*. The present regulations apply where the entry of birth contains particulars of the place of birth; S. R. & O., 1947, No. 2675 applies where it does not.

The Registrar-General, in exercise of the powers conferred on him by section 44 of the Births and Deaths Registration Act, 1874, as extended by section 1 of the Births and Deaths Registration Act, 1947, and of all other powers enabling him in that behalf, with the consent of the Minister of Health, hereby makes the following regulations:—

1. Citation.—These regulations may be cited as the Birth Certificate (Shortened Form) Regulations, 1947, and shall come into operation on the 15th day of December, 1947. [4211]

2. Interpretation.—(1) In these regulations, unless the context otherwise requires the following expressions have the meanings hereby assigned to them, that is to say:—

"short birth certificate" means a certificate of birth the form of which is prescribed by regulation 3 of these regulations;

"registered person" means a person in respect of whose birth an application for a short birth certificate is made and whose birth is registered or recorded in any register or record in the custody of the Registrar-General or in the custody of a superintendent registrar or registrar;

"the entry" in relation to a registered person means the entry relating to him appearing in any such register or record as aforesaid;

"the superintendent registrar" and "the registrar", in relation to the birth of a registered person mean respectively the superintendent registrar or the registrar of births and deaths having custody of the register in which the birth is registered.

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [4212]

3. Form of certificate.—The form of certificate of birth to be issued by the Registrar-General, a superintendent registrar or a registrar under section 1 of the Births and Deaths Registration Act, 1947, in a case to which these regulations apply, shall be the form appropriate to the case set out in the schedule hereto. [4213]

4. Particulars to be furnished by applicants.—An applicant for a short birth certificate to which these regulations apply shall furnish to the Registrar-

General, the superintendent registrar or the registrar, as the case may be, except where the application is made at the time of registration of the birth, the following particulars relating to the registered person :—

(*a*) his name and surname,
(*b*) the date and place of his birth,
(*c*) the name and surname of his father, and
(*d*) the name, surname and maiden surname of his mother :

Provided that the Registrar-General or the superintendent registrar or the registrar, as the case may be, may dispense with the furnishing of any of the said particulars which in his opinion it is not reasonably practicable for the applicant to furnish. [4214]

5. Manner of compilation of short certificate and particulars to be contained therein.—(1) A short birth certificate to which these regulations apply shall be compiled in accordance with and shall contain the particulars required by paragraphs (2) to (4) of this regulation.

(2) Opposite the words " Name and Surname " in the form of short birth certificate there shall be inserted the registered person's name as recorded in the entry, and immediately thereafter there shall be inserted—

(*a*) where it appears from the entry that the registered person is legitimate, the surname of his father as recorded therein, or if more than one such surname is so recorded, then such one of them as the applicant may request ;
(*b*) where it appears from the entry that the registered person is illegitimate, the surname of his mother as recorded therein, or, if more than one surname is so recorded, or if the birth is registered on the joint information of his mother and father, then the surname to be inserted in the short birth certificate shall be such one of the surnames recorded in the entry as the applicant may request ; so however that no such surname shall be so inserted which appears from the entry not to have been in use at the time when the birth was registered.

(3) Opposite the words " Sex " and " Date of Birth " respectively shall be inserted the particulars thereof in the entry.

(4) Opposite the words " Place of Birth " there shall be inserted—

(*a*) where the registered person was born in England or Wales, the name of the registration district and sub-district in which the birth was registered ;
(*b*) where his birth is recorded as having occurred on a British ship, the words " At sea " followed by the name of the ship on which his birth occurred ;
(*c*) where his birth is recorded as having occurred in an aircraft registered in Great Britain and Northern Ireland, the words " In an aircraft " followed by the particulars as to place of birth in the entry ;
(*d*) in any other case, the particulars as to place of birth in the entry. [4215]

6. Extent of regulations.—These regulations apply to any case in which the entry to which the application relates contains particulars of the place of birth of the registered person. [4216]

SCHEDULE

FORM OF CERTIFICATE FOR ISSUE BY THE REGISTRAR-GENERAL

Name and Surname	
Sex	
Date of Birth	
Place of Birth	

Certified to have been compiled from records in the custody of the Registrar-General. Given at the General Register Office, Somerset House, London, under the Seal of the said Office, the day of 19 .

FORM OF CERTIFICATE FOR ISSUE BY A SUPERINTENDENT REGISTRAR

Name and Surname	
Sex	
Date of Birth	
Place of Birth	

I,.....Superintendent Registrar for the Registration District of.....do hereby certify that the above particulars have been compiled from an entry in a Register in my custody.

Witness my hand this day of 19 .

.....

Superintendent Registrar.

FORM OF CERTIFICATE FOR ISSUE BY A REGISTRAR

Name and Surname	
Sex	
Date of Birth	
Place of Birth	

I,.....Registrar of Births and Deaths for the Sub-District of.....in the Registration District of.....do hereby certify that the above particulars have been compiled from an entry in a Register in my custody.

Witness my hand this day of 19 .

.....

Registrar of Births and Deaths.

* * * * [4217]

BIRTH CERTIFICATE (SHORTENED FORM) (NO. 2) REGULATIONS, 1947

S. R. & O., 1947, *No.* 2675

December 8, 1947

General note.—These regulations, in effect, supplement the provisions of S. R. & O., 1947, No. 2501, *ante*. Those regulations apply where the entry of birth contains particulars of the place of birth, and the present regulations apply where it does not.

The Registrar-General, in exercise of the powers conferred on him by section 44 of the Births and Deaths Registration Act, 1874, as extended by section 1 of the Births and Deaths Registration Act, 1947, and of all other powers enabling him in that behalf, with the consent of the Minister of Health, hereby makes the following Regulations :—

1. Citation.—These regulations may be cited as the Birth Certificate (Shortened Form) (No. 2) Regulations, 1947, and shall come into operation on the 15th day of December, 1947. [4218]

2. Interpretation.—(1) In these regulations, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them, that is to say :—

" short birth certificate " means a certificate of birth the form of which is prescribed by regulation 3 of these regulations ;

" registered person " means a person in respect of whose birth an application for a short birth certificate is made and whose birth is registered or recorded in any register or record in the custody of the Registrar-General ;

" the entry " in relation to a registered person means the entry relating to him appearing in any such register or record as aforesaid.

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [4219]

3. Form of certificate.—The form of certificate of birth to be issued under section 1 of the Births and Deaths Registration Act, 1947, in a case to which these regulations apply, shall be the form set out in the schedule hereto. [4220]

4. An applicant for a short birth certificate to which these regulations apply shall furnish to the Registrar-General the following particulars relating to the registered person :—

(*a*) where the registered person has been adopted under the Adoption of Children Act, 1926, and the certificate is to be in respect of him as a person so adopted—

(i) his name and surname ;

(ii) the date of his birth ;

(iii) the name and surname of his adopter, or, as the case may be, his adopters, under the said Act ; and

(iv) the date upon which, and the name of the Court by which, the order authorising his adoption under the said Act was made ;

(*b*) in any other case—

(i) the name and surname of the registered person ;

(ii) the date of his birth ;

(iii) the name and surname of his father ;

(iv) the name, surname and maiden surname of his mother ; and

(v) the place at which his birth was registered :

Provided that the Registrar-General may dispense with the furnishing of any of the said particulars which in his opinion it is not reasonably practicable for the applicant to furnish. [4221]

5. Manner of compilation of short certificate and particulars to be contained therein.—(1) A short birth certificate to which these regulations apply shall be compiled in accordance with and shall contain the particulars required by paragraphs (2) and (3) of this regulation.

(2) Where—

(*a*) the registered person is a person to whom the provisions of paragraph (*a*) of regulation 4 apply, there shall be inserted in the form of short birth certificate opposite the words "Name and Surname" the registered person's name as recorded in the entry, and immediately thereafter there shall be inserted the surname of his adopter or adopters as recorded in the entry, or if more than one such surname is so recorded, then such one of them as the applicant may request;

(*b*) the registered person is a person to whom the provisions of paragraph (*b*) of regulation 4 apply, there shall be inserted in the form of short birth certificate opposite the words "Name and Surname" the registered person's name as recorded in the entry.

(3) Opposite the words "Sex" and "Date of Birth" respectively shall be inserted the particulars thereof in the entry. [4222]

6. Extent of regulations.—These regulations apply to any case in which the entry to which the application relates does not contain particulars of the place of birth of the registered person. [4223]

SCHEDULE

FORM OF CERTIFICATE FOR ISSUE BY THE REGISTRAR-GENERAL

Name and Surname	
Sex	
Date of Birth	

Certified to have been compiled from records in the custody of the Registrar-General. Given at the General Register Office, Somerset House, London, under the Seal of the said Office, the day of 19 . [4224]

* * * * *

REGULATED INDUSTRIES, TRADES AND BUSINESSES

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ORDERS, CIRCULARS AND MEMORANDA

PETROLEUM-SPIRIT (CONVEYANCE) REGULATIONS, 1948

S.I. 1948 *No.* 1758

July 27, 1948

In pursuance of the power conferred on me by section six of the Petroleum (Consolidation) Act, 1928, I hereby make the following Regulations :—

1. For paragraph (1) of Regulation 9 of the Petroleum-Spirit (Conveyance) Regulations, 1939 (which relates to the conveyance of petroleum-spirit by road and provides that the spirit shall be conveyed in strong metal vessels in good condition and securely closed so as to prevent leakage), there shall be substituted the following paragraph :—

" (1) The petroleum-spirit shall be conveyed in a vessel which is securely closed so as to prevent leakage through the opening and which is either—

(*a*) of metal and in good condition, or

(*b*) of glass, earthenware or other material of such a nature that it will not permit leakage and is otherwise suitable for the purpose, and in such a case each vessel shall—

(i) not contain more than one pint of petroleum spirit, and

(ii) be packed in sawdust, wood chippings or other suitable material, in quantity sufficient to prevent movement or breakage, inside an outer container of metal, wood, fibre or cardboard which is capable of withstanding the ordinary risks of handling and transport and is securely closed during conveyance,

and any outer container in which any such vessel is packed shall not contain in the aggregate more than three gallons of petroleum-spirit." [4225]

2. These Regulations may be cited as the Petroleum-Spirit (Conveyance) Regulations, 1948, and shall come into operation on the second day of August, 1948. [4226]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Regulations, but is intended to indicate their general purport.*)

Under Regulation 9 *of the Petroleum-Spirit* (*Conveyance*) *Regulations*, 1939, *petroleum-spirit may, in the circumstances in which that Regulation applies, be conveyed by road only in strong metal vessels. The amendment made by these Regulations permits the conveyance in vessels of other suitable materials when the vessels contain not more than one pint each and are securely packed into an outer container so that there are not more than three gallons in the aggregate in each outer container.*

CASES

Coal—Control—Distribution—" Licensed merchant "—Unincorporate body —Committee registered as licensed merchant—Agent of committee—Interpretation Act, 1889 (*c.* 63), *s.* 19—*Coal Distribution Order*, 1943 (*S. R. & O.*, 1943, *No.* 1138), *arts.* 2, 78.

The appellant was the secretary of a committee of workmen and employees at a steelworks which was formed to supply its members with coal

for domestic use. On the appellant's application, the committee was registered as coal merchants and a certificate of registration was issued in its name. The appellant, acting in the course of his employment, ordered coal to be supplied to premises which were not within the terms of the committee's authorisation. The appellant was charged that, being a licensed merchant, he unlawfully supplied coal to those premises contrary to the Coal Distribution Order, 1943, art. 2. It was not disputed that, if the appellant was a licensed merchant, he was guilty of the offence charged :—

Held : by virtue of the Interpretation Act, 1889, s. 19, the committee was a " person " within the meaning of art. 78 of the Order of 1943, and was, therefore, a licensed merchant within that article and art. 2 of the Order, and, under the terms of art. 78, the appellant, as the committee's agent, was also a licensed merchant for the purposes of the Order.

Per cur. : it is inconvenient to register under the Order an unincorporate body as such. It would be preferable that in the case of a committee, a club, or other association, one or, perhaps, two members " and others trading as aforesaid," or the manager, or other officer, should be registered as the licensed merchant.—DAVEY *v.* SHAWCROFT, [1948] 1 All E. R. 827 ; 112 J. P. 266 ; 64 T. L. R. 289 ; 92 Sol. Jo. 297 ; 46 L. G. R. 272. [4227]

ROAD TRAFFIC

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STATUTES

THE EXPIRING LAWS CONTINUANCE ACT, 1947

(11 Geo. 6, c. 1)

PRELIMINARY NOTE

The Expiring Laws Continuance Act, 1947, an annual Act which received the Royal Assent on December 10, 1947, continues in force for a further period of one year (in one case for six months) a number of enactments which would otherwise expire on various dates.

The enactments specified in Part I of the Schedule thereto, which include s. 1 of the Road Traffic Act, 1934 (27 Halsbury's Statutes 534), and were limited to expire on December 31, 1947, are continued in force until December 31, 1948, and by the Expiring Laws Continuance Act, 1948 (12 & 13 Geo. 6, c. 3), *inter alia*, the said section was further continued in force until December 31, 1949.

The last previous Act of this nature was the Expiring Laws Continuance Act, 1946 (39 Halsbury's Statutes 790). [4228]

An Act to continue certain expiring laws. [4229]

[10th December 1947.]

1. Continuance of Acts in Schedule.—(1) The Acts mentioned in Parts I and III of the Schedule to this Act shall, to the extent specified in column three of those Parts, be continued until the thirty-first day of December, nineteen hundred and forty-eight. [4230]

(2) The Act mentioned in Part II of the Schedule to this Act shall, to the extent specified in column three of that Part, be continued until the thirty-first day of March, nineteen hundred and forty-nine. [4231]

(3) Any unrepealed enactments which are temporary in their duration shall, in so far as they amend or affect any enactment continued by the foregoing provisions of this Act, be continued in like manner as that enactment whether they are mentioned in the Schedule to this Act or not. [4232]

General note.—Parts II and II of the Schedule, *post*, are not relevant to this title.

2. Short title and application to Northern Ireland.—(1) This Act may be cited as the Expiring Laws Continuance Act, 1947. [4233]

(2) This Act shall apply to Northern Ireland in so far as it deals with any enactment relating to a subject with respect to which the Parliament of Northern Ireland has not power to make laws, but, save, as hereinbefore provided, shall not apply to Northern Ireland. [4234]

Section 1 SCHEDULE

PART I

1. Session and Chapter	2. Short Title	3. How far Continued	4. Amending Acts
(5) *	* *	*	*
24 & 25 Geo. 5, c. 50.	The Road Traffic Act, 1934.	Section one ..	1 Edw. 8 & 1 Geo. 6, c. 5.
*	* *	*	*

[4235]

General note.—For the Road Traffic Act, 1934, see 27 Halsbury's Statutes 534. S. 1 of that Act, which provides for general speed limit of thirty miles per hour in built-up areas, is continued until December 31, 1948 (s. 1 (1), *ante*). The section is further continued until December 31, 1949, by the Expiring Laws Continuance Act, 1948 (12 & 13 Geo. 6, c. 3). In their application to trunk roads the provisions of the section have been modified by the Trunk Roads Act, 1936 (29 Halsbury's Statutes 183).

MOTOR SPIRIT (REGULATION) ACT, 1948

(11 & 12 Geo. 6, c. 34)

PRELIMINARY NOTE

This Act, which received the Royal Assent on May 28, 1948, and came into force with effect from June 1, 1948, implements the proposals of the Russell Vick Committee on Evasions of Petrol Rationing Control (Cmd. 7372).

The Committee recommended that petrol should be divided into " commercial " and " private " petrol and that the former should be coloured red by introducing a red dye to distinguish it from private petrol which is dyed yellow. Commercial coupons should be issued to commercial users, and private coupons to private users, and a commercial coupon should not be used for private petrol or *vice versa*.

Petrol retailers should be compelled to mark their pumps "Commercial" or "Private" according to the type of petrol supplied therefrom, and severe penalties were suggested for breaches of the system recommended.

The Government accepted the principal proposals of the Committee; accordingly, the division of petrol into commercial spirit and private spirit took full effect from June 1, 1948, and under the Defence (General) Regulations, 1939, S. R. & O., 1939, No. 927, as amended, all garage proprietors were required to mark their pumps "Commercial" or "Private" by May 18, 1948, from which date the Petroleum Board started delivery of red commercial petrol to commercial pumps (Motor Spirit (Regulation) Order, 1948, S.I. 1948 No. 1020, *post* (now expired).

Apart from the division of petrol into these two categories the Act is concerned with the imposition of severe penalties for failure to comply with the obligations imposed. Ss. 1, 2 and 3 create a series of new criminal offences falling into three main groups:

(*a*) Offences by retailers of motor spirit;
(*b*) Offences by private motorists; and
(*c*) Other offences.

Each of these will be dealt with in turn, and it may be observed at this stage that in all the cases discussed, except where otherwise stated, proceedings are only to be taken *either* by a constable *or* by or with the consent of the Minister of Fuel and Power or the Director of Public Prosecutions (s. 9).

In the first place, by s. 1 of the Act the retailer is required to mark his pumps with the word "Commercial" or "Private" as the case may be, and it is an offence for him to supply motor spirit from a pump not so marked. Next, it is an offence for him to have commercial petrol in a pump not designated as "Commercial," and it is a further offence for him to supply commercial petrol into the tank of a private motor vehicle. The expression "private motor vehicle" is defined in reg. 1 of the Motor Spirit Regulations, 1948 (S.I. 1948 No. 1127), *post*, as substituted with effect from December 1, 1948, by reg. 2 of the Motor Spirit (Amendment) Regulations, 1948 (S.I. 1948 No. 2442). Each of these Instruments was made under s. 12 of the Act.

Under s. 2, relating to offences by the private motorist, the first offence is to have commercial petrol in the tank of a private motor vehicle, and the owner of the vehicle and the person then in charge of it (if a different person) will each be liable. The second offence is the acquisition of commercial petrol for use in a private motor vehicle.

By s. 3 offences of a consequential type are created and may be committed by individuals other than retailers of motor spirit or private motorists. It is an offence for anyone to put commercial petrol into a retail pump not marked "Commercial." Secondly, it is an offence for anyone to put commercial petrol into the tank of a private motor vehicle in circumstances which do not come within s. 1, *supra*; this provision would catch such persons as practical jokers or maliciously minded individuals who might inject commercial petrol into the tank of a private car, and also garage hands serving petrol. Thirdly, it is an offence for any person to tamper with the ingredients of commercial petrol, or to add the prescribed ingredients to any motor spirit except as may be prescribed by the Act and regulations made thereunder, *e.g.* on the analysis or testing of motor spirit by a person authorised by the Minister of Fuel and Power or the Petroleum Board for the purpose of detecting an offender.

Finally, if a person who discovers commercial petrol in the tank of his private motor vehicle fails to remove it from the tank as soon as practicable he commits an offence (s. 3 (2)).

It follows from the preceding rules that once the police have discovered the presence of the wrong petrol in a pump or in the tank of a private motor vehicle, there is a *prima facie* case against the offender, and the Act places the onus of proof on him to establish his innocence.

There are special defences available to retailers of motor spirit. First, where a retailer of motor spirit is charged with the offence of having commercial petrol in a pump not marked "Commercial" he may show in defence that:

(*a*) The commercial petrol was put into the pump without his consent or connivance *or* without his knowing that it was commercial petrol, *and*

(*b*) That he exercised all reasonable diligence to prevent the petrol being put into the pump, *and*

(*c*) If he afterwards discovered its presence in the pump that he forthwith took all reasonable steps to secure either (i) removal of the petrol or (ii) the marking of the pump with the word " Commercial."

The clause in question is not without its difficulties of construction.

The object of this defence is to protect the retailer from suffering a penalty where he had no wrongful intention in the matter and has not been culpably careless.

In the second place, where the retailer is charged with supplying commercial petrol into the tank of a private motor vehicle it will be a defence for him to prove :

(*a*) That the commercial petrol was supplied without his consent or connivance and that he exercised all reasonable diligence to prevent such supply ; *or alternatively*

(*b*) That the person who put the petrol into the tank of the vehicle (whether he was the person charged or another) acted in the reasonable belief that it was not a private motor vehicle.

The definition of the expression " private motor vehicle " has already been referred to, and these defences provide, *inter alia*, for protection in respect of the garage hand or someone in charge of a pump who might be misled or possibly tricked into putting red petrol into a car which he thought was a commercial vehicle but which was in fact a private motor vehicle.

Next, special defences are available to private motorists. A private motorist charged with having commercial petrol in the tank of his private car may set up as a defence :

(*a*) That he was not present or in charge of the vehicle when the petrol was put into the tank and that it was put into the tank without his consent or connivance ; *or alternatively*

(*b*) That, being " present or in charge of the vehicle when the petrol was put into the tank," he did not know that it was commercial petrol and exercised all reasonable diligence to prevent such petrol being put into the tank.

On the other hand, any person charged with acquiring commercial petrol for use in a private motor vehicle may prove :

(*a*) That the petrol was acquired without his knowing that it was commercial petrol, *and*

(*b*) That he did not neglect to take any step which in the circumstances he might reasonably have been expected to take to prevent the acquisition of the petrol.

Finally, certain special defences are applicable in other cases. Where a person is charged with putting commercial petrol into the tank of a private motor vehicle in circumstances which do not come within the scope of s. 1, it is a valid defence for him to prove that he acted in a reasonable belief that the vehicle was not a private motor vehicle. This would cover, for example, the case of the garage employee who made a *bona fide* mistake as to the category of vehicle he refilled. There is also a general saving from offences as to tampering with the petrol itself in relation to acts of authorised agents of the Ministry of Fuel and Power or in respect of the enforcement of the Act (s. 3 (1), provisos).

If, however, these various defences fail, the Act provides for severe penalties of two kinds : first, penalties of disqualification, which are automatic ; and secondly the more usual provisions for fine or imprisonment or both, which are at the discretion of the court. In each case the disqualifications apply where a person is convicted and by s. 13 (2) of the Act " conviction " is given the widest interpretation.

Under s. 4 the retailer convicted of having commercial petrol in a pump not so marked under s. 1 (2) (*a*) of the Act, is automatically disqualified for a period of twelve months after conviction from carrying on, directly or indirectly, at the offending installation the business of dealing in motor spirit. In addition, the convicting court has a discretion to order forfeiture of any motor spirit belonging to the offender at the premises.

If on the other hand he is convicted, under para. (*b*) of the same subsection, of supplying commercial petrol to a private motor vehicle he is disqualified for a similar period from carrying on at the offending installation the business of dealing

in commercial petrol, though he can still deal in private petrol. Here there is a discretion for the court to order forfeiture of any commercial petrol (not "any motor spirit" as in the previous case) belonging to the offender at the premises.

If convicted under s. 3 (1) (*c*) or (*d*), of removing from commercial petrol any of the prescribed ingredients or of adding any ingredients to commercial petrol with a view to neutralising the prescribed ingredients or of aiding or abetting any such offence, he is disqualified for the same period from carrying on the business of dealing in both commercial and private petrol at *any* premises, and not merely at the offending installation, and *any* motor spirit belonging to the offender may, if the court thinks fit, be ordered to be forfeited.

Provision is made by s. 4 (6) for the court to suspend the operation of the disqualification pending the hearing of an appeal against conviction under any of the three heads before mentioned. It was recognised that the disqualification of a retail dealer owning an isolated installation in a remote area might work hardship on innocent owners of vehicles, so that sub-s. (7) of the same section allows the court in such circumstances a discretion to order that the suspension shall not apply, a severe penalty of cash forfeiture being imposed in its place.

Under s. 5, a number of disqualifications and special penalties are imposed on the private motorist. If, being the owner of the car, a person is convicted of any offence under s. 2, neither he nor any other person may hold a licence in respect of that car for twelve months after the conviction. If, on the other hand, he is not the owner of the car at the time of conviction (*e.g.* where between the commission of the offence and the hearing he has sold it to a third party) he automatically forfeits half the value of the car. Provision is further made under this section for a convicted motorist who owns the car at the time of conviction to produce his registration book to the court for endorsement of the conviction and to surrender the licence held by him in respect of that vehicle. A provision requiring the court to forward the licence with particulars of the disqualification to the relevant registration authority is designed to stop the issue of duplicate licences to unscrupulous applicants. In addition, the offender is prohibited from holding a driving licence for twelve months after conviction, and due provision for enforcing this disqualification is made. The usual effect is therefore that the offending motorist and the "offending" car are taken off the road for twelve months. Innocent prospective purchasers of a car can, however, protect themselves by inspecting its registration book which will record any disqualification.

In order to avoid undue hardship to a motorist who is in doubt about selling his car because of a possible prosecution under the Act, s. 5 (8) provides that the provisions for automatic disqualification are not to apply unless the motorist has received within twenty-eight days of commission of the offence a warning that prosecution is under consideration or has been served with a summons within three months of the commission of the offence. The ordinary time limit for prosecutions of this kind in a court of summary jurisdiction is six months, though special periods have frequently been laid down for specific types of offence.

S. 6 of the Act relates to appeals against conviction for an offence under s. 2 or for aiding and abetting any such offence. Under the former section, among other provisions, the court concerned or the Appeal Court may in its discretion suspend any disqualifications until an appeal has been decided. When such suspension is allowed the court will return the licences to the accused who, while the appeal is pending, may then use his car in the ordinary way. If the appeal fails, the case will be remitted to the court which heard the original case, upon which event the suspension will come to an end.

Under s. 7, a convicted person who is suffering disqualification, whether as retailer or private motorist, for twelve months may at the expiration of six months apply to the court to remove the disqualification, and if the court, having regard to the circumstances *at the time of the application*, considers there is good reason for doing so, it may remove or shorten the disqualification.

In addition to the automatic penalty of disqualification, additional penalties of fine and imprisonment are applicable under s. 8 of the Act. Where a person convicted of any offence under the Act is a body corporate, the fine that may be imposed is unlimited (s. 8 (3)). Furthermore, in such case every person who at the date of the offence was a director, general manager, secretary or other similar officer of the company, or was purporting to act in any such capacity, also commits an offence, subject to special defences and safeguards (ss. 8 and 9).

S. 10 contains general provisions authorising an officer of police of a rank not lower than that of superintendent and any person authorised by the Minister of Fuel and Power on production of his authority to enter at all reasonable hours any premises, *e.g.* car parks, garages, depots, etc., other than private dwellings, to ascertain if an offence has been committed or in connection with motor spirit on the premises. Similar power is given to take samples of motor spirit on the premises or in a motor vehicle in any public place. It is an offence to obstruct any such person. The special conditions under which the samples are to be obtained are modelled on the provisions of ss. 70 and 80 of the Food and Drugs Act, 1938 (10 Halsbury's Statutes (2nd Edn.) 445, 454).

A certificate signed by an authorised analyst in relation to a test of motor spirit made by him is to be evidence in any proceedings (s. 11), provided a copy thereof has been served on the accused not less than seven days before the trial. But it is open to the accused, not less than three days before the trial or within such further period as the court may allow, to serve notice on the prosecution requiring the personal attendance of the analyst himself, in which case the certificate becomes inadmissible.

S. 12 authorises the Minister of Fuel and Power by statutory instrument to make regulations prescribing anything required to be prescribed by any provision of the Act. In pursuance of this section on May 28, 1948, the Minister made the Motor Spirit Regulations, 1948 (S.I. 1948 No. 1127), *post*, which came into force with effect from June 1, 1948. These regulations were amended as from December 1, 1948, by the Motor Spirit (Amendment) Regulations, 1948 (S.I. 1948 No. 2442), and as from March 17, 1949, by the Motor Spirit (Amendment) Regulations, 1949 (S.I. 1949 No. 406). [4236]

ARRANGEMENT OF SECTIONS

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An Act to create certain offences in connection with the supply and use of motor spirit, and for purposes connected therewith. [4237]

[28th May, 1948.]

1. Offences by retailers of motor spirit.—(1) Every person who carries on the business of supplying motor spirit by retail shall cause all pumps used for the purpose of such supply to be marked in the prescribed manner either with the word "Commercial" or with the word "Private", and if any such person supplies motor spirit by retail from a pump which is not so marked he shall be guilty of an offence. [4238]

(2) If any such person as aforesaid—

(*a*) has in any such pump which is not marked with the word "Commercial" as aforesaid motor spirit which contains any of the prescribed ingredients (hereafter in this Act referred to as "commercial petrol"); or

(*b*) supplies commercial petrol into the tank of a motor vehicle of such class or description as may be prescribed (hereafter in this Act referred to as a " private motor vehicle ") ;

he shall be guilty of an offence :

Provided that it shall be a defence—

(i) for any person charged with the offence mentioned in paragraph (*a*) hereof to prove that the commercial petrol was put into the pump without his consent or connivance or without his knowing that it was commercial petrol, and that he exercised all reasonable diligence to prevent the petrol being put into the pump, and, if he afterwards discovered its presence in the pump, that he forthwith took all reasonable steps to secure the removal of the petrol or the marking of the pump with the word " Commercial " ;

(ii) for any person charged with the offence mentioned in paragraph (*b*) hereof to prove that the commercial petrol was supplied without his consent or connivance and that he exercised all reasonable diligence to prevent such supply or to prove that the person who put the petrol into the tank of the vehicle (whether it was the person charged or another person) acted in the reasonable belief that it was not a private motor vehicle. [4239]

General note.—Note that it is no offence under the section to sell private petrol for a commercial vehicle, though this is subject to administrative control (see 450 H. of C. Official Report 927–8).

Motor spirit.—See reg. 2 (1) of the Motor Spirit Regulations, 1948 (S.I. 1948 No. 1127), *post.*

Pumps.—For definition, see s. 13, *post.*

To be marked in the prescribed manner.—Detailed instructions for the marking of pumps will be found in reg. 5 of the Motor Spirit Regulations, 1948, *post.*

Guilty of an offence.—For disqualifications and penalties, see ss. 4 and 8, *post.*

Any of the prescribed ingredients.—The single prescribed ingredient to be added to motor spirit to make it commercial petrol is diphenylamine (reg. 3 of the Motor Spirit Regulations, 1948, *post*). Note that " red colouring matter of a prescribed description", as in s. 3 (1) (*f*), *post*, is not a " prescribed ingredient".

Private motor vehicle.—This expression is defined by reg. 1 of the Motor Spirit Regulations, 1948, *post*, as substituted with effect from December 1, 1948, by reg. 2 of the Motor Spirit (Amendment) Regulations, 1948 (S.I. 1948 No. 2442).

It shall be a defence.—In the case of both the offences mentioned in this section there is a *prima facie* case established against the person responsible under the Act. Whereas it is the common law rule that in a criminal prosecution the burden of establishing the guilt of the accused lies on the prosecution, in this Act it is necessary for the prosecution to prove only certain preliminary facts, *e.g.* that a retailer has commercial petrol in a private pump, and it is then for the accused to establish his innocence if he can. There is, however, a lighter burden on the defence than the burden laid upon the prosecution at common law. Whereas at common law the prosecution must establish the guilt of the accused " beyond a reasonable doubt", in cases where the statute throws the onus on the defence to prove innocence the accused has done sufficient if he satisfies the Court of the probability and reasonableness of his story (*R.* v. *Carr-Briant*, [1943] K. B. 607 ; [1943] 2 All E. R. 156).

Consent or connivance.—" Consent " in this context appears to mean a full agreement on the part of the party charged with commission of the offence, whilst " connivance " (from the Latin *connivere* (to wink)) indicates that while the party charged need not have given his full consent at least he " turned a blind eye " to what was going on.

Reasonable diligence.—See *The Europa* (1863), 2 New Rep. 194, *per* Dr. LUSHINGTON, at p. 196, and *Re Jenners, Willis* v. *Earl Howe* (1880), 50 L.J. (ch.) 4.

Guilty of an offence.—As to penalties for offences, see s. 8, *post.*

2. Offences by private motorists.—(1) If at any time commercial petrol is present in the tank of a private motor vehicle, the owner of the vehicle and the person (if he is a different person) then in charge of the vehicle shall each be guilty of an offence :

Provided that it shall be a defence for any person charged with such an offence to prove—

(*a*) that he was not present or in charge of the vehicle when the petrol was put into the tank, and that it was put into the tank without his consent or connivance ; or

(*b*) that he was present or in charge of the vehicle when the petrol was put into the tank, but that he did not know that it was commercial

petrol and did not neglect to take any step which in the circumstances he might reasonably have been expected to take to prevent such petrol being put into the tank. [4240]

(2) If any person acquires any commercial petrol for use in a private motor vehicle, he shall be guilty of an offence :

Provided that it shall be a defence for any person charged with such an offence to prove—

(*a*) that the petrol was acquired without his knowing that it was commercial petrol ; and

(*b*) that he did not neglect to take any step which in the circumstances he might reasonably have been expected to take to prevent the acquisition of the petrol. [4241]

Owner.—For definition, see s. 13 (1), *post*. In certain circumstances this may mean the late owner.

Person in charge of the vehicle.—Difficult problems have arisen in other connections where the driver of a car has temporarily gone away leaving another person in the car. Is the latter in charge ? The answer will depend on all the circumstances, including sex and age, whether he can drive, the seat in which he is sitting, the position of the car, the person's relation to the driver, the status of the driver, and the length of his absence.

Guilty of an offence.—For disqualifications and penalties, see ss. 5 to 8, *post*.

It shall be a defence.—As to the burden of proof, see the notes to s. 1, *ante*.

Consent or connivance.—See the notes to s. 1, *ante*.

Commercial petrol.—Motor spirit containing the prescribed ingredient of diphenylamine (see s. 1 and the notes thereto).

3. Other offences.—(1) If any person—

(*a*) puts commercial petrol into a pump used for the purpose of the supply by retail of motor spirit, not being a pump marked in the prescribed manner with the word " Commercial " ;

(*b*) puts commercial petrol into the tank of a private motor vehicle in circumstances which do not make him guilty of an offence under section one of this Act ;

(*c*) removes from any commercial petrol any of the prescribed ingredients ;

(*d*) adds any ingredients to any commercial petrol with a view to neutralising, disguising, or producing any chemical change in, any of the prescribed ingredients ;

(*e*) adds any of the prescribed ingredients to any motor spirit ; or

(*f*) except in such cases and subject to such conditions as may be prescribed, adds to any motor spirit or removes from any commercial petrol any red colouring matter of a prescribed description ;

he shall be guilty of an offence :

Provided that

(i) it shall be a defence for any person charged with the offence mentioned in paragraph (*b*) hereof to prove that he acted in the reasonable belief that the vehicle was not a private motor vehicle ; and

(ii) anything done by a person authorised by the Minister of Fuel and Power or the Petroleum Board or done for the purposes of the enforcement of this Act or in connection with any proceedings in respect of an offence under this Act shall not constitute any such offence as is mentioned in paragraph (*c*), paragraph (*d*), paragraph (*e*) or paragraph (*f*) hereof. [4242]

(2) Where the owner or the person in charge of a private motor vehicle discovers that commercial petrol is in the tank of the vehicle he shall, notwithstanding that the circumstances afford him a good defence to a charge under section two of this Act, take steps, as soon as is reasonably practicable,

to remove the petrol from the tank, and if he fails to do so, he shall be guilty of an offence. [4243]

Commercial petrol.—Motor spirit containing the prescribed ingredient of diphenylamine (see s. 1 and the notes thereto).

Except . . . as may be prescribed.—By reg. 4 of the Motor Spirit Regulations, 1948, *post*, no person is to be guilty of an offence under sub-s. (1) (*f*) of this section by reason only that that person lawfully adds to the motor spirit contained in the tank of any motor vehicle: (*a*) any upper cylinder lubricant; or (*b*) any other motor spirit containing any red dye as therein mentioned, not being commercial petrol.

Red colouring matter of a prescribed description.—Any red dye consisting mainly of diazotised amino-azo-toluene coupled with β naphthol (reg. 4 of the Motor Spirit Regulations, 1948, *post*).

Guilty of an offence.—For penalties, see s. 8, *post*.

It shall be a defence.—As to the burden of proof, see the notes to s. 1, *ante*.

Petroleum Board.—This Board was a trade body comprising high officials and members of the oil industry serving in a voluntary capacity under the control of the Minister of Fuel and Power. With effect from June 30, 1948, the Board was dissolved and its functions were transferred to the Minister of Fuel and Power.

Owner; Person in charge.—See the notes to s. 2, *ante*.

4. Disqualification of retail dealers for twelve months after conviction.—(1) If any person who carries on the business of supplying motor spirit by retail is convicted of the offence mentioned in paragraph (*a*) of subsection (2) of section one of this Act, then, subject as hereinafter provided, he shall not, for a period of twelve months after the conviction, carry on at the premises where the offence occurred the business of acquiring and selling motor spirit, or be concerned in any manner whatsoever, whether directly or indirectly, in the carrying on of such a business at those premises, and the court by which he was convicted may order that any motor spirit at those premises belonging to that person shall be forfeited to the Crown. [4244]

(2) If any such person as aforesaid is convicted of the offence mentioned in paragraph (*b*) of subsection (2) of section one of this Act, then, subject as hereinafter provided, he shall not, for a period of twelve months after the conviction, carry on at the premises where the offence occurred the business of acquiring and selling commercial petrol, or be concerned in any manner whatsoever, whether directly or indirectly, in the carrying on of such a business at those premises, and the court by which he was convicted may order that any commercial petrol at those premises belonging to that person shall be forfeited to the Crown. [4245]

(3) If any such person as aforesaid is convicted of the offence mentioned in paragraph (*c*) or the offence mentioned in paragraph (*d*) of section three of this Act, or of aiding, abetting, counselling or procuring the commission of such an offence, then, subject as hereinafter provided, he shall not, for a period of twelve months after the conviction, carry on at any premises the business of acquiring and selling motor spirit, or be concerned in any manner whatsoever, whether directly or indirectly, in the carrying on of such a business at any premises, and the court by which he was convicted may order that any motor spirit belonging to that person shall be forfeited to the Crown. [4246]

(4) Any person who contravenes any of the preceding provisions of this section shall be guilty of an offence. [4247]

(5) The court by which any such person as aforesaid is convicted of such an offence as is mentioned in any of the first three subsections of this section, shall inform that person of the disability imposed on him by the subsection in question. [4248]

(6) Where any person gives notice of appeal against his conviction for any such offence as is mentioned in any of the first three subsections of this section, the court by which he was convicted or any court of summary jurisdiction for the same petty sessional division or place as that court or the court to which the appeal is to be made may, if it thinks fit, pending the appeal by order suspend the operation of that subsection in relation to that

conviction, and, if it does so and the appeal is dismissed or abandoned, this section shall have effect as if for the references to a period of twelve months after the conviction there were substituted references to a period of twelve months after the dismissal or abandonment of the appeal less the period (if any) between the date of the conviction and the date of the order of the court under this subsection.

For the purposes of this subsection, the bringing of proceedings before the High Court to quash a conviction by order of certiorari shall be deemed to be an appeal. [4249]

(7) Where any person would, by reason of the disability imposed by any of the first three subsections of this section, be prohibited from carrying on the business of acquiring and selling motor spirit, or acquiring and selling commercial petrol, as the case may be, at any premises, and the court by which that person was convicted is satisfied, on his application, that it is expedient in the public interest, by reason that other facilities for acquiring motor spirit or, as the case may be, commercial petrol are not available within a reasonable distance, not being less than five miles by road, of those premises, that he should be permitted to carry on the said business at those premises, the court may direct that the said disability shall not have effect or, in the case of a disability imposed under subsection (3), shall not have effect as respects those premises, and in that case the said person shall, without prejudice to the imposition of any penalty under the following provisions of this Act, forfeit the following sums :—

(*a*) in a case where the disability arises under subsection (1) or subsection (3), the sum of two hundred and fifty pounds for each pump in use at or about the time of the commission of the offence for supplying motor spirit ; or

(*b*) if the disability arises under subsection (2), the sum of one hundred and twenty-five pounds for each pump in use at or about the time of the commission of the offence for supplying commercial petrol ;

and the payment of those sums shall be enforced and they shall be applied in the same manner as a fine imposed by the court. [4250]

Motor spirit.—See reg. 2 (1) of the Motor Spirit Regulations, 1948, *post.*

The business of acquiring and selling motor spirit.—A person convicted is not prevented from carrying on any garage, etc., on the premises at which the offence took place if he can do so without carrying on the business of acquiring and selling motor spirit ; the practical effect is that his petrol pumps (or his commercial pumps, as the case may be) are put out of action for sales for twelve months, reducible to a minimum of six (s. 7 (1), *post*). When the Bill was under discussion in the House of Lords on May 26, 1948, the Lord Chancellor drew the attention of the House to the fact that the wording was "acquiring and selling" and not "acquiring or selling", and he went on to express the view that if what the dealer did was to acquire the spirit not with a view to selling but with a view to using it in some other business, there would be no prohibition under the section (155 H. of L. Official Report 1014).

Is convicted.—For the wide definition of this term, see s. 13 (2), *post.*

Directly or indirectly.—The disqualification not only prevents the person convicted from carrying on his motor spirit business but also from "being concerned in any manner whatsoever, directly or indirectly, in the carrying on of such a business at those premises", the aim being to avoid evasion of the disqualification, *e.g.* by the offender transferring the business to a third party and installing himself as manager.

May order.—Note the discretion allowed to the Court in respect of forfeiture.

Aiding, abetting, counselling or procuring.—Every person who aids, abets, counsels or procures the commission of any offence punishable on summary conviction is liable to conviction, either together with the principal offender or before or after his conviction, and is liable to the same forfeiture and punishment as such principal offender is liable. Proceedings may be taken in the same Court as the principal offender or in that for the place where the aiding and abetting have been committed (Summary Jurisdiction Act, 1848, s. 5 ; 11 Halsbury's Statutes 275). As to the form of charge, see *Bowker* v. *Premier Drug Co.*, [1928] 1 K. B. 217, and Stone's Justices' Manual, 80th Edn., at pp. 68–69, and the cases there cited.

Guilty of an offence.—For penalties, see s. 8 (2), *post.*

Less the period, etc.—That is to say, the offender is to be given credit for any period between the conviction and the suspension, during which the disqualification would, of course, operate.

By order of certiorari.—*Certiorari* lies for the removal to the King's Bench Division of judicial acts of inferior courts and authorities. It is appropriate for quashing convictions because of defects in or informality of the proceedings, improper conduct of the court below

and excess of jurisdiction. For the form and mode of application, see R. S. C., Ord. 59, rr. 1 (*a*), 3–10. Under sub-s. (6), *supra*, proceedings by way of *certiorari* are deemed to be an appeal, so that disqualifications may be suspended until they are finally determined or abandoned.

5. Disqualifications and special penalties in respect of offences by private motorists.—(1) If any person, being the owner of a private motor vehicle in respect of which he holds or ought to hold a licence under section thirteen of the Finance Act, 1920, or under that section as it applies in Northern Ireland, commits an offence under section two of this Act in respect of that vehicle and is convicted of that offence, then—

(*a*) if the court decides that he remains the owner of the vehicle at the time of the conviction, any such licence which he holds in respect of the vehicle shall cease to have effect, and it shall not be lawful, for a period of twelve months after the conviction, for him or for any other person to hold or obtain such a licence in respect of the vehicle; and

(*b*) in any other case he shall, without prejudice to the imposition of any penalty under section eight of this Act, forfeit such sum as may be determined by the court to be equal to half the value of the vehicle and the payment of that sum shall be enforced and the sum shall be applied in the same manner as a fine imposed by the court. [4251]

(2) If any person uses a private motor vehicle without such a licence as aforesaid during a period for which he is disqualified by the preceding subsection for holding or obtaining such a licence in respect of the vehicle, he shall be guilty of an offence under this Act and not under section thirteen of the Roads Act, 1920, or under that section as it applies in Northern Ireland. [4252]

(3) If any person, being the owner of a private motor vehicle in respect of which he holds or ought to hold such a licence as aforesaid, commits an offence under section two of this Act in respect of that vehicle and, while he remains the owner, is convicted of that offence, he shall forthwith produce to the court the registration book of that vehicle and, if the court makes a decision under paragraph (*a*) of subsection (1) of this section,—

(*a*) he shall forthwith deliver to the court any licence which he holds under section thirteen of the Finance Act, 1920, or under that section as it applies in Northern Ireland, in respect of that vehicle;

(*b*) the court shall order that particulars of the conviction and of the disqualification imposed by the said paragraph (*a*) shall be endorsed on that registration book, and if another registration book is issued in respect of that vehicle during the period of the disqualification, the particulars of the endorsement shall be copied on to that other registration book;

(*c*) the court shall forward to the council of the county or county borough with whom the vehicle is registered any licence delivered under this subsection and send to that council particulars of the conviction and of the said disqualification, and for the purposes of section eighteen of the Finance Act, 1924, or section four of the Finance Act (Northern Ireland), 1924, the licence shall be deemed to have been surrendered by the holder thereof immediately before the conviction. [4253]

(4) If any person is convicted of an offence under section two of this Act, or of aiding, abetting, counselling or procuring the commission of such an offence,—

(*a*) any licence held by him under Part I of the Road Traffic Act, 1930, or Part I of the Motor Vehicles (Traffic and Regulation) Act

(Northern Ireland), 1926, as amended by any other Act of the Parliament of Northern Ireland, to drive a motor vehicle shall cease to have effect, and he shall be disqualified for holding or obtaining such a licence for a period of twelve months after the conviction;

(*b*) he shall forthwith after the conviction deliver any such licence to the court, and the court shall forward the licence and send particulars of the conviction and disqualification to the council of the county or county borough by whom the licence was granted; and

(*c*) the court shall, if not required to do so by the last preceding paragraph, send such particulars to the council of the county or county borough in which the convicted person resides. [4254]

(5) If any person who is disqualified under the last preceding subsection for holding or obtaining such a licence as aforesaid applies for or obtains another such licence while he is so disqualified, he shall be guilty of an offence and any licence obtained by him while so disqualified shall be of no effect, and if any person while he is so disqualified drives a motor vehicle on a road, he shall be guilty of an offence under this Act and not under section four of the Road Traffic Act, 1930, or under section three of the Motor Vehicles (Traffic and Regulation) Act (Northern Ireland), 1926. [4255]

(6) Where any person is, in consequence of his conviction for an offence, disqualified under this section for holding or obtaining a licence in respect of a private motor vehicle or for holding or obtaining a licence to drive a motor vehicle, the court by which he was convicted shall inform him of that disqualification. [4256]

(7) Any person who fails to comply with any requirement of this section as to the delivery of a licence or the production of a registration book to the court shall be guilty of an offence. [4257]

(8) Subsections (1) and (3) of this section shall not apply in relation to the conviction of any person for any offence unless either—

(*a*) within twenty-eight days of the commission of the offence, notice was given to that person warning him that the question of prosecuting him for an offence under section two of this Act would be taken into consideration; or

(*b*) within three months of the commission of the offence a summons for the offence was served on that person. [4258]

General note.—In construing this section it is important to distinguish between "car licences" (sub-ss. (1)–(3), (8)) and "driving licences" (sub-ss. (4) and (5)). Sub-ss. (6) and (7) apply to both.

Finance Act, 1920, s. 13.—16 Halsbury's Statutes 852. This section provides for the rates of excise duty on licences for mechanically propelled vehicles. The section applies to Northern Ireland and the object of the qualification "as it applies in Northern Ireland", and similar phrases, is to prevent a motorist disqualified under the present Act in England from later procuring a licence for his car in Northern Ireland which owing to the interavailability of licences he could then use in England. The converse position is also covered.

Is convicted.—For the wide definition of this term, see s. 13 (2), *post*.

Remains the owner of the vehicle.—Note the definition of "owner" in s. 13 (1), *post*. Disqualification of the car is avoided if the offender has ceased to be owner at the time of his conviction, in which case a pecuniary forfeiture is substituted.

In respect of the vehicle.—Any other cars registered in the offender's name would be unaffected, but the offender would be disqualified from driving them himself for the twelve (reducible to six) months for which his driving disqualification held good (sub-s. (4), *supra*).

As may be determined.—It will be for the convicting court to determine the value of the vehicle, but if the offender is dissatisfied with the determination he may appeal against it in the same way as he would against conviction (s. 6 (4), *post*).

Guilty of an offence under this Act.—For the penalties applicable, see s. 8 (2), *post*.

Roads Act, 1920, s. 13.—19 Halsbury's Statutes 97.

Council of the county or county borough.—The levying of duties on mechanically-propelled vehicles and other carriages is the responsibility of county and county borough councils (Roads Act, 1920, ss. 1 and 17; 19 Halsbury's Statutes 85, 99).

Finance Act, 1924, s. 18.—16 Halsbury's Statutes 923. This section provides that the holder of a motor licence may surrender it to the council from which it was obtained in exchange for a refund of duty.

Aiding, abetting, counselling or procuring.—See the notes to s. 4, *ante*.

Road Traffic Act, 1930.—23 Halsbury's Statutes 607.

Within twenty-eight days.—This subsection sets out two alternative time-limits for proceedings under sub-ss. (1) and (3), *supra*. It is proposed that in the vast majority of cases the procedure by notice under para. (*a*) of sub-s. (8) will be followed (see 451 H. of C. Official Report 497), and motorists who do not receive such notice within twenty-eight days after the alleged commission of an offence may feel reasonably (though not completely) safe against proceedings being taken.

6. Provisions as to appeals.—(1) Where any person gives notice of appeal against his conviction for an offence under section two of this Act, or of aiding, abetting, counselling or procuring the commission of such an offence, the court by which he was convicted, or any court of summary jurisdiction for the same petty sessional division or place as that court or the court to which the appeal is to be made may, if it thinks fit, by order provide for suspending the operation (so far as applicable) of paragraph (*a*) of subsection (1), subsection (3) and subsection (4) of the last preceding section in relation to that conviction and for requiring the return to that person of any licence delivered by him to the court by which he was convicted and for cancelling any thing done or deemed to have been done under any of the said provisions. [4259]

(2) Where an order is made under the last preceding subsection and the appeal is finally dismissed or is abandoned, a court of summary jurisdiction for the same petty sessional division or place as the court by which the said person was convicted, or any justice of the peace acting for that petty sessional division or place, shall, on the application of the prosecutor, issue a summons or, in default of appearance, a warrant requiring or compelling that person to appear before a court of summary jurisdiction for that petty sessional division or place, and thereupon—

(*a*) if the order suspended the operation of paragraph (*a*) of subsection (1) of the last preceding section, that subsection and subsection (3) of that section shall have effect as if the said person had just been convicted by the court before which he appears; and

(*b*) subsection (4) and subsection (6) of the last preceding section shall in any case have effect as if he had just been convicted by the court aforesaid:

Provided that the period of any disqualification imposed by the said paragraph (*a*) or the said subsection (4) shall be reduced by the period (if any) between the date of the conviction and the date of the order made under the last preceding subsection. [4260]

(3) For the purposes of this section, the bringing of proceedings before the High Court to quash a conviction by order of certiorari shall be deemed to be an appeal. [4261]

(4) Any person who forfeits a sum under paragraph (*b*) of subsection (1) of the last preceding section may appeal against the determination of the amount to be forfeited in like manner as against the conviction. [4262]

General note.—This section is subsidiary to s. 5, *ante*, relating to the disqualifications applicable to private motorists convicted of an offence under s. 2. *Mutatis mutandis* the same principle of suspension applies in such case as is applicable to retail dealers under s. 4 (6), *ante*.

Against his conviction.—For definition of "conviction", see s. 13 (2), *post*.

Aiding, abetting, counselling or procuring.—See the notes to s. 4, *ante*.

Any licence delivered by him.—This includes both the "car licence" (s. 5 (3) (*a*), *ante*) and the "driving licence" (s. 5 (4) (*b*), *ante*).

7. Power to remove disability, and disqualification.—(1) Any person upon whom a disability is imposed by any of the first three subsections of section four of this Act or a disqualification is imposed by subsection (1) or subsection (4) of section five of this Act may, if the disability or disqualification has been in operation for a period of not less than six months, apply to a court of summary jurisdiction for the same petty sessional division or place

as the court by which he was convicted to remove the disability or disqualification, and on any such application the court may, if having regard to the circumstances at the time of the application, the court thinks there is any good reason for shortening the term of the disability or disqualification, by order remove the disability or disqualification as from such date as may be specified in the order. [4263]

(2) Where a disqualification imposed by subsection (1) of section five of this Act in respect of a motor vehicle is removed under this section, the court shall order that particulars of the removal shall be endorsed on the registration book of the vehicle, and shall send particulars of the removal to the council of the county or county borough with whom the vehicle is registered. [4264]

(3) Where the court removes the disqualification imposed by subsection (4) of section five of this Act, the court shall send particulars of the removal to any council of a county or county borough to whom particulars of the disqualification were sent, and any such council to whom a licence held by the disqualified person was forwarded under the said subsection (4) shall, on a demand in writing by the holder, return the licence to him, and if any part of the period for which the licence was issued remains unexpired, it shall have effect for that part of the period. [4265]

General note.—This section is modelled upon s. 7 (3) of the Road Traffic Act, 1930 (23 Halsbury's Statutes 615).

Apply to a court.—Under s. 7 (3) of the Road Traffic Act, 1930, *supra*, it was expressly provided that in such cases application might be made "from time to time".

Good reason for shortening the term.—The corresponding phrase in s. 7 (3) of the Road Traffic Act, 1930, *supra*, is "as it thinks proper, having regard to the character of the person disqualified and his conduct subsequent to the conviction or order, the nature of the offence, and any other circumstances of the case". Hardship may, however, more easily be caused to third parties, including the public, by the wide disqualifications of ss. 4 and 5, *ante*, than by a mere personal deprivation of driving licence.

As from such date as may be specified.—The removal may be framed to operate forthwith or from a date in the future.

8. Penalties.—(1) Any person who is guilty of—

(*a*) an offence under section one or section two of this Act;

(*b*) an offence under section three of this Act except an offence mentioned in paragraph (*c*) or (*d*) of that section;

(*c*) an offence under subsection (7) of section five of this Act; or

(*d*) an offence under section ten of this Act;

shall be liable on summary conviction to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment. [4266]

(2) Any person who is guilty of any offence under this Act, except an offence to which the preceding subsection applies, shall be liable—

(*a*) on summary conviction, to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment; or

(*b*) on conviction on indictment, to a fine not exceeding one thousand pounds or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment. [4267]

(3) If the person convicted on indictment of any offence under this Act is a body corporate, the amount of the fine that may be imposed on that body corporate in respect of the offence shall not be limited, and the body corporate shall be liable to a fine of such amount as the court thinks just. [4268]

(4) If the person convicted of an offence under any provision of this Act is a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity,

shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances; and if the offence is one to which any provision of section four of this Act applies, he shall be deemed for the purposes of that provision to have been carrying on at the time of the commission of the offence the business of supplying motor spirit by retail at the premises where the offence occurred.

In this subsection, the expression "director", in relation to any body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by the members thereof, means a member of that body. [4269]

Not exceeding three months.—The defendant may not claim trial by jury as this applies only where the imprisonment that may be imposed on summary conviction is in excess of three months (s. 17 of the Summary Jurisdiction Act, 1879; 11 Halsbury's Statutes 329, amended as from a day to be appointed by Order in Council by the Criminal Justice Act, 1948 (11 & 12 Geo. 6, c. 58), s. 79 and Sched. IX).

On summary conviction or on indictment.—As from a day to be appointed by Order in Council the new procedure laid down in ss. 28 *et seq.*, of the Criminal Justice Act, 1948 (11 & 12 Geo. 6, c. 58), will apply in relation to the offences referred to in sub-s. (2), *supra*, being offences punishable either on summary conviction or on indictment.

Sub-s. (3).—Note that the unlimited fine is only applicable in the case of convictions of bodies corporate *on indictment*; the result is that such fines are limited to the offences referred to in sub-s. (2), *supra*, as only summary procedure is applicable to the offences in sub-s. (1).

Sub-s. (4).—It was deemed impossible for the Government effectively to enforce these penalties against bodies corporate (including bodies corporate under national ownership) unless it could render liable those persons actively concerned in the administration of such bodies. As to policy in such cases, see 155 H. of L. Official Report 1015–1016.

Unless he proves.—See the notes to s. 1, *ante*.

Purporting to act in any such capacity.—Apart from these words formal appointment as a director, would be necessary (*Dean* v. *Hiesler*, [1942] 2 All E. R. 340, D. C.).

Consent or connivance; Reasonable diligence.—See the notes to s. 1, *ante*.

In relation to any body corporate, etc.—Members of central corporations under nationalisation schemes, as, for instance, the National Coal Board under the Coal Industry Nationalisation Act, 1946 (39 Halsbury's Statutes 251), and the British Electricity Authority under the Electricity Act, 1947 (40 Halsbury's Statutes 409), are liable as "directors" of that body, though the second paragraph of sub-s. (4), *supra*, under which this is provided, may be merely declaratory of the effect of the first paragraph of that subsection.

So far as divisional or regional boards of nationalised industries are concerned, however, a distinction must be observed: are such local boards bodies corporate? Under the nationalisation of the coal industry Divisional Coal Boards are merely informal unincorporated bodies and accordingly liability under the present provision does not attach to their members. *Aliter* in the case of electricity, gas and transport (see 451 H. of C. Official Report 499–502).

9. Institution of proceedings.—Proceedings for an offence under this Act, except subsection (4) of the last preceding section, shall not be instituted in England and Wales except by a constable or by or with the consent of the Minister of Fuel and Power or the Director of Public Prosecutions, and proceedings for an offence under the said subsection (4) shall not be instituted except by or with the consent of the Minister of Fuel and Power or the Director of Public Prosecutions. [4270]

General note.—With the object of preventing irresponsible or improper prosecutions, this section prohibits the institution of proceedings under the Act except by the police or by or with the consent of the authorities named. Some limited uniformity of policy in such matters may thus be introduced.

Consent of the Director of Public Prosecutions.—A document purporting to be the consent of the Director of Public Prosecutions is, by s. 34 of the Criminal Justice Act, 1925 (11 Halsbury's Statutes 417), admissible as *prima facie* evidence of such consent without further proof.

10. Power of entry and taking of samples.—(1) Any constable authorised by an officer of police of a rank not lower than that of superintendent and any person authorised by the Minister of Fuel and Power shall have a right, on producing, if so required, a duly authenticated document showing his authority, to enter at all reasonable hours any premises, other than premises used for the purposes of a private dwelling, for the purpose of ascertaining

whether an offence under this Act is being or has been committed on or in connection with the premises or in connection with any motor vehicle or motor spirit on the premises. [4271]

(2) Any constable may, and any person authorised by the Minister of Fuel and Power as aforesaid, on producing, if so required, a duly authenticated document showing his authority, may, take samples of any motor spirit which is on premises which he has a right to enter under this section or is in a motor vehicle in any public place. [4272]

(3) Where a sample is taken by any person in the exercise of powers under this section, then—

(*a*) if the sample is taken from a motor vehicle, he shall if practicable take it in the presence of the owner or person for the time being in charge of the vehicle;

(*b*) if the sample is taken on premises which he has a right to enter under this section but not from a motor vehicle, he shall if practicable take it in the presence of the occupier of the premises or the person for the time being in charge thereof;

and shall, in either case, on taking the sample, then and there divide it into three parts, each part to be marked and sealed or fastened up, and shall—

(i) deliver one part to the owner or person in charge of the vehicle or, as the case may be, the occupier or person in charge of the premises, if he so requires it;

(ii) retain one part for future comparison; and

(iii) if he thinks fit to have an analysis made, submit one part to an authorised analyst. [4273]

(4) Where it is not practicable to comply with the requirements of paragraph (*a*) or paragraph (*b*) of the last preceding subsection in taking a sample, notice shall be served in the prescribed manner on the owner or person in charge of the vehicle or, as the case may be, the occupier of the premises or the person for the time being in charge thereof informing him that the sample has been taken and that one part thereof is available for delivery to him, if he requires it, at such time and place as may be specified in the notice. [4274]

(5) Where the result of an analysis of a sample taken under this section is given in evidence in any proceedings in respect of an offence under this Act, the part of the sample retained for future comparison shall be produced at the hearing. [4275]

(6) The result of an analysis of a sample taken under this section shall not be admissible as evidence unless the requirements of the three last preceding subsections have been complied with in relation thereto. [4276]

(7) Any person who obstructs any person exercising powers under this section shall be guilty of an offence. [4277]

Document showing his authority.—Note that there is no express provision for the authority to be a general authority, as in s. 343 (1) of the Public Health Act, 1936 (29 Halsbury's Statutes 536). But the power to give a general authority seems to be implied.

Other than premises used for the purposes of a private dwelling.—As regards garages attached to houses difficult marginal questions may arise as to the premises included in this exception.

The taking of samples.—Compare the rights given by ss. 68–70 of the Food and Drugs Act, 1938 (10 Halsbury's Statutes (2nd Edn.) 442 *et seq.*).

Notice shall be served in the prescribed manner.—"Prescribed" means by regulations of the Minister of Fuel and Power under the present Act (s. 13 (1), *post*). See reg. 6 of the Motor Spirit Regulations, 1948, *post*.

Shall not be admissible as evidence.—As to the admission as evidence of an analyst's certificate, see s. 11, *post*.

Any person who obstructs.—Note the omission of the word "wilfully", which appears, for instance, in reg. 83 of the Defence (General) Regulations, 1939, S. R. & O., 1939, No. 927, as amended. At the Committee Stage of the Bill in the House of Lords on May 25, 1948, the Government spokesman gave an assurance that, when a car was in a public car park, having a lock on its petrol tank would not be regarded as obstruction. On the same occasion he expressed the view that the addition of the word "wilfully" would not add anything to the word "obstructs" (155 H. of L. Official Report 991).

Guilty of an offence.—Obstruction is punishable by fine or imprisonment or both on summary conviction under s. 8 (1) (*d*), *ante*.

Definitions.—For definitions of "motor vehicle", "motor spirit", "owner" and "authorised analyst", see s. 13 (1), *post*.

11. Analyst's certificate to be evidence.—In any proceedings in respect of an offence under this Act, a certificate purporting to be signed by an authorised analyst and certifying the ingredients of any such sample of motor spirit as may be specified in the certificate shall, subject as hereinafter provided, be evidence of the facts therein stated:

Provided that such a certificate shall not be admissible as evidence—

(*a*) unless a copy thereof has, not less than seven days before the hearing or trial, been served in the prescribed manner on the person charged with the offence; or

(*b*) if that person, not less than three days before the hearing or trial or within such further time as the court may in special circumstances allow, serves notice in the prescribed manner and form on the prosecutor requiring the attendance at the hearing or trial of the person by whom the analysis was made. [4278]

General note.—This section sets out the circumstances in which a certificate of an authorised analyst (as defined in s. 13 (1), *post*) may be accepted in evidence, but it is important to distinguish the acceptance of such a certificate from the admission as evidence of "the result of an analysis of a sample" (s. 10 (6), *ante*) which refers both to oral and written evidence of the analysis.

The hearing or trial.—"Hearing" refers to summary proceedings and "trial" to proceedings on indictment.

In the prescribed manner; In the prescribed manner and form.—See the Motor Spirit Regulations, 1948, *post*.

12. Regulations.—(1) The Minister of Fuel and Power may by statutory instrument make regulations prescribing anything required by any provision of this Act to be prescribed. [4279]

(2) Regulations made for the purpose of defining the vehicles which are to be private motor vehicles for the purposes of this Act may provide for excluding therefrom any vehicle of a prescribed class or description if and so long as the prescribed conditions are complied with in respect of that vehicle. [4280]

(3) Any statutory instrument made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament. [4281]

By statutory instrument.—Statutory instruments are governed by the Statutory Instruments Act, 1946 (39 Halsbury's Statutes 783), the main provisions of which came into operation on January 1, 1948 (see S.I. 1948 No. 3). As to the laying before Parliament of statutory instruments under the present Act, see sub-s. (3), *supra*, ss. 4 and 5 of the Statutory Instruments Act, 1946, *supra*, and the Laying of Documents before Parliament (Interpretation) Act, 1948, title STATUTES AND STATUTORY RULES AND ORDERS, *post*.

Make regulations.—Under the powers conferred upon him by the present section the Minister of Fuel and Power on May 28, 1948, the date of the Royal Assent, made the Motor Spirit Regulations, 1948 (S.I. 1948 No. 1127), which came into operation on June 1, 1948; and on November 11, 1948, the same Minister made the Motor Spirit (Amendment) Regulations, 1948 (S.I. 1948 No. 2442), which came into operation on December 1, 1948.

Private motor vehicles.—See the notes to s. 1, *ante*.

Prescribed.—See s. 13 (1), *infra*.

May provide for excluding therefrom, etc.—The power of exclusion on conditions was not exercised by the Motor Spirit Regulations, 1948, *post*, but difficulties arose in relation to dual purpose vehicles, such as the so-called "utility vans". The number of applications to transfer dual purpose vehicles from the category of private to that of commercial vehicles was very much larger after June 1, 1948, than before, and accordingly the Motor Spirit (Amendment) Regulations, 1948 (S.I. 1948 No. 2442), substituted as from December 1, 1948, a new and wider definition of "private motor vehicle" making temporary use of the power of exclusion on conditions. The Motor Spirit (Amendment) Regulations, 1949 (S.I. 1949 No. 406) excludes from the definition of "private motor vehicle" ambulances exempted from licence duty under the Finance Act, 1920.

13. Interpretation.—(1) In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say:—

"authorised analyst" means the Government Chemist, any chemist authorised by the Minister of Fuel and Power to make analyses

for the purposes of this Act, or any other person appointed under section sixty-six of the Food and Drugs Act, 1938, or section fifteen of the Food and Drugs (Adulteration) Act, 1928, as a public analyst or deputy public analyst;

" motor spirit " has such meaning as may be prescribed;

" motor vehicle " means a mechanically-propelled vehicle constructed or adapted for use on roads;

" owner ", in relation to a private motor vehicle, means the person in whose name the vehicle is for the time being registered under the Roads Act, 1920, except that, if that person has sold or otherwise disposed of the vehicle and the change of ownership has been notified in writing to the council of the county or county borough with whom the vehicle is registered, the person so notified as the owner of the vehicle or, if there has been more than one change of ownership, the last person so notified shall be deemed to be the owner;

" prescribed " means prescribed by regulations made by the Minister of Fuel and Power under this Act;

" pump " includes the tank or other receptacle from which motor spirit is drawn by the pump. [4282]

(2) References in this Act to the conviction of a person shall be construed as including references to a person being found or pleading guilty or admitting the truth of the information or to the court deciding (for the purposes of subsection (1) of section one of the Probation of Offenders Act, 1907) that the charge has been proved. [4283]

(3) References in this Act to any enactment shall be construed as references to that enactment as amended by any subsequent enactment. [4284]

Food and Drugs Act, 1938, *s.* 66.—10 Halsbury's Statutes (2nd Edn.) 441. Under this section every Food and Drugs Authority as defined in s. 64 of the same Act is required to appoint one or more persons to be public analysts of food and drugs within their area, and power is given to appoint a deputy public analyst when only one public analyst has been appointed by such an authority.

Food and Drugs (Adulteration) Act, 1928, *s.* 15.—8 Halsbury's Statutes 894. This section made general provision for the appointment of analysts similar to that referred to above, but the whole of the Food and Drugs (Adulteration) Act, 1928, was repealed as from October 1, 1939, on the coming into force of the Food and Drugs Act, 1938 (10 Halsbury's Statutes (2nd Edn.) 384), and the said s. 15 was replaced as from that date by s. 66 of the Act of 1938, *supra*, subject to various provisions validating appointments, etc., already made.

Motor spirit.—See reg. 2 (1) of the Motor Spirit Regulations, 1948, *post*.

Roads Act, 1920.—19 Halsbury's Statutes 85.

Prescribed by regulations.—See s. 12, *ante*, and the notes thereto.

14. Application to Scotland. [4285]

15. Application to Northern Ireland. [4286]

16. Short title, extent and duration.—(1) This Act may be cited as the Motor Spirit (Regulation) Act, 1948. [4287]

(2) This Act shall come into operation on the first day of June, nineteen hundred and forty-eight, and shall continue in force until such date as His Majesty may by Order in Council appoint, and shall then expire, subject to such provisions as may be contained in the Order as respects things previously done or omitted to be done. [4288]

And shall then expire.—The expiry of an Act is to be distinguished from its repeal, one of the differences being that the provisions of s. 38 of the Interpretation Act, 1889 (18 Halsbury's Statutes 1005), relating to things done before the repeal of a statute have no effect on a simple expiry. Hence it is usual to make express provision in this connection: sometimes this takes the form of applying the Interpretation Act, 1889, *supra*, as if the expiry had been in fact a repeal.

ORDERS, CIRCULARS AND MEMORANDA

MOTOR VEHICLES (VARIATION OF SPEED LIMIT) REGULATIONS, 1947

S. R. & O., 1947, *No.* 2192

October 13, 1947

Whereas by subsection (2) of section 121 of the Road Traffic Act, 1930 (hereinafter referred to as "the Act"), as amended by the Road Traffic Act, 1934, the Minister of Transport (hereinafter referred to as "the Minister") is empowered by regulations, subject to such conditions as may be specified in the regulations, to vary in relation to motor vehicles owned by the Admiralty, the War Department or the Air Ministry and used for naval, military or air force purposes or to vehicles so used while being driven by persons for the time being subject to the orders of any member of the armed forces of the Crown or to motor vehicles used for salvage purposes pursuant to Part IX of the Merchant Shipping Act, 1894, the provisions of the First Schedule to the Act (which specifies the maximum speeds at which vehicles of certain classes or descriptions may be driven);

And whereas in exercise of the said powers the Minister made the Motor Vehicles (Variation of Speed Limit) Provisional Regulations, 1940, dated April 1st, 1940, varying the provisions of the said First Schedule in such manner as to impose no speed limit in relation to the said vehicles;

And whereas it is expedient that the said Provisional Regulations should be revoked and that the provisions of the said First Schedule should be varied in such manner as to impose no speed limit in relation only to certain of the said vehicles;

Now therefore, the Minister in exercise of the powers conferred upon him as aforesaid and of all other powers enabling him in that behalf hereby makes the following Regulations:—

1. These Regulations shall come into force on the twenty-third day of October, 1947, and may be cited as "The Motor Vehicles (Variation of Speed Limit) Regulations, 1947". [4289]

2. The Motor Vehicles (Variation of Speed Limit) Provisional Regulations, 1940, dated April 1st, 1940, are hereby revoked. [4290]

3. The provisions of the First Schedule to the Act are hereby varied in manner following, that is to say, they shall have effect as though they imposed no speed limit in relation to:—

(*a*) motor vehicles of the types specified in the Schedule to these Regulations which are owned by the Admiralty, the War Department or the Air Ministry and used for naval, military or air force purposes or which are so used whilst being driven by persons for the time being subject to the orders of any member of the armed forces of the Crown; or

(*b*) motor vehicles used for salvage purposes pursuant to Part IX of the Merchant Shipping Act, 1894. [4291]

4. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [4292]

* * * * *

SCHEDULE

1. Motor vehicles constructed or adapted
   (*a*) for actual combative purposes, or for naval, military or air force training in connection therewith, or
   (*b*) for the conveyance of personnel, or
   (*c*) for use with, or for the carriage or drawing of, guns or machine guns.
2. Mobile cranes constructed or adapted for the raising of aircraft.
3. Motor track laying vehicles constructed or adapted
   (*a*) for actual combative purposes, or
   (*b*) for use with, or for the carriage or drawing of guns, machine guns, ammunition, equipment or stores in connection therewith.
4. Fire tenders.
5. Ambulances. [4293]

TRANSPORT ARBITRATION TRIBUNAL RULES, 1947

S. R. & O., 1947, *No.* 2271/L.30

October 13, 1947

Whereas we, the undersigned, Cyril Montgomery White, one of His Majesty's Counsel, Basil Gage Catterns and Sir Russell Kettle, are the three persons appointed by the Lord Chancellor in exercise of the power conferred on him by the Transport Act, 1947, to be members of the Transport Arbitration Tribunal;

And whereas by section 106 (5) of the said Act it is provided that, subject to the provisions of that section, the procedure in or in connection with any proceedings before the Tribunal shall be such as may be determined by rules to be made by the Tribunal with the approval of the Lord Chancellor;

Now therefore we, subject to the approval thereof by the Lord Chancellor, do hereby make the following Rules :—

PART I

Introductory

1. These Rules may be cited as the Transport Arbitration Tribunal Rules 1947. [4294]

2.—(1) In these Rules the following expressions shall (if not inconsistent with the context or subject matter) have the respective meanings hereinafter assigned to them, that is to say :—

" The Act " shall mean the Transport Act 1947 :

Expressions used in the Act shall have the same meanings as in the Act :

" The Tribunal " shall mean the Transport Arbitration Tribunal established under section 105 of the Act :

" The Clerk " shall mean the person for the time being performing the functions of clerk to the Tribunal :

" The Office " shall mean the office at 39 Belgrave Square, London, S.W.1 of the Tribunal, or other the office for the time being of the Tribunal :

" The securities " shall mean the securities specified in Part II of the Fourth Schedule to the Act :

" The Minister " shall mean the Minister of Transport :

" The Commission " shall mean the Transport Commission established under the Act.

(2) The Interpretation Act 1889 shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament. [4295]

3. These Rules may from time to time be revoked, altered or added to by the Tribunal by Rules made with such approval as is required under section 105 of the Act. [4296]

4. These Rules shall not apply to proceedings which under Part VIII of the Act are to be treated as Scottish proceedings. [4297]

PART II

Valuation of Securities

5. Rules 6 to 12 (inclusive) of these Rules relate solely to proceedings for the determination of the value of the securities under section 17 of the Act. [4298]

6.—(1) As regards each of the securities, the Commission shall with all convenient speed apply to the Tribunal for the determination of the value thereof by filing at the Office a statement containing, or having attached thereto, the particulars hereinafter specified, and shall at the time of the filing of such statement leave at the Office (*a*) four additional copies thereof and of all attachments thereto and (*b*) a schedule of the names and registered addresses of each of the persons appearing from the books of the company or other body of persons to have been at a date specified in such schedule (not being earlier than 14 days before the date of the filing of the statement) to be the holders of each of the securities to which the statement relates, and of the amount of the holding of each such person: Provided that, where several securities of one company or other body of persons are specified in Part II of the Fourth Schedule to the Act, the statement to be filed under this Rule shall, unless the Tribunal on the application of the Commission or of the Minister or of any other interested person or of its own motion otherwise directs, be a combined statement relating to all the securities of such company or other body of persons so specified.

(2) Every such statement shall be headed in the matter of the Act and of the securities to which the same relates. [4299]

7. The particulars to be contained in or attached to the statement to be filed under Rule 6 shall include the following:—

(1) The name of the company or other body of persons to the securities whereof the statement relates:

(2) The description of the securities to which the statement relates:

(3) The date of the issue of each of the securities to which the statement relates:

(4) The amount or rate per cent. of any dividend or interest declared or paid on each of the securities to which the statement relates at any time during the period of ten years next preceding the passing of the Act, or, in the case of any securities on which no dividend or interest has been declared or paid within the period aforesaid, the date and amount or rate per cent. of the last payment of any dividend or interest on such securities:

(5) Copies of the audited balance sheets and published accounts of the company or other body of persons for each of the last ten accounting periods of the company or other body of persons for which accounts shall have been prepared and audited before the date of the filing of the statement, together with a statement in columnar form of the revenue, net revenue and appropriation accounts or equivalent accounts (figures being given to the nearest pound) for each of such accounting periods:

(6) Particulars of all dealings in or transfers for valuable consideration of the securities to which the statement relates appearing from the books of the company or other body of persons to have taken place since the 1st January, 1945, or, if there shall appear to have been no such dealings or transfers, then particulars of the last recorded dealing or transfer for valuable consideration :

(7) Such other facts or circumstances as may appear to the Commission to be relevant to the determination in accordance with the provisions of the Act of the value of the securities :

(8) The amount (expressed in terms of prices per £100 nominal value) suggested by the Commission as the value to be set upon each of the securities to which the statement relates in accordance with the provisions of the Act :

(9) The address at which any notice, answer, order or other document in the proceedings may be served upon the Commission. [4300]

8.—(1) Every such statement as aforesaid shall be endorsed by the Commission with a notice addressed in general terms to the holders of all securities to which the statement relates requiring such holders to put in an answer to the statement within 14 days from the service of the notice referred to in Rule 9, and stating that in default of such answer being put in within such period of 14 days, or any extension thereof duly granted, the Tribunal may proceed to determine the value of the securities to which the statement relates without further notice to any holder who shall fail to put in such answer.

(2) Every such endorsement shall be sealed with the seal of the Tribunal and the copy of the statement bearing such sealed endorsement shall be retained by the Clerk in the Office. [4301]

9.—(1) As soon as may be after the sealing of the endorsement aforesaid, the Commission shall serve upon the Minister a copy of the said statement having endorsed thereon a copy of the said endorsement, and shall also serve upon every holder of any of the securities to which such statement relates a notice having endorsed thereon a copy of the said endorsement. Every such notice shall be to the effect that the statement referred to in Rule 6 has been filed at the Office and has been endorsed as aforesaid and that a full copy of such statement will be supplied by the Commission on demand free of charge and such notice shall also set out the particulars specified in paragraphs (1) (2) (8) and (9) of Rule 7. A copy of every such notice shall forthwith be filed by the Commission at the Office.

(2) The Commission shall upon demand by any holder of any of the securities supply to such holder free of charge a full copy of the statement relating to such securities filed under Rule 6 with all attachments thereto, and, if any such demand shall be made within 10 days after service of the notice referred to in this Rule, the time for putting in an answer to such statement shall, without further application to the Tribunal, be extended until the expiration of 10 days from the service on such holder of such full copy of the said statement and of all attachments thereto. [4302]

10.—(1) Any such holder as aforesaid of any of the securities may put in an answer to the statement filed by the Commission as aforesaid at any time within the period limited by the said endorsement thereon or any extension thereof by serving upon the Commission an answer in writing to such statement and delivering at the Office six copies of such answer whereof one copy shall be served by the Clerk upon the Minister.

(2) In such answer such holder shall state whether it is the desire of such holder to be heard by the Tribunal on the hearing of the application of the Commission, and shall specify which (if any) of the allegations of fact contained in such statement are denied or not admitted, and shall also state any

further or other facts or circumstances appearing to such holder to be relevant to the determination in accordance with the provisions of the Act of the value of the securities to which the statement relates and generally set out the contentions and claim of such holder.

(3) Every such answer shall specify an address at which any further proceedings or notices may be served upon such holder. [4303]

11. If the holder of any securities of any company or other body of persons appoints the directors thereof to act as his representatives pursuant to proviso (*c*) to section 17 (3) of the Act, such holder shall forthwith give to the Tribunal and to the Commission notice in writing of such appointment and shall specify therein an address at which any further proceedings or notices may be served upon such directors, and shall at the same time file at the Office the consent in writing of such directors to act as such representatives, and thereafter the proceedings shall be carried on by such directors as the representatives of and on behalf of such holder but otherwise in all respects as if they were themselves the holders of such securities. [4304]

12.—(1) If it shall appear to the Commission that, with regard to any of the particulars required to be contained in or attached to a statement to be filed or schedule to be left at the Office under Rule 6, it is impossible or impracticable without undue delay to furnish such particulars, the Commission may either (*a*) apply to the Tribunal for directions before filing any such statement, or (*b*) file a statement containing or having attached thereto such particulars as the Commission may be able to furnish and at the same time apply to the Tribunal for directions.

(2) Any such application for directions shall be served upon the Minister, but shall not be served upon any other person unless the Tribunal otherwise directs.

(3) Any such application for directions made before the filing of a statement shall be headed in the same manner as if the same were a statement filed under Rule 6.

(4) With every application for directions under this Rule there shall be filed a statement of the circumstances in which the application is made.

(5) Where any such application for directions is made after the filing of a statement under Rule 6, no notice shall be served under Rule 9 upon any holder of any of the securities to which such statement relates until the Tribunal so directs. [4305]

PART III

Other Proceedings before the Tribunal

13. Rules 14 to 19 (inclusive) of these Rules relate solely to proceedings before the Tribunal other than proceedings for the determination of the value of the securities under section 17 of the Act. [4306]

14.—(1) All proceedings before the Tribunal for the determination of any question or dispute, or for obtaining the approval by the Tribunal of any agreement, shall be commenced by filing at the Office an originating application in writing to the Tribunal signed by the applicant or by the solicitors or (in the case of a company or corporation) the secretary or other proper officer of the applicant on behalf of the applicant.

(2) Every such application shall name as a respondent every party to the question, dispute or agreement, or other person appearing to be directly interested in the subject of the application and shall also contain a certificate that the application does not relate to proceedings which under Part VIII of the Act are to be treated as Scottish proceedings.

(3) If any such proceedings shall be for obtaining the approval by the Tribunal of any agreement, the applicant shall at the time of filing such originating application also file at the Office the agreement together with four copies thereof, and shall also serve upon the Minister a copy of the said agreement.

(4) Every applicant shall state in his originating application an address at which any notice, order, or other document in the proceedings may be served upon him. [4307]

15. An originating application shall be in the form of Form No. 1 in the Appendix to these Rules or as near thereto as circumstances will admit. [4308]

16.—(1) The applicant shall at the time of filing such originating application leave at the Office five additional copies thereof, and shall as soon as may be thereafter serve upon each respondent named therein a copy of the originating application having endorsed thereon a notice in the following terms :—

" To the respondent (*naming the respondent served*).

" You will in due course be served with a statement setting out the facts alleged by and contentions of the applicant, and it is not necessary for you to take any step in these proceedings until after service of such statement upon you."

(2) Every such endorsement shall be sealed with the seal of the Tribunal.

(3) One copy of the originating application shall forthwith be served by the Clerk upon the Minister. [4309]

17.—(1) The Tribunal may at any time upon the application of any person, whether an applicant or respondent or not, or of its own motion, direct that any person appearing to the Tribunal to be directly interested in the subject of the application be added as a respondent, and thereupon the applicant shall forthwith serve upon such person a copy of the originating application having endorsed thereon a notice in the terms set out in the preceding Rule and sealed with the seal of the Tribunal.

(2) The Tribunal may likewise, upon any such application as aforesaid, or of its own motion, order that any respondent named in the originating application or subsequently added, who shall appear to the Tribunal not to have been or to have ceased to be directly interested in the subject matter of the application, be dismissed from the proceedings upon such terms as the Tribunal may think fit. [4310]

18.—(1) Within 14 days from the filing of an originating application the applicant shall serve upon each respondent a statement in writing, signed by or on behalf of the applicant, of the facts alleged by the applicant and of such other matters as may appear to the applicant to be relevant to the application and of the contentions of the applicant, and the applicant shall at the same time deliver at the Office six copies of such statement, whereof one copy shall forthwith be served by the Clerk upon the Minister.

(2) Every such statement served upon a respondent shall have endorsed thereon a notice in the following terms :—

" To the Respondent (*naming the respondent served*)

If you do not admit or wish to deny any of the facts alleged or do not agree with any of the contentions put forward in this statement, or if you wish to allege any additional or other facts or to put forward any other contentions, you should within 14 days after service of this statement upon you, or within such extended period as the Tribunal may allow, serve upon the applicant at the applicant's address for service an answer to this statement and also deliver to the Tribunal at its Office at 39, Belgrave Square, London, S.W.1, six copies of your answer. Your answer

should conform to the provisions of the Transport Arbitration Tribunal Rules, 1947, and should state an address at which any further notices, orders or other documents in these proceedings may be served upon you."

(3) Every such endorsement shall be sealed with the seal of the Tribunal. [4311]

19.—(1) Every respondent may within 14 days after service upon him of the statement of the applicant so endorsed serve upon the applicant an answer to the statement of the applicant. Such answer shall be in writing signed by or on behalf of the respondent.

(2) In such answer the respondent shall state which (if any) of the facts alleged in the statement of the applicant are denied or are not admitted by the respondent, and such answer shall include a statement of any additional or other facts alleged by the respondent and of such other matters as may appear to the respondent to be relevant to the proceedings and of the contentions of the respondent.

(3) Any fact alleged in the statement of an applicant, and not expressly denied or not admitted in an answer served by a respondent, shall as against such respondent be taken to be admitted, but without prejudice to the power of the Tribunal to require proof thereof.

(4) The respondent shall at the time of serving such answer deliver at the Office six copies thereof, whereof one copy shall be served by the Clerk upon the Minister.

(5) Every respondent shall state in his answer an address at which any notice, order or other document in the proceedings may be served upon him. [4312]

PART IV

General

20. The Clerk shall allot to every statement filed under Rule 6 and to every originating application to the Tribunal a distinctive serial number which shall be written in the top right hand corner of and also endorsed upon such statement or application, and every subsequent notice, statement, answer order or other document relating to the same proceedings shall likewise have the same distinctive serial number written in the top right hand corner thereof and also endorsed thereon, and shall also bear the same heading as such statement or originating application. [4313]

21. The Clerk shall make and keep a list or lists of all applications to the Tribunal with the distinctive numbers thereof and the dates thereof and such list or lists may be inspected at the Office during office hours. [4314]

22. Every application, notice, statement, answer order or other document relating to any matter shall be filed by the Clerk under the distinctive serial number thereof, and the file relating to any such matter may be inspected at the Office during office hours by the Minister or by any person appearing to the Clerk to have an interest in the matter or by their respective agents thereto authorized. If any dispute or question arises as to whether any person ought to be permitted to inspect any such file, such dispute or question shall be determined by the Tribunal on the application of the person seeking such inspection. [4315]

23. Except by special leave of the Tribunal and subject to the provisions of these Rules, no further step in any proceedings before the Tribunal shall be taken until after the expiration of the time limited for service of an answer by every respondent or of such extension of such time as the Tribunal may allow. [4316]

24.—(1) Any party to any proceedings before the Tribunal may at any time, subject to the provisions of Rule 23 hereof, apply to the Tribunal for directions of an interlocutory nature, including directions for delivery of further and better particulars of any allegation, for leave to serve any reply or rejoinder or to amend any statement, answer, or other pleading, for discovery of documents and interrogatories, for the extension or abridgement of the time for taking any step in the proceedings, for fixing the day of the hearing, or for any other purpose.

(2) Any such application shall be heard and determined by the Clerk: provided always that the Clerk may, and shall at the request of any party to the application, made either at the hearing of the application or within such time (not being less than four days) as the Clerk may fix at the hearing of the application, adjourn the application to be heard and determined by the Tribunal or by a single member thereof.

(3) Any application so adjourned to be heard by a single member of the Tribunal may likewise, and shall at the request of any party to the application, made either at the hearing of the application or within such time (not being less than four days) as such member may fix at the hearing of the application, be adjourned to be heard and determined by the Tribunal.

(4) Any order made by the Clerk or a single member of the Tribunal under this Rule shall be deemed to be the order of the Tribunal. [4317]

25.—(1) The party making an application of an interlocutory nature shall obtain from the Clerk an appointment for the hearing thereof and shall give to every other party not less than seven days' notice of the appointment. Such notice shall be in the form of Form No. 2 in the Appendix to these Rules.

(2) Before making any such application, the party seeking the order shall, if it is reasonably possible so to do, endeavour to obtain the consent thereto of every other party. Where such consent is obtained, the application may be made by letter addressed to the Clerk and enclosing the consent in writing signed by or on behalf of the other parties, and the Tribunal may thereupon make the order and notify the parties thereof: provided that if the Tribunal desires to hear the parties the Clerk shall inform the parties in writing accordingly, and give not less than seven days' notice of an appointment for the hearing. [4318]

26. The Tribunal may of its own motion at any stage of any proceedings before it, give any directions of an interlocutory nature after hearing the parties at a meeting of the Tribunal whereof not less than seven days' notice in writing shall be given to the parties by the Clerk or may communicate with the parties in writing and may require answers to such inquiries as the Tribunal may think fit to make. [4319]

27.—(1) Every notice or other document which in pursuance of these Rules is required to be given or served shall, unless otherwise directed by the Tribunal, be served:—

(*a*) in the case of the Commission or of a local authority or corporate body or company, by delivering the same to their clerk or secretary, or leaving the same at his office with some person employed there, or by sending the same by post addressed to such clerk or secretary at his office; or

(*b*) in the case of the Minister, by leaving the same at or sending the same by post to the office of the Ministry of Transport at Berkeley Square House, London, W.1; or

(*c*) in any other case by delivering the same personally to the person required to be served or to any agent of such person authorized to accept service thereof, or by leaving the same at the usual or last

known place of abode of such person as aforesaid, or by sending the same by post addressed to the usual or last known place of abode of such person :

Provided always that :

(i) where any party to any proceeding has specified an address for service under the provisions of these Rules, service of any such notice or document shall be made by leaving the same at or sending the same by post addressed to the address for service so specified, and

(ii) unless otherwise directed by the Tribunal, service of any notice required under Rule 9 (1) to be served upon the holder of any securities may be made by sending the same by post addressed to the person appearing from the schedule left at the Office under Rule 6 to be the holder of such securities at the address of such person appearing in such schedule.

(2) The filing (by any person other than the Clerk) or delivery of any document required by these Rules to be filed or delivered at the Office may be effected by leaving the same at the Office or by sending the same by post as a registered letter addressed to the Clerk at the Office.

(3) Notwithstanding anything in these Rules contained it shall not be necessary, unless the Tribunal otherwise directs, to serve any notice upon any person (other that the Minister) who shall have made default in the service of an answer within the time limited by these Rules or any extension thereof allowed by the Tribunal, and any notice which ought otherwise to be served upon such person shall be filed at the Office, if not so served.

(4) It shall not be necessary, unless the Tribunal otherwise directs, to serve upon the Minister notice of any application for, or meeting held by the Tribunal for the purpose of giving, directions of an interlocutory nature, in any proceedings unless the Minister shall previously have filed at the Office, and shall not have withdrawn, notice of his desire to be heard in such proceedings. [4320]

28. If it shall appear to the Tribunal that any respondent or other person interested in the subject of any application cannot be found, or has died and has no personal representative, or is out of the United Kingdom, or that for any other reason service upon any respondent or other such person cannot readily be effected in accordance with the foregoing Rules, the Tribunal may dispense with service upon any such respondent or other person, or make an order for substituted service upon any other person, or appoint any other person to represent such respondent or person or his estate, or direct that an advertisement in such form and in such newspaper as the Tribunal shall think proper shall be deemed to be good service upon such respondent or other person. [4321]

29. Any party to any proceedings may at any time by notice in writing served upon the Tribunal and every other party to that proceeding change his address for service under the provisions of these Rules. [4322]

30. The sittings of the Tribunal for the hearing of all matters which are to be determined by the Tribunal shall be held at dates, times and places to be from time to time determined by the Tribunal and announced by them. Not less than 24 hours before the hearing of any application the applicant, or in the case of an interlocutory application the party or person making such application, shall lodge with the Clerk at the Office such number of copies of any relevant documents as the Clerk shall reasonably require. [4323]

31. Upon the hearing of any application or other matter at any stage of any proceedings the Tribunal may determine the order in which the parties

thereto shall be heard, and may allow any amendment of any notice, statement, answer or other document, and, subject to the provisions of the Act, may dispense with the observance of any of the provisions of these Rules, or extend or abridge the time for taking any step in the proceedings, on such terms as may seem just. [4324]

32. In any proceedings before the Tribunal any of the following persons may address the Tribunal, namely :—

(*a*) Any applicant, respondent, or other party to the proceedings, not being a company or corporate body ;
(*b*) A barrister retained by or on behalf of any party ;
(*c*) A solicitor acting generally in the proceedings for a party thereto, but not a solicitor retained as an advocate by a solicitor so acting ;
(*d*) Any other person allowed by leave of the Tribunal to appear instead of any party :

Provided that in proceedings before the Clerk, a managing clerk in the employ of a solicitor acting generally in the proceedings for any party may appear and address the Clerk. [4325]

33. Evidence before the Tribunal may be given orally, or, if the parties to the proceedings consent or the Tribunal so orders, by affidavit, but the Tribunal may at any stage of the proceedings make an order requiring the personal attendance of any deponent for examination and cross-examination. [4326]

34. In dealing with the costs of any proceedings, or of any application in any proceedings, the Tribunal may take into account any failure or refusal on the part of any person to consent to any proposed interlocutory direction, or to admit any document or fact specified in any notice to admit documents or facts served upon that person. [4327]

35. Non-compliance with any of these Rules shall not render any proceeding in any matter referred to the Tribunal void, unless the Tribunal shall so direct, but such proceeding may be set aside either wholly or in part as irregular, or amended, or otherwise dealt with in such manner and upon such terms as the Tribunal shall think fit. [4328]

36. All orders of the Tribunal shall be sealed with the seal of the Tribunal. [4329]

* * * * *

APPENDIX

Form No. 1

THE TRANSPORT ARBITRATION TRIBUNAL

No. .....

IN THE MATTER of THE TRANSPORT ACT 1947
AND IN THE MATTER of a question
BETWEEN (*Name of applicant*) Applicant
and
(*Name(s) of respondent(s)*) Respondent(s)

The above-named applicant of hereby applies to the Transport Arbitration Tribunal pursuant to the provisions of the Transport Act 1947 for the determination of the following question(s) arising under section of the said Act :—

(*or* for the approval by the Tribunal under section 108 of the said Act of an agreement dated etc. and made etc. *or as the case may require.*)

The applicant hereby certifies that this application does not relate to proceedings which under Part VIII of the said Act are to be treated as Scottish proceedings.

It is intended to serve this application upon the above-named respondent(s) of who is (are) interested in the subject of this application and upon the Minister of Transport.

The address for service of the applicant is

Dated etc.

(Signed)

Form No. 2

(Heading as in statement filed under Rule 6 or in originating application.)

Notice is hereby given to all parties concerned to attend before the Clerk of the Transport Arbitration Tribunal at the Office of the Tribunal at 39 Belgrave Square, London, S.W.1 (*or other place appointed for the hearing*), on the 19 , at o'clock in the noon on the hearing of an application on the part of for an order that

Dated etc.

To (Signed)

[4330]

MOTOR VEHICLES (DRIVING LICENCES) (AMENDMENT) REGULATIONS, 1948

S.I. 1948 *No.* 48

January 14, 1948

General note.—The Motor Vehicles (Driving Licences) Regulations, 1947 (S. R. & O., 1947, No. 925), mentioned below, are further amended as from April 1, 1948 by S.I. 1948 No. 552, *post*, and as from December 1, 1948 by S.I. 1948 No. 2251.

Whereas in exercise of the powers conferred upon him by section 30 of the Road Traffic Act, 1930, and section 6 of the Road Traffic Act, 1934, the Minister of Transport (hereinafter referred to as "the Minister") made the Motor Vehicles (Driving Licences) Regulations, 1947 (hereinafter referred to as "the Principal Regulations");

And whereas it is expedient that the Principal Regulations should be amended in manner hereinafter appearing;

Now, therefore, the Minister, in exercise of the powers conferred upon him as aforesaid and of all other powers him enabling, hereby makes the following Regulations:—

1. These Regulations shall come into force on the eighteenth day of February, 1948, and may be cited as "The Motor Vehicles (Driving Licences) (Amendment) Regulations, 1948". [4331]

2. The Principal Regulations shall have effect as though in the First Schedule thereto:—

(*a*) in paragraph 6 the words "or, if your last two licences were provisional licences valid for twelve months, of those licences" were omitted, and

(*b*) paragraph 11 were omitted and paragraphs 12, 13, 14, 15, 16, 17 and 18 were respectively renumbered 11, 12, 13, 14, 15, 16 and 17. [4332]

3. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [4333]

* * * * *

EXPLANATORY NOTE

(This note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations amend the form of application for a licence to drive a motor vehicle specified in the First Schedule to the Motor Vehicles (Driving Licences) Regulations, 1947, *by deleting part of paragraph* 6 *and paragraph* 11. *These paragraphs related to matters of driving experience and conduct which the holder of a provisional licence granted during the war period was required to establish when applying under section* 2 *of the Road Traffic (Driving Licences) Act,* 1947, *for substantive licence without a test. Substantive licences cannot be granted under that section to the holders of provisional licences after* 17*th February,* 1948.

PETROLEUM (RADIOACTIVE SUBSTANCES) ORDER, 1948

S.I. 1948 *No.* 494

March 11, 1948

General note.—The present Order was revoked as from January 1, 1949, by S.I. 1948 No. 2580 because, by reason of the Radioactive Substances Act, 1948 (11 & 12 Geo. 6, c. 37) certain provisions of which are reproduced in the title NATIONAL HEALTH SERVICE, *ante*, it became unnecessary.

Whereas by section nineteen of the Petroleum (Consolidation) Act, 1928, His Majesty is empowered by Order in Council to apply to any substance any of the provisions of the said Act specified in the Order :

And Whereas it is desirable that certain provisions of the said Act should apply to radioactive substances :

Now, therefore, His Majesty, by virtue of the powers conferred on Him by section nineteen of the Petroleum (Consolidation) Act, 1928, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. Section six of the Petroleum (Consolidation) Act, 1928 (which empowers the Secretary of State to make regulations as to the conveyance of petroleum-spirit by road and for protecting persons or property from danger in connection with such conveyance) shall apply to any radioactive substance. [4334]

2. In this Order " radioactive substance " means any substance which consists of or contains any radioactive chemical element, whether natural or artificial, and which spontaneously emits ionising radiation. [4335]

3. This Order may be cited as the Petroleum (Radioactive Substances) Order, 1948, and shall come into operation on the first day of April, 1948. [4336]

* * * * *

MOTOR VEHICLES (DRIVING LICENCES) (AMENDMENT) (NO. 2) REGULATIONS, 1948

S.I. 1948 *No.* 552

March 16, 1948

General note.—For the Motor Vehicles (Driving Licences) Regulations, 1947, see S. R. & O., 1947, No. 925. These regulations had already been amended as from February 18, 1948, by S.I. 1948 No. 48, *ante*, and have been further amended as from December 1, 1948 by S.I. 1948 No. 2251.

Whereas in exercise of the powers conferred upon him by section 30 of the Road Traffic Act, 1930, and section 6 of the Road Traffic Act, 1934, the Minister of Transport (hereinafter referred to as " the Minister ") made the Motor Vehicles (Driving Licences) Regulations, 1947 (hereinafter referred to as " the Principal Regulations ") ;

And Whereas the Principal Regulations have been amended by the Motor Vehicles (Driving Licences) (Amendment) Regulations, 1948 ;

And Whereas it is expedient that the provisions of Regulation 7 of the Principal Regulations (which makes provision as to the persons by whom driving tests may be conducted) should be amended in manner hereinafter appearing ;

Now, therefore, the Minister, in exercise of the powers conferred upon him as aforesaid and of all other powers him enabling, hereby makes the following Regulations :—

1. These Regulations shall come into operation on the 1st day of April, 1948, and may be cited as " The Motor Vehicles (Driving Licences) (Amendment) (No. 2) Regulations, 1948 ". [4337]

2. Regulation 7 of the Principal Regulations shall have effect as though the following words were added at the end of paragraph (3) thereof :—

" or in so far as concerns the testing of members of a fire brigade maintained in pursuance of the Fire Services Act, 1947, or persons employed in the driving of motor vehicles for the purposes of any such brigade, by any Chief Officer of such a brigade in England or by any Firemaster of such a brigade in Scotland ". [4338]

3. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [4339]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Regulations, but is intended to indicate their general purport.*)

Regulation 7 (3) *of the Motor Vehicles (Driving Licences) Regulations,* 1947, *provides for the conduct of driving tests by one of His Majesty's Principal Secretaries of State in so far as concerns members of the National Fire Service. Provision has been made under the Fire Services Act,* 1947, *for the transfer of the functions of the National Fire Service to fire brigades maintained under that Act as from* 1*st April,* 1948, *in England and Wales and as from* 16*th May,* 1948, *in Scotland.*

These Regulations provide for the conduct of driving tests by Chief Officers (in Scotland Firemasters) in so far as concerns members of such brigades or persons employed in driving motor vehicles for the purposes of such brigades.

MOTOR VEHICLES (INTERNATIONAL CIRCULATION) (AMENDMENT) REGULATIONS, 1948

S.I. 1948 *No.* 610

March 22, 1948

General note.—These regulations were made contemporaneously with the Public Service Vehicles (International Circulation) Regulations, 1948 (S.I. 1948 No. 609), title PUBLIC SERVICE VEHICLES, *ante.*

Whereas the Minister of War Transport, in exercise of the powers conferred upon the Minister of Transport (hereinafter referred to as " the Minister ") by section 13 of the Finance Act, 1920, section 12 of the Roads Act, 1920, and Articles 5 and 7 of the Motor Car (International Circulation) Order, 1930, and for the time being vested in him made the Motor Vehicles (International Circulation) Regulations, 1941 (hereinafter referred to as " the Principal Regulations ");

And Whereas the Principal Regulations have been amended by the Motor Vehicles (International Circulation) (Amendment) Regulations, 1947;

And Whereas it is expedient that the Principal Regulations should be further amended in manner hereinafter appearing;

Now, therefore, the Minister, in exercise of the powers conferred upon him as aforesaid, and of all other powers him enabling, hereby makes the following Regulations :—

1. These Regulations shall come into operation on the twelfth day of April, 1948, and may be cited as " The Motor Vehicles (International Circulation) (Amendment) Regulations, 1948 ". [4340]

2. The Principal Regulations shall have effect as though—

(1) in paragraph (i) of Regulation 4—

(*a*) the words " (other than a country specified in the Fourth Schedule to these Regulations) " were omitted;

(*b*) the words " he may forward a Fiscal Permit " were substituted for the words " he shall forward a Fiscal Permit "; and

(*c*) the following words were added to the proviso :—

" and a vehicle to which the Public Service Vehicles (International Circulation) Regulations, 1948, apply shall not be deemed to be a vehicle used for the carriage of passengers for hire or reward ".

(2) The Fourth Schedule were omitted. [4341]

General note.—As to the Public Service Vehicles (International Circulation) Regulations, 1948, see the note at the head of the present regulations.

3. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [4342]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Regulations, but is intended to indicate their general purport.*)

These Regulations amend the Motor Vehicles (International Circulation) Regulations, 1941. *The changes are—*

(*a*) *that International Circulation Permits may now be issued in respect of vehicles to which the Public Service Vehicles (International Circulation) Regulations,* 1948 (*S.I.* 1948 *No.* 609) [*title* PUBLIC SERVICE VEHICLES, ante] *apply,* i.e. *single-decked vehicles used for carrying*

for hire or reward passengers making a temporary visit to the United Kingdom and not more than two other persons who act as driver of the vehicle or as guide, interpreter or organizer ;

(*b*) *that persons whose vehicles are registered in countries which ratified the Geneva Convention of* 1931 *on the taxation of foreign motor vehicles are no longer required to but may if they so desire submit Fiscal Permits when applying for International Circulation Permits.*

Under Regulation 12 *of the above-mentioned Regulations where an applicant for an International Circulation Permit forwards a Fiscal Permit with his application, the maximum of* 90 *days in any year for which the former may be issued is calculated from the date of issue of the Fiscal Permit instead of from* 1*st January in any year.*

MOTOR VEHICLES (CONSTRUCTION AND USE) (AMENDMENT) REGULATIONS, 1948

S.I. 1948 *No.* 976

May 7, 1948

General note.—For the Motor Vehicles (Construction and Use) Regulations, 1947, see S. R. & O., 1947, No. 670. They have been further amended as from May 23, 1949 by S.I. 1949 No. 887.

Whereas in exercise of the powers conferred upon him by section 30 of the Road Traffic Act, 1930, the Minister of Transport (hereinafter referred to as " the Minister ") made the Motor Vehicles (Construction and Use) Regulations, 1947 (hereinafter referred to as " The Principal Regulations ") ;

And Whereas in exercise of the said powers the Minister made the Motor Vehicles (Construction and Use) (Amendment) (No. 2) Regulations, 1947, which provide that until the 1st day of June, 1948, Regulation 31 of the Principal Regulations (which provides that every wheel of a motor tractor shall be equipped with pneumatic tyres or tyres of soft or elastic material except in the case of land tractors which comply with, amongst other requirements, the requirement that the tyre of every steering wheel should be smooth-soled and where the tyre touches the surface of the road should be not less than $2\frac{1}{2}$ inches in width) should cease to apply to land tractors first registered on or before the 1st day of June, 1947, whether or not they comply with the said requirement as to steering wheels ;

And Whereas it is expedient that the provisions made by the last mentioned Regulations should be extended until the 1st day of June, 1949 ;

Now, therefore, the Minister in exercise of the powers conferred upon him as aforesaid and of all other powers him enabling hereby makes the following Regulations :—

1. These Regulations shall come into operation on the 21st May, 1948, and may be cited as " The Motor Vehicles (Construction and Use) (Amendment) Regulations, 1948 ". [4343]

2. The Motor Vehicles (Construction and Use) (Amendment) (No. 2) Regulations, 1947, shall have effect as though in Regulation 2 thereof the words " 1st day of June, 1949," were substituted for the words " 1st day of June, 1948 ". [4344]

3. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [4345]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations extend for a further year the period during which land tractors first registered on or before 1st June, 1947, are exempt from the need to comply with the requirements of Regulation 31 of the Motor Vehicles (Construction and Use) Regulations, 1947, as to the tyres of steering wheels.

MOTOR SPIRIT (REGULATION) ORDER, 1948

S.I. 1948 *No.* 1020

May 13, 1948

General note.—This Order comprised one of the preliminary steps towards the new system of motor spirit control inaugurated by the Motor Spirit (Regulation) Act, 1948, *ante*. The order expired on June 1, 1948, when that Act came into operation. For the equivalent regulations from and after that date, see the Motor Spirit Regulations, 1948 (S.I. 1948 No. 1127), *post*.

The Minister of Fuel and Power in pursuance of Regulation fifty-five of the Defence (General) Regulations, 1939, as having effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945, as extended by the Supplies and Services (Extended Purposes) Act, 1947, hereby makes the following Order :—

1. Motor spirit pumps used for retail supply to be marked.—(1) Every person who carries on the business of supplying motor spirit by retail shall cause all pumps used for the purpose of such supply to be marked with one or more waterslide transfers, or in some other manner approved by the Minister, with the word " Commercial " or with the word " Private".

(2) No such person as aforesaid shall supply any motor spirit by retail, or cause or allow any motor spirit to be so supplied, from a pump not marked in pursuance of the foregoing paragraph. [4346]

2. Tender of commercial petrol to be a good tender.—Where, in pursuance of any offer or agreement for sale, the Petroleum Board or their servants or agents tender to any person carrying on the business of supplying motor spirit a supply of commercial petrol, the presence in the said supply of either of the ingredients specified in relation to commercial petrol in Article six of this Order shall not be a ground for rejecting the said supply, unless the coupons to be delivered by the said person in respect of the said supply in pursuance of sub-paragraph (*a*) of paragraph (1) of Article two of the Control of Motor Fuel Order, 1947, comprise only coupons upon which appear a combination of letters included among the following, that is to say :—

(*a*) " PRIV " and " E " ; or
(*b*) " PRIV " and " S " ; or
(*c*) " M.T " and " T " ; or
(*d*) " P.T " and " T ". [4347]

3. Restriction on storage and handling of commercial petrol.—No person shall put any commercial petrol, or cause or allow any commercial petrol to be put :—

(*a*) into a pump used for the purpose of the supply by retail of motor spirit, not being a pump marked " Commercial " in pursuance of Article one of this Order ; or
(*b*) into the tank of a private motor vehicle. [4348]

4. Restriction on furnishing, acquisition and use of commercial petrol.—No person shall furnish, acquire or use any commercial petrol, or cause or

allow any commercial petrol to be furnished, acquired or used, for supplying motive power to a private motor vehicle. [4349]

5. Misuse of ingredients of commercial petrol.—No person shall, unless authorised by the Minister or the Petroleum Board :—

(*a*) remove, or attempt to remove, from any commercial petrol either of the ingredients specified in relation to commercial petrol in Article six of this Order ; or

(*b*) introduce either of the ingredients specified as aforesaid into any motor spirit after that spirit has been delivered by the Petroleum Board to any person for supply by retail. [4350]

6. Interpretation.—In this Order, unless the context otherwise require, the following expressions have the meanings hereby assigned to them respectively, that is to say :—

" commercial petrol " means motor spirit containing :—

(*a*) diphenylamine ; or

(*b*) a red dye consisting mainly of amino-azo-toluene coupled with β naphthol ;

" furnish " and " acquire " mean respectively the disposal and acquisition of ownership or possession or any right to possession ;

" the Minister " means the Minister of Fuel and Power ;

" motor spirit " means hydrocarbon oil, of which the volume distilling, at a temperature not exceeding one hundred and eighty-five degrees Centigrade, is not less than fifty per centum, or, at a temperature not exceeding two hundred and forty degrees Centigrade, is not less than ninety-five per centum, or which has a closed flash point of less than seventy-three degrees Fahrenheit when tested by the method specified as I.P.—33/44 in " Standard Methods for testing Petroleum and its Products " (Edition, 1948), published by the Institute of Petroleum ;

" private motor vehicle " means a mechanically propelled vehicle intended or adapted for use on roads and constructed solely for the carriage of passengers and their effects to carry not more than seven passengers exclusive of the driver, not being a public service vehicle ;

" pump " includes the tank or other receptacle from which motor spirit is drawn by the pump. [4351]

7. Application to Northern Ireland. [4352]

8. Citation and period of operation.—(1) This Order may be cited as the Motor Spirit (Regulation) Order, 1948.

(2) This Order shall come into operation on the eighteenth day of May, and shall cease to have effect on the first day of June, nineteen hundred and forty-eight. [4353]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of this Order, but is intended to indicate its general purport.*)

This Order makes certain temporary provision for the regulation of the supply of motor spirit. Retailers' pumps are to be marked ; commercial petrol is not to be put into a pump marked " Private." Commercial petrol is not to be put into the tank of a private motor vehicle, or to be furnished, acquired or used for supplying motive power to such a vehicle.

Retailers, to whom commercial petrol is tendered by the Petroleum Board, may not reject it merely on the ground that it contains the specified ingredients. The specified ingredients may not be removed.

MOTOR SPIRIT REGULATIONS, 1948

S.I. 1948 *No.* 1127

May 28, 1948

General note.—These regulations came into operation on June 1, 1948, contemporaneously with the Motor Spirit (Regulation) Act, 1948, *ante*.

The Minister of Fuel and Power, in exercise of the powers conferred upon him by section twelve of the Motor Spirit (Regulation) Act, 1948, and of all other powers him enabling, hereby makes the following Regulations :—

1. Private motor vehicles.—[(1) The class or description of motor vehicle referred to in the Act as " private motor vehicles " shall, subject to the provisions of the following paragraph, comprise every motor vehicle :—

(*a*) constructed solely for the carriage of passengers and their effects to carry not more than seven passengers exclusive of the driver ; or

(*b*) being a vehicle in respect of which any standard ration coupon or coupon bearing the combination of letters " PRIV " and " E " has been issued in pursuance of the Motor Fuel (Control) Order, 1948 as authority for the acquisition of motor fuel during a period which has not yet expired ; or

(*c*) having to the rear of the driver's seat roofed accommodation so constructed or adapted that it is, or may be, lit by side windows and is, or may be, furnished with seats for passengers : Provided that during the period beginning on the first day of December, nineteen hundred and forty-eight, and ending on the thirty-first day of January, nineteen hundred and forty-nine, any vehicle to which this sub-paragraph applies shall be excluded from the said class or description if and so long as it is :—

(i) licensed under the Road and Rail Traffic Act, 1933, or used under an authority granted for the purposes of paragraph (2) of Regulation seventy-two of the Defence (General) Regulations, 1939 ; or

(ii) chargeable with duty under sub-paragraph (*a*) of paragraph five of the Second Schedule to the Finance Act, 1920.

(2) There shall be excluded from the said class or description :—

(*a*) any public service vehicle within the meaning of the Road Traffic Acts, 1930 to 1947 ; and

(*b*) any vehicle exceeding three tons in weight unladen] [and

(*c*) any vehicle being an ambulance in respect of which no duty is payable under section thirteen of the Finance Act, 1920.] [4354]

General note.—This Regulation, which was substituted as from December 1, 1948, by S.I. 1948 No. 2442, was amended as from March 17, 1949, by S.I. 1949 No. 406, by the addition of sub-para. (*c*) to para. (2).

2. Definition of " motor spirit."—(1) For the purposes of the Act, the expression " motor spirit " means hydrocarbon oil of which the volume distilling, when tested by the method specified in relation thereto in the next following paragraph, at a temperature not exceeding one hundred and eighty-five degrees Centigrade, is not less than fifty per centum, or at a temperature not exceeding two hundred and forty degrees Centigrade, is not less than ninety-five per centum, or which has a closed flashpoint, when tested as aforesaid, of less than seventy-three degrees Fahrenheit.

(2) The methods of test specified in the foregoing paragraph shall be the methods specified in " Standard Methods of testing Petroleum and its Products " (Edition 1948), published by the Institute of Petroleum, being :—

(*a*) for the volume distilling, the method I.P.-28/42 ;

(*b*) for the flashpoint, the method I.P.-33/44. [4355]

3. Commercial petrol (ingredient).—The prescribed ingredient (which when added to any motor spirit shall for the purposes of the Act make that motor spirit commercial petrol) shall be diphenylamine. [4356]

4. Colouring matter.—Any red dye consisting mainly of diazotised amino-azo-toluene coupled with β naphthol shall be a red colouring matter of the prescribed description (which may not be added to any motor spirit or removed from any commercial petrol); so however that no person shall be guilty of an offence under paragraph (*f*) of subsection (1) of section three of the Act by reason only that that person lawfully adds to the motor spirit contained in the tank of any motor vehicle :—

(*a*) any upper cylinder lubricant; or
(*b*) any other motor spirit containing any red dye as aforesaid, not being commercial petrol. [4357]

5. Marking of pumps.—(1) Every pump used for the purpose of the supply of motor spirit by retail shall, subject to the provisions of the next following paragraph, be marked in the manner following, that is to say, there shall be affixed :—

(*a*) to the casing of the pump, and, if necessary, to any moveable arm thereof supporting the delivery nozzle, at such point or points as to be clearly visible to any person to whom motor spirit is being supplied, one or more new transfers supplied for the purpose by the Petroleum Board, or by some other person approved by the Minister, being of the type known as "waterslide", and bearing the word "Commercial", or the word "Private", as the case may be;
(*b*) to the intake pipe of each tank of any pump on which a transfer affixed as aforesaid bears the word "Commercial", a red label supplied as aforesaid.

(2) Every pump used as aforesaid, being a pump constructed or adapted for the supply of more than one type of motor spirit, shall be marked in the manner following, that is to say, there shall be affixed :—

(*a*) to the moveable indicator or roller of the pump, adhesive labels, supplied as aforesaid, so placed that on any part of the said indicator or roller visible in any direction there is shown, when commercial petrol is being supplied from the pump, the word "Commercial", and, when other motor spirit is being so supplied, the word "Private";
(*b*) to the intake pipe of each tank in relation to which there is shown, as provided in the foregoing sub-paragraph, the word "Commercial", when the contents of the tank are being supplied from the pump, a red label supplied as aforesaid.

(3) Any label affixed in pursuance of either of the foregoing paragraphs which becomes detached shall forthwith be replaced; and where any label or transfer so affixed becomes defaced, or otherwise ceases to be clearly visible, a new label or transfer shall forthwith be affixed as provided in the relevant paragraph. [4358]

6. Service of notice relating to a sample.—Where any notice relating to a sample is for the purposes of the Act to be served on the owner or person in charge of a motor vehicle, that notice may if it is in the form of an adhesive label be served by affixing it securely to the windscreen of the vehicle; but otherwise shall be served :—

(*a*) on a corporation, by addressing it to the corporation and leaving it at, or sending it by registered post to, the registered office of the corporation, or, if there be no such office, its principal office or place at which it conducts its business;

(*b*) in any other case, by delivering it personally to the person to be served, or by addressing it to that person and leaving it at, or sending it by registered post to, his last or usual place of abode or place of business. [4359]

7. Reception in evidence of analyst's certificate.—(1) Where a copy of any certificate is for the purposes of the Act to be served on a person charged, that copy shall be served in the manner provided in paragraph (*a*) or (*b*) of the foregoing Regulation, as the case may require.

(2) Any notice requiring the attendance at a hearing or trial of the person by whom any analysis was made shall be in the form set out in the Schedule to these Regulations; and shall be served in the manner provided in the foregoing paragraph. [4360]

8. Interpretation.—(1) In these Regulations the following expressions have the meanings hereby assigned to them respectively, that is to say :—

" the Act " means the Motor Spirit (Regulation) Act, 1948 ;

" hydrocarbon oil " means petroleum oil, coal tar, oil produced from coal, shale, peat or any other bituminous substance, and any liquid hydrocarbon ;

" the Minister " means the Minister of Fuel and Power.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [4361]

9. Application to Northern Ireland. [4362]

10. These Regulations shall come into operation on the first day of June, nineteen hundred and forty-eight; and may be cited as the Motor Spirit Regulations, 1948. [4363]

* * * * *

Regulation 7 (2) SCHEDULE

NOTICE UNDER REGULATION 7 (2) OF THE MOTOR SPIRIT REGULATIONS, 1948

To.....

of .....

WHEREAS I,....., of .....

....., have been served under section eleven of the Motor Spirit (Regulation) Act, 1948, and paragraph (1) of Regulation seven of the Motor Spirit Regulations, 1948, with a copy of a certificate purporting to be signed by .....

of .....

I HEREBY GIVE NOTICE under the said section eleven and under paragraph (2) of the said Regulation seven that I require the attendance at the hearing or trial of the charge against me of the person who signed the said certificate.

Dated this day of , 194 .

.....

(Signature of person charged or of solicitors stating themselves to be acting on behalf of the person charged.)

Note.—This Notice must be served on the prosecutor in the manner prescribed by Regulation 7 (2) of the above mentioned Regulations. [4364]

CASES

Street traffic—Omnibus service—Powers of Transport Executive—Service started by Executive in competition with private transport operator—Power of Executive to provide service where London Passenger Transport Board not so empowered—Road Traffic Act, 1930 (*c.* 43), *s.* 72 (1)—*Transport Act,* 1947 (*c.* 49), *ss.* 2 (1), 3 (1), 65 (1).

By the Transport Act, 1947, s. 1, there was set up a public authority called the British Transport Commission with power, under s. 2, *inter alia*, to carry goods and passengers by road within Great Britain. By s. 3, the duty was imposed on the Commission of providing or securing an efficient, adequate, economical and properly integrated system of public inland transport. S. 5 provided that there should be public authorities, known as "Executives", to assist the Commission, and that each Executive should, as agents for the Commission exercise such functions of the Commission "as are for the time being delegated to them by or under a scheme made by the Commission and approved by the Minister" of Transport. As respects matters falling within the scope of any such delegation, any rights, powers and liabilities of the Commission should be treated as rights, powers and liabilities of the Executive only, and every Executive was to have power at the request of the Commission to do, as agent for the Commission, anything which the Commission had power to do.

The defendants, the London Transport Executive, were an Executive constituted under the Act of 1947. On January 1, 1948, under s. 12 of the Act and Sched. III thereto, the undertaking of the London Passenger Transport Board vested in the Commission, which, under s. 14 (2), had thenceforward all the rights and was subject to all the liabilities of the Board. The Board had been set up under the London Passenger Transport Act, 1933, with power to provide road services in specified areas, to one of which, known as "the special area", the Road Traffic Act, 1930, ss. 72–76, did not apply. S. 72 of the Act of 1930 provided: "(1) Subject to the provisions of this section the [Traffic] Commissioners may grant to any person applying therefor a licence . . . to provide such a road service as may be specified therein, and a vehicle shall not be used as a stage carriage . . . except under such a licence." The plaintiff held a licence under s. 72 and ran a motor omnibus service between H. and W., a route not within "the special area". The defendants began to run a service of omnibuses in competition with the plaintiff's service, and the plaintiff claimed to restrain them from so doing, or a declaration that in so doing they were acting *ultra vires*. S. 65 (1) of the Act of 1947 provides: "Sections seventy-two to seventy-six of the Road Traffic Act, 1930 . . . shall not apply to any passenger road transport service provided, whether under a scheme under . . . this Act or otherwise, by the Commission or by any person acting as agent for the Commission, but neither the Commission nor any such person as aforesaid shall use any public service vehicle for the conveyance of passengers for hire or reward at separate fares except—(*a*) on a route approved, as respects so much thereof as falls within any traffic area, by the licensing authority for public service vehicles for that area; and (*b*) in accordance with such restrictions as may be imposed by that authority . . ." with regard to certain matters. Route approval under s. 65 had been secured by the defendants.

The British Transport Commission in exercise of the powers conferred by s. 5 of the Act of 1947, made a Scheme of Delegation of Functions which provided: "(1) . . . 'the Executive' means the London Transport Executive. . . . (2) This Scheme applies to . . . (*a*) activities which the Commission are empowered to carry on by virtue of the transfer to them . . . of the undertaking of the London Passenger Transport Board; (*b*) activities which the Commission are empowered to carry on by virtue only of the powers conferred upon them by s. 2 (1) of the Act so far as those activities are carried on in connection with the activities referred to in sub-para. (*a*) of this paragraph or are ancillary to such activities; . . . (3) Subject to the provisions of this Scheme, the Commission hereby delegate to the Executive the functions of the Commission in relation to their activities set out in sub-paras. (*a*) and (*b*) of para. 2 of this Scheme to the intent that . . . all the

rights, powers and liabilities of the Commission in connection with those activities shall be exercisable and dischargeable by the Executive . . . " :—

Held: the provision of road services between H. and W. was within the powers of the British Transport Commission, and, having regard particularly to para. (2) (*b*) of the Scheme, those powers were effectively delegated under para. 3 by the Commission to the defendants.—SMITH *v.* LONDON TRANSPORT EXECUTIVE, [1948] Ch. 652; [1948] 2 All E. R. 306; [1948] L. J. R. 1483; 64 T. L. R. 426; 46 L. G. R. 373. [4365]

STAFF

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ORDERS, CIRCULARS AND MEMORANDA

NATIONAL INSURANCE (CLASSIFICATION) REGULATIONS, 1948

S.I. 1948 *No.* 1425

June 28, 1948

The Minister of National Insurance, in conjunction with the Treasury so far as relates to matters with regard to which the Treasury have so directed, in exercise of powers conferred by sections 1 and 9 of the National Insurance Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

1. Citation, commencement and interpretation.—(1) These regulations may be cited as the National Insurance (Classification) Regulations, 1948, and shall come into operation on the 5th July, 1948.

(2) In these regulations, unless the context otherwise requires—

" The Act " means the National Insurance Act, 1946;

" the Minister " means the Minister of National Insurance;

" nurse " means any person within the class of persons who, under section 7 of the Nurses Act, 1943, or section 7 of the Nurses (Scotland) Act, 1943, and any regulations made thereunder may lawfully be supplied from an agency for the supply of nurses;

" hospital " means any institution for the reception and treatment of persons suffering from illness or mental defectiveness, any maternity home, and any institution for the reception and treatment of persons during convalescence or persons requiring medical rehabilitation, and includes clinics, dispensaries and out-patient departments maintained in connection with any such institution or home as aforesaid;

and other expressions have the same meanings as in the Act.

(3) References in these regulations to any enactment or regulations shall include references to such enactment or regulations as amended by any subsequent enactment, order or regulations.

(4) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [4366]

2. Classification of insured persons.—For the purposes of the Act, the classification of insured persons shall be modified in manner following, that is to say :—

(1) Subject to the provisions of paragraphs (2) and (3) of this regulation, every insured person shall, in respect of any employment specified in any paragraph of column (A) of Part I of the First Schedule to these regulations, be treated as an employed person in so far as he is gainfully occupied in such employment and is not a person specified in the corresponding paragraph of column (B) of that Part.

(2) Subject to the provisions of paragraph (3) of this regulation, every insured person shall, in respect of any employment specified in any paragraph of column (A) of Part II of the said First Schedule, be treated as a self-employed person in so far as he is gainfully occupied in such employment and is not a person specified in the corresponding paragraph of column (B) of that Part.

(3) Every insured person shall in respect of any employment specified in any paragraph of column (A) of Part III of the said First Schedule, be treated as a non-employed person, and any such employment shall be disregarded, in so far as he is not a person specified in the corresponding paragraph of column (B) of that Part. [4367]

3. Employments treated as continuing.—For the purposes of the Act, the employment of a person shall be treated as continuing in the circumstances specified in the Second Schedule to these regulations. [4368]

4. Special provisions with respect to persons declared by High Court to be included in a particular class of insured persons.—(1) Where, under the provisions of the Act relating to references and appeals to the High Court, the High Court decide any question as to the class of insured persons in which a person is to be included, and that decision is inconsistent with some previous determination of a question by the Minister, then, if the Minister is satisfied that contributions of a prior class have been paid by or in respect of any person by reason of that determination or in the reasonable belief that that determination was applicable, he may, if it appears to him that it would be in the interests of the person by or in respect of whom such contributions have been paid, or of any claimant or beneficiary by virtue of that person's insurance, so to do, direct that that person shall be treated as though he had been included in the class of insured persons corresponding to the contributions paid during any contribution weeks for which contributions of a prior class were so paid before the date on which the decision of the High Court was given, and, if such a direction is given, that person shall be deemed to have been included in that class accordingly for any such weeks.

(2) In any case where the Minister, on new facts being brought to his notice, has revised a determination of a question previously given by him, the provisions of this regulation shall apply with the necessary modifications in the same manner as they apply where the High Court have given a decision inconsistent with a determination previously given by the Minister.

(3) In this regulation, the expression " contributions of a prior class " means, in relation to a non-employed person, contributions as an employed or self-employed person and employer's contributions, and, in relation to a self-employed person, contributions as an employed person and employer's contributions.

(4) In the application of this regulation to Scotland, for any reference to the High Court there shall be substituted a reference to the Court of Session. [4369]

5. Persons to be treated as employers.—In relation to any employment specified in column (A) of the Third Schedule to these regulations, the person

specified opposite thereto in column (B) of that Schedule shall for the purposes of the Act be treated as the employer of the employed person concerned. [4370]

* * * * *

SCHEDULES

Regulation 2

FIRST SCHEDULE

PART I

Employments in respect of which, subject to the provisions of regulation 2 and to the exceptions in column (B) of this Part, persons are treated as employed persons	*Persons excepted from the operation of column (A)*
(A)	(B)
1. Employment under a public or local authority constituted in Great Britain (not being employment under the Crown) notwithstanding that it is not employment under a contract of service.	1. Any person in employment specified in paragraph 1 of column (A) where the service ordinarily performed by the person in that employment (or, if he is employed in more than one such employment or is also employed in an employment specified in paragraph 3 of column (A), the aggregate service performed by him in those employments) is part-time service only, or where that employment is— (*a*) as a medical practitioner or dental practitioner on the list of an Executive Council under the National Health Service Act, 1946, or the National Health Service (Scotland) Act, 1947 ; (*b*) as a chaplain or other minister of religion ; (*c*) otherwise than as an officer or servant of a public or local authority or as a constable.
2. Employment of a medical practitioner or a dental practitioner— (*a*) involving whole-time service in any hospital ; or (*b*) in which he is wholly or mainly engaged and is remunerated by salary.	2. None.
3. Employment— (*a*) in England and Wales as superintendent registrar or deputy superintendent registrar, registrar or deputy registrar of births and deaths, or registrar or deputy registrar of marriages ; (*b*) in Scotland as registrar or assistant registrar of births and deaths and marriages.	3. Any person in employment specified in paragraph 3 of column (A) where the service ordinarily performed by the person in that employment (or, if he is employed in more than one such employment or is also employed in an employment specified in paragraph 1 of column (A), the aggregate service performed by him in those employments) is part-time service only.
4. Employment of a nurse (as defined in regulation 1 (2)) as nurse for the sick or as midwife, notwithstanding that the employment is not under a contract of service.	4. Any person in employment specified in paragraph 4 of column (A) in any contribution week in which that person is not exclusively so employed by one employer for at least one day.

Employments in respect of which, subject to the provisions of regulation 2 and to the exceptions in column (B) of this Part, persons are treated as employed persons	*Persons excepted from the operation of column (A)*
(A)	(B)
5. Employment in Great Britain in plying for hire with any vehicle or vessel the use of which is obtained under any contract of bailment or letting for hire (other than a hire purchase agreement) in consideration of the payment of a fixed sum or a share in the earnings or otherwise.	5. None.

[4371]

PART II

Employments in respect of which, subject to the provisions of regulation 2 and to the exceptions in column (B) of this Part, persons are treated as self-employed persons.	*Persons excepted from the operation of column (A)*
(A)	(B)
6. Employment of a person (not being an existing contributor within the meaning of regulations made under section 65 of the Act) in any employment by virtue of which he would but for the provisions of this paragraph be an employed person, if— (*a*) the person is not ordinarily resident in the United Kingdom ; and (*b*) the employer of that person is not so ordinarily resident, and has no place of business in the United Kingdom.	6. None.
7. Employment of a casual nature.	7. Any person in employment specified in paragraph 7 of column (A) where that employment is either— (*a*) for the purposes of the employer's trade or business ; or (*b*) for the purposes of any game or recreation where the person employed is engaged or paid through a club ; or (*c*) of a nurse (as defined in regulation 1 (2)) as nurse for the sick or as midwife in any contribution week in which the nurse is exclusively so employed by one employer for at least one day.
8. Employment in or about a cathedral, church or other place of religious worship as (*a*) member of the choir, (*b*) organist or other musician, (*c*) precentor, (*d*) beadle, (*e*) caretaker, (*f*) chapel keeper, (*g*) church officer, (*h*) clerk, (*i*) door-keeper, (*j*) pew-opener, (*k*) sacristan, (*l*) sexton or (*m*) verger, including duties incidental to the employment.	8. Any person (not being a person mainly dependent for his livelihood on his earnings from other employment as a self-employed person, or, in the case of employment as a precentor, not being a minister of religion) whose weekly earnings from any one or more of the employments specified in paragraphs 8 and 32 of column (A) are ordinarily twenty shillings or more.

Employments in respect of which, subject to the provisions of regulation 2 and to the exceptions in column (B) of this Part, persons are treated as self-employed persons (A)	*Persons excepted from the operation of column (A)* (B)
9. Employment as a sub-postmaster remunerated by scale payment.	9. Any person who renders on the average 18 or more hours' personal service weekly as a sub-postmaster remunerated by scale payment and is not mainly dependent for his livelihood on the earnings derived by him from any occupation other than employment under the Postmaster General.
10. Employment (not being employment specified in paragraph 11 of column (A)) of a person if and to the extent that he is employed in any contribution week by or under any one employer for less than four hours in that contribution week.	10. None.
11. Employment of a person in cleaning or other domestic work if and to the extent that he is employed in any contribution week by or under any one employer for less than eight hours in that contribution week.	11. None.
12. Employment as an agent paid by commission or fees or a share in the profits, or partly in one and partly in another of such ways, where the person so employed is mainly dependent for his livelihood on his earnings from some occupation other than employment as such an agent, or where he is ordinarily employed as such agent by more than one employer, and his employment under no one of such employers is that on which he is mainly dependent for his livelihood.	12. None.
13. Employment under a contract of service by the insured person's wife for the purposes of a trade or business.	13. None.
14. Employment of a nurse (as defined in regulation 1 (2)) as nurse for the sick or as midwife in any contribution week in which the nurse is not exclusively so employed by one employed for at least one day.	14. None.
15. Employment by any one employer on a track being a dog racecourse within the meaning of the Betting and Lotteries Act, 1934, involving service only on the days and during the period within which betting on that track by way of bookmaking or by means of a totalisator on the results of dog races is not prohibited by that Act.	15. None.
16. Occasional employment in the operation of a totalisator on an approved horse racecourse within the meaning of the Betting and Lotteries Act, 1934.	16. None.

PART III

Employments in respect of which, subject to the exceptions in column (B) of this Part, persons are treated as non-employed persons and their employment therein disregarded	*Persons excepted from the operations of column (A)*
(A)	(B)
17. Any employment or employments as a self-employed person (including any employment in respect of which a person is, under these regulations, treated as a self-employed person) where the insured person is not ordinarily gainfully occupied in any such employment or employments or where the weekly earnings (or, where there is more than one such employment, the aggregate weekly earnings) derived therefrom are ordinarily less than twenty shillings.	17. None.
18. Employment of a person if and to the extent that he is employed in any contribution week by or under any one employer in employment which does not exceed in length a normal working day, where such employment occurs— (*a*) only on a Sunday in any contribution week and the person is also employed in an employment by or under the same employer on the Monday in the succeeding week ; or (*b*) only on a Monday in any contribution week and the person has also been employed in an employment by or under the same employer on the Sunday and on at least one other day in the preceding week.	18. None.
19. Employment by the father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother or half-sister of the insured person, in so far as the employment— (*a*) is employment in a private dwelling-house in which both the insured person and the employer reside; and (*b*) is not employment for the purposes of any rate or business carried on there by the employer.	19. None.
20. Employment by the insured person's wife otherwise than for the purposes of a trade or business whether or not under a contract of service.	20. None.
21. Employment of a married woman (whether or not under contract of service) by, or as partner of, or in any similar association with, her husband.	21. Any person employed as specified in paragraph 21 of column (A), where her employment is as partner of, or in any similar association with, her husband in a trade or business, and she is ordinarily engaged in that business for not less than twenty-four hours in a contribution week.

Employments in respect of which, subject to the exceptions in column (B) of this Part, persons are treated as non-employed persons and their employment therein disregarded	*Persons excepted from the operation of column (A)*
(A)	(B)
22. Employment as a special constable.	22. None.
23. Employment, involving part-time service only, as a member of a fire brigade maintained in pursuance of the Fire Services Act, 1947.	23. None.
24. Employment, involving part-time service only— (*a*) in coast-watching for life-saving purposes ; (*b*) in the operation of a life-boat ; or (*c*) in the operation of a rocket or other life-saving apparatus or any gear connected therewith ; and in any duties ancillary to such operations.	24. None.
25. Employment, involving part-time service only, in connection with the relief of light keepers or otherwise in attendance upon lighthouses, or in connection with the care or upkeep of minor lights, buoys, beacons, signals or tide-gauges.	25. None.
26. Employment, involving part-time service only, on or in connection with a pasture or grazing held in common under the Small Landholders (Scotland) Acts, 1886 to 1931, either as a shepherd or other herd.	26. None.
27. Employment as secretary or clerk of a society, club, committee, philanthropic institution, school or other similar body or institution, where personal service is ordinarily required only occasionally or outside the ordinary hours of work.	27. None.
28. Employment, involving part-time service only, in the performance of clerical duties after 6 p.m. or outside the ordinary hours of work.	28. None.
29. Employment, for a period not exceeding one day on each occasion, as an occasional helper to or substitute for one or more weavers regularly employed in a cotton, woollen, worsted, silk or artificial silk mill, where the employer of the weaver pays no wages or other pecuniary remuneration in respect of the employment to the person so employed as a helper or substitute.	29. None.
30. Employment as a caretaker in respect of which no wages are paid, or other money payments made, either by the employer or by any other person.	30. None.

Employments in respect of which, subject to the exceptions in column (B) of this Part, persons are treated as non-employed persons and their employment therein disregarded	*Persons excepted from the operation of column (A)*
(A)	(B)
31. Employment, involving part-time service only, as a caretaker of, or key-keeper at, ancient monuments.	31. None.
32. Employment, involving part-time service only— (*a*) in or about a cathedral, church or other place of religious worship, as (i) acolyte, (ii) bell-ringer or (iii) organ-blower ; or (*b*) as (i) bible woman, (ii) lay preacher or (iii) scripture-reader.	32. Any person (not being a person mainly dependent for his livelihood on his earnings from employment as a self-employed person) whose weekly earnings from any one or more of the employments specified in paragraphs 8 and 32 of column (A), excluding any earnings as precentor of a minister of religion, are ordinarily twenty shillings or more.
33. Employment as a telephone exchange attendant, if residing elsewhere than on the exchange premises and giving service only at night or on Sunday.	33. Any person who is mainly dependent for his livelihood on the earnings derived by him from one or more employments under the Postmaster General including such employment as a telephone exchange attendant.
34. Employment as a part-time Post Office telephonist (day or night). 35. Employment as an auxiliary postman. 36. Employment as an auxiliary sorter. 37. Employment as a part-time indoor assistant for postal and telegraph business. 38. Employment as a collector or deliverer of postal letters under allowance. 39. Employment as a messenger conveying Post Office mails on station service or pier service. 40. (*a*) Employment at sittings of the judge or registrar of a county court as an usher or interpreter involving occasional attendance only. (*b*) Employment at sittings of the Sheriff, Police, or Justice of the Peace Courts in Scotland as— (i) an interpreter involving occasional attendance only ; or (ii) a Bar Officer or Court Officer. 41. Employment, involving part-time service only, under a local savings committee of the National Savings Committee or the Scottish Savings Committee in the capacity of clerk, secretary or organiser or in the performance of clerical duties for such a committee.	34 to 53. Any person (not being a person mainly dependent for his livelihood on his earnings from employment as a self-employed person) employed in one or more of the employments specified in paragraphs 34 to 39, 40 (*b*) (ii) and 41 to 53 of column (A) whose weekly earnings in employment by the same employer in any one or more of the employments so specified are ordinarily twenty shillings or more.

Employments in respect of which, subject to the exceptions in column (B) of this Part, persons are treated as non-employed persons and their employment therein disregarded	*Persons excepted from the operation of column (A)*
(A)	(B)
42. Employment by any public or local authority to act in relief of gymnasium or lavatory attendants or of attendants of a park, playground or other public open space.	
43. Employment in England or Wales by a public or local authority or by any company or body responsible for the lighting of any borough or other local area, as a lamplighter or extinguisher, whether the employment does or does not include the duty of cleaning or keeping the lamps in order.	
44. Employment, involving part-time service only, as a leader, helper or instructor in an institution of further education, including a voluntary youth club or community centre where personal service is required only outside the ordinary hours of work.	
45. Employment, involving part-time service only, in the preparation and service of school meals provided mainly for day pupils by an education authority or other school governors or managers.	
46. Employment, involving part-time service only, as— (*a*) caretaker of a burial ground, cemetery or crematorium under the control of a burial authority within the meaning of the Burial Acts, 1852 to 1906, and the Cremation Act, 1902 ; (*b*) caretaker of a cemetery or crematorium constructed under any special Act of Parliament ; (*c*) caretaker of a water-works under the control of a local authority or other water undertaker ; or (*d*) caretaker of a burial ground, church yard or crematorium under the control of a local authority in Scotland.	
47. Employment under a public or local authority constituted in Great Britain, involving part-time service only, as— (*a*) burial ground clerk ; (*b*) keeper of records of a burial ground ; (*c*) clerk of a special district committee, not otherwise employed by such a local or public authority ; (*d*) water or drainage officer ; (*e*) home or domestic help ; or (*f*) helper in a children's cottage home.	
	34 to 53. Any person (not being a person mainly dependent for his livelihood on his earnings from employment as a self-employed person) employed in one or more of the employments specified in paragraphs 34 to 39, 40 (*b*) (ii) and 41 to 53 of column (A) whose weekly earnings in employment by the same employer in any one or more of the employments so specified are ordinarily twenty shillings or more.

Employments in respect of which, subject to the exceptions in column (B) of this Part, persons are treated as non-employed persons and their employment therein disregarded	*Persons excepted from the operation of column (A)*
(A)	(B)
48. Employment by a local education authority or by the managers of a primary school or by the governors of a secondary school, or in Scotland by a public or local authority or by the managers of a State-aided school— (*a*) involving part-time service only, in the cleansing of drains, cesspools, pits or offices in or about any such school; or (*b*) involving attendance on Sundays only, in relief of a school keeper in any such school.	
49. Employment, involving part-time service only, in or about a theatre, cinema, music-hall or any place ordinarily used for public dancing or music or other public entertainment of a like kind as— (*a*) an attendant engaged for the comfort, convenience or safety of the public admitted thereto; or (*b*)—(i) check-taker, (ii) money-taker, (iii) flyman, (iv) propertyman, (v) stage hand. (vi) supernumerary, (vii) lighting operator, (viii) call boy or (ix) dresser.	34 to 53. Any person (not being a person mainly dependent for his livelihood on his earnings from employment as a self-employed person) employed in one or more of the employments specified in paragraphs 34 to 39, 40 (*b*) (ii) and 41 to 53 of column (A) whose weekly earnings in employment by the same employer in any one or more of the employments so specified are ordinarily twenty shillings or more.
50. Employment, involving part-time service only, in the delivery of goods from retail establishments.	
51. Employment, involving part-time service only, in attendance upon old age or retirement pensions or persons in receipt of national assistance where the employer is not the person to whom attendance is given.	
52. Employment, involving part-time service only, as a sick visitor by or on behalf of a society or other body providing benefits to its members during sickness, or a branch of any such society or body.	
53. Employment in Scotland, involving part-time service only, as a ground officer.	

[4373]

Regulation 3

SECOND SCHEDULE

CIRCUMSTANCES IN WHICH EMPLOYMENT IS TREATED AS CONTINUING

Where an insured person is employed as a self-employed person and is ordinarily so employed, that employment shall be treated as continuing unless and until he is no longer ordinarily employed in any gainful occupation in Great Britain (other than an employment specified in Part III of the First Schedule to these regulations which is to be disregarded):

Provided that—

(*a*) any week during the whole or part of which he is engaged in an employed contributor's employment shall (subject to the provisions of paragraph (*b*) of this proviso) not be taken into account for the purposes of this Schedule ;

(*b*) this Schedule shall cease to apply to a person if and when in a period of thirteen consecutive weeks he has been engaged in an employed contributor's employment for ten of those weeks. [4374]

Regulation 5

THIRD SCHEDULE

EMPLOYMENTS IN RESPECT OF WHICH PERSONS ARE TREATED AS EMPLOYERS

Employments (A)	*Persons treated as employers* (B)
1. Employment in Great Britain in plying for hire with any vehicle or vessel the use of which is obtained under any contract of bailment or letting for hire (other than a hire purchase agreement) in consideration of the payment of a fixed sum or a share in the earnings or otherwise.	1. The person from whom the use of the vehicle or vessel is so obtained.
2. Employment of a casual nature for the purposes of any game or recreation of a person who is engaged or paid for that employment through a club.	2. The club.
3. Employment of a nurse (as defined in regulation 1 (2)) as nurse for the sick or as midwife, whether under contract of service or not, not being employment specified in paragraph 4 of column (B) of the First Schedule to these regulations, or paragraph 14 of column (A) of that Schedule, where the pecuniary remuneration in respect of the employment is received from— (*a*) any person carrying on an agency for the supply of nurses within the meaning of the Nurses Act, 1943, or the Nurses (Scotland) Act, 1943 ; or (*b*) any local authority ; or (*c*) any person or body of persons carrying on a hospital.	3. The person or body from whom the pecuniary remuneration is received.
4. Employment of a nurse (as defined in regulation 1 (2)) as nurse for the sick or as midwife, whether under contract of service or not, not being employment specified in paragraph 4 of column (B) of the First Schedule to these regulations, or paragraph 14 or column (A) of that Schedule, where the pecuniary remuneration in respect of the employment is received from a patient or from a third person (not being a person, authority or body specified in sub-paragraphs (*a*), (*b*) and (*c*) of the last preceding paragraph of this column) on behalf of such a patient.	4. The patient.

Employments	*Persons treated as employers*
(A)	(B)
5. Employment— (*a*) in England and Wales as superintendent registrar or deputy superintendent registrar, registrar or deputy registrar of births and deaths, or registrar or deputy registrar of marriages ; (*b*) in Scotland as registrar or assistant registrar of births and deaths and marriages.	5. (*a*) In England and Wales, the local authority in whose employment he is deemed to be an officer for the purposes of the Local Government Superannuation Act, 1937 ; (*b*) in Scotland, the council of the county or large burgh within which the whole or the greater part of the registration area of such officer is situate. [4375]

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EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations modify the classification of certain insured persons in specified employments with the result that, according to circumstances, persons who would otherwise be employed persons are treated either as self-employed persons or non-employed persons, and persons who would otherwise be self-employed persons are treated either as employed persons or non-employed persons. Non-employed persons are not reclassified (regulation 2 and First Schedule).

Provision is made for continuing the status of a self-employed person until the happening of certain specified events (regulation 3 and Second Schedule).

Provision is also made for the special classification of persons following a decision of the High Court or a revised decision of the Minister so as to enable the original classification to stand where this would be in the interests of the person concerned (regulation 4).

The remaining provisions are of a consequential character.

NATIONAL INSURANCE (INDUSTRIAL INJURIES) (INSURABLE AND EXCEPTED EMPLOYMENTS) REGULATIONS, 1948

S.I. 1948 *No.* 1456

June 29, 1948

The Industrial Injuries Joint Authority, with the consent of the Treasury so far as relates to matters with regard to which such consent is required, in exercise of the powers conferred by the First Schedule to the National Insurance (Industrial Injuries) Act, 1946, and the Minister of National Insurance, in exercise of the powers conferred by subsection (1) of section 80 of that Act, and of all other powers enabling them in that behalf, hereby make the following regulations :—

1. Citation, commencement and interpretation.—(1) These regulations may be cited as the National Insurance (Industrial Injuries) (Insurable and Excepted Employments) Regulations, 1948, and shall come into operation on the 5th July, 1948.

(2) In these regulations, unless the context otherwise requires—

" the Act " means the National Insurance (Industrial Injuries) Act, 1946 ;

" The Minister " means the Minister of National Insurance ;

" hospital " means any institution for the reception and treatment

of persons suffering from illness or mental defectiveness, any maternity home, and any institution for the reception and treatment of persons during convalescence or persons requiring medical rehabilitation, and includes clinics, nurseries and out-patient departments maintained in connection with any such institution or home as aforesaid ;

and other expressions have the same meanings as in the Act.

(3) References in these regulations to any enactment shall include references to such enactment as amended by any subsequent enactment, order or regulations.

(4) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [4376]

2. Insurable employments.—Part I of the First Schedule to the Act (which Part specifies the insurable employments under the Act) shall have effect as if each of the paragraphs thereof specified in the first column of Part I of the First Schedule to these regulations included the employment or employments set out in respect of such paragraph in the second column of the said Part of the First Schedule hereto. [4377]

3. Excepted employments.—Part II of the First Schedule to the Act (which Part specifies the excepted employments under the Act) shall have effect as if paragraph 1 thereof (which relates to employment under a public or local authority) included the employments set out in Part II of the First Schedule to these regulations. [4378]

4. Employments to be included among the insurable employments.—The employments specified in the first column of Part I of the Second Schedule to these regulations, being employments which, apart from this regulation, would not be insurable under the Act and which are such that it appears to the Minister that—

(*a*) the nature and other circumstances of the service rendered and the work performed therein and in employment which is insurable under the Act are so similar as to result in anomalies in the operation of the Act ; and

(*b*) the employments so specified can conveniently be included among the insurable employments ;

shall be included among the insurable employments :

Provided that any employment specified in paragraph 1 of the said first column shall not be so included if the person employed therein is a person specified in the corresponding paragraph of the second column of the said Part. [4379]

5. Employment to be included among the excepted employments.—The employment specified in Part II of the Second Schedule to these regulations, being employment which, apart from this regulation, would be insurable under the Act and which is such that it appears to the Minister that—

(*a*) the nature and other circumstances of the service rendered and the work performed therein and in employment which is not insurable under the Act are so similar as to result in anomalies in the operation of the Act ; and

(*b*) the employment so specified can conveniently be included among the excepted employments ;

shall be included among the excepted employments. [4380]

6. Persons to be treated as employers.—In relation to any insured person who is employed in any employment specified in the first column of the Third Schedule to these regulations, the person specified opposite thereto in the second column of that Schedule shall, for the purposes of the Act, be treated as that person's employer in that employment. [4381]

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SCHEDULES

Regulations 2 and 3

FIRST SCHEDULE

PART I

INSURABLE EMPLOYMENTS

Paragraphs of Part I of the First Schedule to the Act	*Employments to be included as insurable employments*
Paragraph 2 (which relates to employment as master or as a member of the crew of a ship or vessel).	Employment (other than employment already specified in paragraph 2 of Part I of the First Schedule to the Act) as master or a member of the crew of a fishing vessel, which is manned by more than one person and is a ship or vessel to which the said paragraph 2 applies, being employment of a person— (*a*) who, during the year, is wholly or mainly engaged in, and derives his livelihood wholly or mainly from employment as aforesaid in respect of which he is remunerated in whole or in part by a share in the profits or gross earnings of that fishing vessel; or (*b*) who, having newly entered into the fishing industry, may reasonably be expected to be engaged and derive his livelihood as aforesaid.
Paragraph 3 (which relates to employment as a pilot on board a ship or vessel).	Employment as a pilot on board any ship or vessel notwithstanding that the person so employed does not hold a licence or deep sea certificate from a pilotage authority in Great Britain covering that employment.
Paragraph 8 (which relates to employment in connection with fire brigades and similar organisations).	Employment in Great Britain as a member, or as a person training to become a member, of any fire brigade, first aid party, salvage party or air raid precautions party at a mine or quarry or at any premises to which any of the provisions of the Factories Act, 1937, applies, or at a shop, office or other premises used solely for business or commercial purposes, in any case in which such organisation is established in pursuance of an obligation imposed under statute or by or with the consent of the owner or occupier of any such mine, quarry or other premises. [4382]

PART II

EXCEPTED EMPLOYMENTS

Employment in Great Britain, not being employment under a contract of service, under a public or local authority constituted in Great Britain, where the service ordinarily performed by the person employed in that employment (or, if he is employed in more than one such employment or he is also employed in any employment specified in paragraph 1 of the first column of Part I of the Second Schedule to these regulations, the aggregate service performed by him in those employments) is part-time service only, or where that employment is—

(*a*) as a medical practitioner or dental practitioner on the list of an Executive Council under the National Health Service Act, 1946, or the National Health Service (Scotland) Act, 1947;

(*b*) as a chaplain or other minister of religion;

(*c*) otherwise than as an officer or servant of a public or local authority or as a constable. [4383]

Regulations 4 and 5 SECOND SCHEDULE

PART I

Employments which, subject to the exceptions in the second column of this Part of this Schedule, are to be included among the insurable employments	*Persons in whose case the employments specified in the first column of this Part of this Schedule are not to be included among the insurable employments*
1. Employment— (*a*) in England and Wales as superintendent registrar or deputy superintendent registrar, registrar or deputy registrar of births and deaths, or registrar or deputy registrar of marriages; (*b*) in Scotland as registrar or assistant registrar of births and deaths and marriages.	1. Any person in employment specified in paragraph 1 of Part I of this Schedule, where the service ordinarily performed by the person in that employment (or, if he is employed in more than one such employment or is also employed in any employment (not being under a contract of service) under a public or local authority constituted in Great Britain, the aggregate service performed by him in those employments) is part-time service only.
2. Employment of a medical practitioner or a dental practitioner— (*a*) involving whole time service in any hospital; or (*b*) in which he is wholly or mainly engaged and is remunerated by salary.	2. None.

[4384]

PART II

Employment to be included among the excepted employments

Employment under a contract of service as an agent paid by commission or fees or a share in the profits, or partly in one and partly in another of such ways, where the person so employed is mainly dependent for his livelihood on his earnings from some occupation other than employment as such an agent, or where he is ordinarily employed as such agent by more than one employer, and his employment under no one of such employers is that on which he is mainly dependent for his livelihood. [4385]

Regulation 6 THIRD SCHEDULE

EMPLOYMENTS IN RESPECT OF WHICH PERSONS ARE TREATED AS EMPLOYERS

Employments	*Persons treated as employers*
1. Employment in Great Britain in plying for hire with any vehicle or vessel the use of which is obtained under any contract of bailment (other than a hire purchase agreement) in consideration of the payment of a fixed sum or a share in the earnings or otherwise.	1. The person from whom the use of the vehicle or vessel is so obtained.
2. Employment of a casual nature for the purposes of any game or recreation where the person so employed is engaged or paid for that employment through a club.	2. The club.
3. Employment— (*a*) in England and Wales as superintendent registrar or deputy superintendent registrar, registrar or deputy registrar of births and deaths, or registrar or deputy registrar of marriages; (*b*) in Scotland as registrar or assistant registrar of births and deaths and marriages.	3. (*a*) In England and Wales, the local authority in whose employment the person employed is deemed to be an officer for the purposes of the Local Government Superannuation Act, 1937; (*b*) in Scotland, the council of the county or large burgh within which the whole or the greater part of the registration area of the officer is situate. [4386]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations provide for the inclusion of certain specified employments among the insurable employments under the National Insurance (Industrial Injuries) Act, 1946, and of certain other specified employments among the employments which are excepted from insurance under that Act; and prescribes the persons to be treated as employers of insured persons in respect of certain specified employments.

STATUTES AND STATUTORY RULES AND ORDERS

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STATUTES

LAYING OF DOCUMENTS BEFORE PARLIAMENT (INTERPRETATION) ACT, 1948

(11 & 12 Geo. 6, c. 59)

PRELIMINARY NOTE

This short Act, which came into operation on July 30, 1948, the date of the Royal Assent, was passed for two purposes: first, to remove any doubt there might be as to the meaning of the term "laying" in relation to the laying of documents before Parliament under the Statutory Instruments Act, 1946 (39 Halsbury's Statutes 783), and otherwise; and secondly, as a minor matter to provide that where statutory instruments are to be brought into immediate operation under the proviso to s. 4 (1) of the Act of 1946 (39 Halsbury's Statutes 785) and notification to the Lord Chancellor or the Speaker of the House of Commons is impossible because of a vacancy in either of those offices, it is to be sufficient for notification to be given after the vacancy has been filled.

However, simple as these provisions are, they must be read in the light of the somewhat controversial constitutional circumstances in which they became law, the position being briefly as follows. S. 4 (1) of the Act of 1946, *supra*, provided that where any statutory instrument was required to be laid before Parliament after being made, a copy of that instrument was to be laid before each House of Parliament, and, subject to a saving proviso, was to be so laid before the instrument came into operation. The proviso in question was intended to meet the exceptional case where this procedure could not conveniently be followed: if it was essential for any instrument to come into force before copies thereof could be so laid, it could be made to come into operation before it had been so laid, in which case notification was forthwith to be sent to the Lord Chancellor and the Speaker drawing attention to the fact that copies of the instrument had yet to be laid before Parliament and explaining why such copies had not been so laid before the instrument came into operation. However, there was in the Act no definition of the term "laying". The provisions of s. 4 (1) were brought into operation with the principal provisions of the Act as from January 1, 1948 (Statutory Instruments Act, 1946 (Commencement) Order, 1947, S.I. 1948 No. 3, *post*).

It therefore became necessary for each House of Parliament to adopt Standing Orders laying down the procedure to be adopted in the laying of instruments under the section. By resolution of the House of Commons the following new Standing Order, No. 94, was adopted on November 4, 1947 (443 H. of C. Official Report 1785–1786):

"*Presentation of statutory instruments*

"Where, under any Act of Parliament, a statutory instrument is required to be laid before Parliament, or before this House, the delivery of a copy of such instrument to the Votes and Proceedings Office on any day during the existence of a Parliament shall be deemed to be for all purposes the laying of it before the House."

Further, on December 17, 1947, this Standing Order was, by a similar resolution, amended by the addition of the following proviso (445 H. of C. Official Report 1830–1831):

"Provided that nothing in this Order shall apply to any Statutory Instrument being an Order which is subject to special Parliamentary procedure or to any other instrument which is required to be laid before Parliament, or before this House for any period before it comes into operation."

No objection was taken in the House, either to the Standing Order as originally adopted or to the amendment.

The effect of Standing Order No. 94 was to enable copies of instruments to be laid, for the purposes of s. 4, even though the House were not sitting at the time: for instance, during a recess it would be possible for instruments to be laid before the House of Commons, and, subject to similar arrangements being operative in the House of Lords, for instruments to be then brought into operation without recourse

to the special machinery of the proviso, though it is important to note that in any period of forty days such as is referred to in ss. 5 and 6 of the Statutory Instruments Act, 1946 (39 Halsbury's Statutes 786, 787), no account is to be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days (*ibid.*, s. 7) and that this safeguard is unaffected by the present Act.

There was, nevertheless, in the House of Lords a sharp cleavage of opinion as to how far such a course was proper, and indeed, legal. On December 18, 1947, a new Standing Order, No. CV, in the following terms was moved by the Lord Privy Seal (153 H. of L. Official Report 331 *et seq.*).

> "*Laying of Statutory Instruments*
>
> "13.—*Statutory Instruments*
>
> "CV.—(1) Where, under any Act of Parliament, a statutory instrument is required to be laid before Parliament, the deposit of a copy of the instrument in the Office of the Clerk of the Parliaments in accordance with this Order at any time during the existence of a Parliament when the House is not sitting for public business shall be deemed to be for all purposes the laying of it before the House:
>
> Provided that nothing in this Order shall apply to any statutory instrument being an order which is subject to special Parliamentary procedure or to any other instrument which is required to be laid before Parliament for any period before it comes into operation.
>
> "(2) For the purposes of this Order, a statutory instrument may be deposited on any day except a Sunday, Christmas Day, Good Friday or a Bank Holiday between eleven and one of the clock on a Saturday or eleven and five of the clock on any other weekday.
>
> "(3) The Clerk of the Parliaments shall cause to be published, either in the Minutes of Proceedings or in some other manner, particulars of the deposit of statutory instruments under this Standing Order."

This proposal was attacked by Viscount Simon, a former Lord Chancellor, who claimed that it was not possible for the House by its Standing Orders to amend an Act of Parliament and that, particularly in view of the use of the phrase "shall be deemed to be" in para. (1), *supra*, the House was proposing to substitute some other and less stringent procedure for the laying before Parliament envisaged by the Act. The proviso to s. 4 (1), Lord Simon submitted, had been inserted to meet just the type of case which this particular form of Standing Order was designed to cover. If it were essential to confer immediate operation upon instruments made when the House was not sitting, the proper course was to notify the Lord Chancellor under that proviso, drawing attention to the fact that copies of the instrument had yet to be laid before Parliament and explaining why such copies had not been laid before the House prior to the instrument's coming into operation. Lord Simon's submissions, which received much support, were strenuously resisted by the Lord Chancellor who nevertheless admitted that there was a conflict of legal opinion in the matter. He said (153 H. of L. Official Report 339 *et seq.*):

> "Standing Order CV is drafted on the assumption, which I believe to be correct, that it is for each House to say for itself and to provide by its Standing Orders what constitutes 'laying'. There is no definition of 'laying' in the Act or anywhere else, but, if the Courts had to determine what did constitute 'laying' an Order, they would, in my submission to your Lordships—I am not being dogmatic about this: I am stating what my own view is after careful consideration—at once say: 'What are the requirements of the House? If we are going to be asked to determine whether an Order is laid or not, we shall want to know what the domestic requirements of the House are as to laying.'"

In the circumstances it was within the competence of the House to define for itself what it meant by the "laying" of instruments, and there were still cases, the Lord Chancellor stated, even under the operation of the proposed Standing Order, where the machinery of the proviso would need to be invoked. It was finally agreed by the House to refer the matter to a Select Committee.

On further consideration, as it was felt undesirable to have any doubt in the matter, the Bill which led to the present Act was introduced, appropriately enough

in the House of Lords, to provide that references to the laying of documents before either House should be construed as references " to the taking, during the existence of a Parliament, of such action as is directed by virtue of any Standing Order, Sessional Order or other direction of that House for the time being in force to constitute the laying of that document before that House, or as is accepted by virtue of the practice of that House for the time being as constituting such laying, notwithstanding that the action so directed or accepted consists in part or wholly in action capable of being taken otherwise than at or during the time of a sitting of that House." This, in wide and comprehensive language were the circumstances of laying documents to be left to the internal arrangements of each House of Parliament.

Accordingly, on July 28, 1948, in anticipation of the Royal Assent, the Select Committee appointed on the previous December 18, to consider the question of Standing Orders in the House of Lords was discharged (157 H. of L. Official Report 1285–1289), and a new Standing Order, No. CV, was adopted without division in the terms of that proposed on the earlier date, subject to the substitution for the words " shall be deemed to be for all purposes " in para. (1) thereof of the words " shall constitute " in relation to the laying of documents before the House. No further motion was required in the case of the House of Commons. [4387]

An Act to declare the meaning of references in Acts of Parliament and subordinate legislation to the laying of instruments or other documents before Parliament or before either House of Parliament, and the effect during a vacancy in the office of the Lord Chancellor or of the Speaker of the House of Commons of the requirement in section four of the Statutory Instruments Act, 1946, *to send notification forthwith to each of them of an instrument's being made so as to operate before it has been laid before Parliament.* [4388] [30th July, 1948.]

1. Meaning of references to laying before Parliament.—(1) For the removal of doubt it is hereby declared that a reference in any Act of Parliament or subordinate legislation, whether passed or made before or after the passing of this Act, to the laying of any instrument, report, account or other document before either House of Parliament is, unless the contrary intention appears, to be construed as a reference to the taking, during the existence of a Parliament, of such action as is directed by virtue of any Standing Order, Sessional Order or other direction of that House for the time being in force to constitute the laying of that document before that House, or as is accepted by virtue of the practice of that House for the time being as constituting such laying, notwithstanding that the action so directed or accepted consists in part or wholly in action capable of being taken otherwise than at or during the time of a sitting of that House; and that a reference in any such Act or subordinate legislation to the laying of any instrument, report, account or other document before Parliament is, unless the contrary intention appears, to be construed accordingly as a reference (construed in accordance with the preceding declaration) to the laying of the document before each House of Parliament. [4389]

(2) It is hereby further declared that nothing in section four of the Statutory Instruments Act, 1946, is to be taken as indicating an intention that any reference in that section to the laying of copies of certain statutory instruments as therein mentioned is to be construed otherwise than in accordance with the preceding declaration. [4390]

General note.—For a short explanation of the background of this, the principal section of the Act, see the Preliminary Note, *ante*.

Or subordinate legislation.—These words, introduced into the Bill by amendment in the House of Lords (157 H. of L. Official Report 901 *et seq.*), cover the possibility of ecclesiastical Measures providing for the laying of subordinate instruments. Though approved by both Houses and receiving the Royal Assent, such Measures are not themselves Acts, notwithstanding the provisions of s. 4 of the Church of England Assembly (Powers) Act, 1919 (7 Halsbury's Statutes (2nd Edn.) 54), whereby such Measures have the force and effect of Acts of Parliament on the Royal Assent being signified.

Passing of this Act.—July 30, 1948.

The laying of any instrument.—See, in particular, the Statutory Instruments Act, 1946, s. 4 (39 Halsbury's Statutes 785), referred to in the Preliminary Note, *ante*.

Or other document.—It may be that the term " document " here used should be construed *ejusdem generis* with the words " instrument", " report " and " account " that precede it.

Before either House of Parliament.—This phrase is in contrast to the phrase " before Parliament " later in the subsection.

During the existence of a Parliament.—During a dissolution the interpretation of " laying " laid down by the present Act has no application. This is readily understandable in the elective House of Commons but it applies equally to the hereditary Upper House. The only way in which instruments which require to be laid before Parliament can be brought into operation during a dissolution is therefore by means of the proviso to s. 4 (1) of the Statutory Instruments Act, 1946 (see the Preliminary Note, *ante*), though the present provisions are fully applicable in all cases where Parliament is not sitting except by reason of a dissolution.

Standing Order.—See now Standing Order No. CV of the House of Lords and Standing Order No. 94 (as amended) of the House of Commons, the adoption of each of which is referred to in the Preliminary Note, *ante*.

The practice of that House.—This provision is inserted because much of the procedure of both Houses rests not upon written Orders but upon unwritten practice and precedent.

Or is accepted . . . as constituting.—This covers the use in Standing Orders of such phrases as " shall be deemed to be for all purposes the laying of it in the House", though the word " constitute " is now preferred in Standing Order No. CV of the House of Lords.

Otherwise than at or during the time of a sitting.—This disposes of any possible objection to the laying of instruments during a parliamentary recess : but there must be a Parliament in being (see the notes *supra*).

And that a reference, etc.—This is in contrast to the provisions applicable to the laying " before either House of Parliament " earlier in the subsection, and under the present part of the subsection a general refererence to " laying before Parliament " is to be construed as a laying before each House of Parliament.

Sub-s. (2).—This subsection makes assurance doubly sure by specifically referring to the Statutory Instruments Act, 1946, s. 4 ; sub-s. (1), *supra*, is couched in general terms.

2. Notification under 9 & 10 Geo. 6, c. 36, s. 4, during vacancy of office of Lord Chancellor or of Speaker.—It is hereby declared that the requirement imposed by subsection (1) of section four of the Statutory Instruments Act, 1946, to send notification forthwith to the Lord Chancellor and to the Speaker of the House of Commons where a statutory instrument required to be laid before Parliament has been made so as to come into operation before it has been so laid, is to be treated as having been complied with, in a case in which notification forthwith is impossible by reason of a vacancy for the time being in the office of the Lord Chancellor or of the Speaker, whether occurring by death, resignation, dissolution of Parliament or otherwise, if the notification is sent to him immediately after the vacancy is filled. [4391]

General note.—This section modifies the procedure to be followed in the case of notifications under the proviso to the Statutory Instruments Act, 1946, s. 4 (1) (39 Halsbury's Statutes 785), to cover possible vacancies in the offices of Lord Chancellor and Speaker of the House of Commons. As to the procedure under this proviso, see the Preliminary Note, *ante*.

To send notification forthwith.—In the discussion on the Bill and on the relevant Standing Orders in the House of Lords, an important point was raised in regard to the procedure under the proviso to s. 4 (1) of the Statutory Instruments Act, 1946, *supra*, whereby essential instruments can be brought into force before copies have been laid before Parliament on notification of the fact being sent to the Lord Chancellor and the Speaker " explaining why such copies were not so laid before the instrument came into operation". Hitherto the practice has been to state that copies had not been so laid because Parliament was not in session, but whilst this appeared correct on the wording of the proviso it was thought that the intention of the Legislature had been that some justification should be made in the explanation of the reasons why immediate operation was essential (see 157 H. of L. Official Report 902–903). In the House of Lords on July 28, 1948, the Lord Chancellor stated that he had been in touch with the Treasury and hoped that in future it would be possible to give an explanation more in accordance with the spirit of the Statute (157 H. of L. Official Report 1286–1287).

Where a statutory instrument.—This section is not general, as is s. 1 (1), *ante*, but is specifically limited in application to s. 4 (1) of the Statutory Instruments Act, 1946, *supra*.

Dissolution of Parliament.—S. 1 (1), *ante*, has no application in the case of a dissolution but, as explained in the notes to s. 1, *ante*, recourse must then be had in appropriate cases to the machinery of the proviso to s. 4 (1) of the Act of 1946, *supra*. The present section, however, applies even on a dissolution because it is the machinery of such proviso that is being modified.

3. Short title.—This Act may be cited as the Laying of Documents before Parliament (Interpretation) Act, 1948. [4392]

ORDERS, CIRCULARS AND MEMORANDA

STATUTORY INSTRUMENTS REGULATIONS, 1947

S.I. 1948 *No.* 1

December 15, 1947

With the concurrence of the Lord Chancellor and of the Speaker of the House of Commons, the Lords Commissioners of His Majesty's Treasury, in exercise of the powers conferred upon Them by subsection (1) of Section 8 of the Statutory Instruments Act, 1946, and of all other powers enabling Them in that behalf, hereby make the following Regulations :—

Preliminary

1. Interpretation, Citation and Commencement.—(1) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

(2) In these Regulations—

(*a*) " Principal Act " means the Statutory Instruments Act, 1946 :

(*b*) " responsible authority " means—

(i) in relation to an Order in Council, the Minister responsible for the preparation of the draft of the Order submitted to His Majesty in Council, and

(ii) in relation to any other instrument, the Minister by whom the instrument is made ;

and in this definition references to a Minister include references to the Treasury, the Admiralty, the Board of Trade, and any other Government department, and to any other authority making a document which by virtue of Regulation 2 of these Regulations is such a statutory rule as is referred to in subsection (2) of Section 1 of the Principal Act :

(*c*) " general instrument " and " local instrument " mean, respectively, an instrument classified as such under these Regulations ; and

(*d*) " Reference Committee " means the Statutory Instruments Reference Committee provided for by these Regulations.

(3) These Regulations may be cited as the Statutory Instruments Regulations, 1947 ; and shall come into operation on the 1st day of January, 1948. [4393]

2. Application to Statutory Rules within 56 & 57 Vict. c. 66.—(1) Subject to the provisions of this Regulation, the following documents, namely—

(*a*) every document being a legislative and not an executive character made after the commencement of the Principal Act* by a rule-making authority as defined in the Rules Publication Act, 1893, in the exercise of a statutory power conferred on that authority by or under any Act of Parliament passed before the commencement of the Principal Act,* and

(*b*) every other document which, by virtue of any enactment other than the said Act of 1893, would be subject to the provisions of Section 3 of that Act if that Section had not been repealed,

are hereby determined to constitute such a statutory rule as is referred to in subsection (2) of Section 1 of the Principal Act.

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* The Statutory Instruments Act, 1946, commences January 1st, 1948 (S.I. 1948 No. 3).

(2) Without prejudice to any Order in Council made under subsection (1) of Section 9 of the Principal Act, the confirmation or approval by a rule-making authority of any scheme, regulations or other sub-ordinate legislation made by a person not being a rule-making authority shall not be deemed to constitute the making of such a statutory rule as aforesaid unless it is required by the enactment under which it is made to be effected by means of an Order in Council or Order made by that authority.

(3) Notwithstanding anything in this Regulation, subsection (2) of Section 1 of the Principal Act shall not apply to—

(*a*) any document which, although of a legislative character, applies only to a named person or premises and is not required to be laid before or subject to confirmation or approval by Parliament or the House of Commons; or

(*b*) any Order in Council which, being an Order for which the Lord President of the Council is the responsible authority, confirms or approves subordinate legislation in the nature of a local and personal or private Act; or

(*c*) any such document as is mentioned in the Schedule to these Regulations. [4394]

Numbering, Printing and Sale

3. Numbering.—All statutory instruments received by the King's printer of Acts of Parliament under subsection (1) of Section 2 of the Principal Act shall be allocated to the series of the calendar year in which they are made and shall be numbered in that series consecutively as nearly as may be in the order in which they are received:

Provided that where any such instrument—

(*a*) will not take effect unless it is confirmed or approved by Parliament or the House of Commons, or

(*b*) is subject to special parliamentary procedure, or will become subject thereto in certain events,

the instrument may be allocated and numbered as if it had been made and received on the date on which the responsible authority notifies the King's printer that the instrument has become operative or will become operative; and

Provided also that any statutory instrument made before the commencement of the Principal Act* shall be allocated to the series of the calendar year in which that Act commences*. [4395]

4. Classification.—(1) For the purpose of these Regulations, statutory instruments shall be classified as local or general according to their subject matter.

(2) Unless there are special reasons to the contrary in any particular case, a statutory instrument which is in the nature of a local and personal or private Act shall be classified as local, and a statutory instrument which is in the nature of a Public General Act shall be classified as general.

(3) The responsible authority shall, on sending a statutory instrument to the King's printer of Acts of Parliament, certify it as local or general, as the case may be; and, unless the Reference Committee otherwise direct under these Regulations, the instrument shall be classified accordingly. [4396]

5. Exemption for local instruments and instruments otherwise regularly published.—The following statutory instruments shall, unless the Reference

* The Statutory Instruments Act, 1946, commences January 1st, 1948 (S.I. 1948 No. 3).

Committee in any particular case otherwise direct under these Regulations, be exempt from the requirements of subsection (1) of Section 2 of the Principal Act with respect to the printing and sale of copies, that is to say :—

(*a*) any local instrument, and

(*b*) any general instrument certified by the responsible authority to be of a class of documents which is or will be otherwise regularly printed as a series and made available to persons affected thereby :

Provided that the responsible authority may, on sending to the King's printer of Acts of Parliament any statutory instrument certified by that authority as local, request him to comply with the requirements aforesaid. [4397]

6. Exemption for temporary instruments.—If the responsible authority considers that the printing and sale of copies of a statutory instrument in accordance with the requirements of subsection (1) of Section 2 of the Principal Act is unnecessary having regard to the brevity of the period during which that instrument will remain in force and to any other steps taken or to be taken for bringing its substance to the notice of the public, he may, on sending it to the King's printer of Acts of Parliament, certify accordingly ; and any instrument so certified shall, unless the Reference Committee otherwise direct under these Regulations, be exempt from the requirements aforesaid. [4398]

7. Exemption for certain schedules, etc.—If the responsible authority considers that the printing and sale in accordance with the requirements of subsection (1) of Section 2 of the Principal Act of any schedule or other document which is identified by or referred to in a statutory instrument and would, but for the provisions of this Regulation, be required to be included in the instrument as so printed and sold, is unnecessary or undesirable having regard to the nature or bulk of the document and to any other steps taken or to be taken for bringing its substance to the notice of the public, he may, on sending it to the King's printer of Acts of Parliament, certify accordingly ; and any instrument so certified shall, unless the Reference Committee otherwise direct under these Regulations, be exempt from the requirements aforesaid so far as concerns the document specified in the certificate. [4399]

8. Exemption for confidential instruments.—If the responsible authority considers that the printing and sale of copies of a statutory instrument in accordance with the requirements of subsection (1) of Section 2 of the Principal Act would, if effected before the coming into operation of that instrument, be contrary to the public interest, he may, on sending it to the King's printer of Acts of Parliament, certify accordingly ; and any instrument so certified shall, so long as it has not come into operation, be exempt from the requirements aforesaid :

Provided that if at any time after the instrument has been so certified and before the instrument has come into operation it appears to the said authority that the printing and sale of copies of the instrument as aforesaid would no longer be contrary to the public interest, he shall notify the King's printer of Acts of Parliament to that effect, and thereupon the foregoing provisions of this Regulation shall cease to apply to that instrument. [4400]

List of Statutory Instruments and Annual Editions

9. Statutory Instrument Issue Lists.—For the purposes of subsection (1) of Section 3 of the Principal Act, His Majesty's Stationery Office shall from time to time publish a list to be known as the " Statutory Instrument Issue List ", showing the serial number and short title of each statutory instrument which has been issued for the first time by that Office during the period to which that list relates, and the date on which each such instrument was so issued. [4401]

10. Annual Edition.—(1) As soon as possible after the end of each calendar year the Treasury shall cause to be prepared from the series of statutory instruments up to the end of that year an edition of statutory instruments (in the Regulation called the "annual edition") including (*inter alia*) the following matter:—

(*a*) copies of so much of all statutory instruments as has, at the time of the completion of the annual edition been printed in compliance with the requirements of subsection (1) of Section 2 of the Principal Act and not been included in any previous annual edition;

Provided that copies of instruments which have ceased to be in operation at the time of the completion of the annual edition, and copies of local instruments which have been so printed, may be omitted:

(*b*) an Annual Numerical and Issue List of Public Statutory Instruments showing, except for such local instruments as are exempt from the requirements of subsection (1) of Section 2 of the Principal Act with respect to the printing and sale of copies and instruments in respect of which a certificate under Regulation 8 of these Regulations is in force, the serial numbers of all statutory instruments which during that year either were made or were issued for the first time by His Majesty's Stationery Office, and in respect of the latter the date of such issue:

(*c*) a classified list of local instruments:

(*d*) tables showing the effect on statutes and previous statutory rules or statutory instruments of the statutory instruments included in that edition: and

(*e*) an index.

(2) The annual edition shall be printed by the King's printer of Acts of Parliament and shall be published by His Majesty's Stationery Office; and so much of the Annual Numerical and Issue List of Public Statutory Instruments therein as refers to the date upon which any statutory instrument was first issued by the Stationery Office shall be deemed to be published in accordance with subsection (1) of Section 3 of the Principal Act. [4402]

The Reference Committee

11. Constitution and powers of Reference Committee.—(1) There shall be a Committee to be known as the Statutory Instruments Reference Committee consisting of such two or more persons as the Lord Chancellor and the Speaker of the House of Commons may nominate.

(2) The quorum of the Committee shall be such as the Lord Chancellor and the Speaker may determine; and subject to that determination the Committee shall regulate their own procedure.

(3) Where, under Regulation 6 or 7 of these Regulations, the responsible authority gives any certificate in respect of a statutory instrument, that authority shall notify the Committee; and the Committee may, if they consider that the requirements of subsection (1) of Section 2 of the Principal Act with respect to the printing and sale of copies ought to be complied with direct that the instrument shall not be exempt from those requirements or, as the case may be, shall not be exempt therefrom so far as concerns the document specified in the certificate:

Provided that the Committee may direct that the notification required by this paragraph need not be given in respect of any specified class of instrument.

(4) Without prejudice to the provisions of the last foregoing paragraph, it shall be the duty of the Committee to determine any question referred to them—

(*a*) as to the numbering, printing or publication of any statutory instrument or class or description of such instruments ;

(*b*) whether any statutory instrument or any class or description of statutory instruments is in the nature of a Public General Act or of a local and personal or private Act ; and

(*c*) whether any document whereby is exercised after the commencement of the Principal Act * any power conferred by or under any Act of Parliament passed before the commencement of that Act * does or does not constitute such a statutory rule as is referred to in subsection (2) of Section 1 of that Act. [4403]

* * * * *

(Reg. 2 (3) (*c*)) THE SCHEDULE

DOCUMENTS EXCLUDED FROM SUBSECTION (2) OF SECTION 1 OF THE STATUTORY INSTRUMENTS ACT, 1946

Part I

Any document made under any of the following enactments :—

A

1. The Naval and Marine Pay and Pensions Act, 1865 (28 & 29 Vict. c. 73).
2. —(*a*) The Reserve Forces Act, 1882 (45 & 46 Vict. c. 48), *Section* 20 (2).
   (*b*) The foregoing enactment as applied to the Air Force Reserve by the Air Force Reserve Order, 1924.
3. The Pensions and Yeomanry Pay Act, 1884 (47 & 48 Vict. c. 55), *Section* 2 (3).
4. —(*a*) The Territorial and Reserve Forces Act, 1907 (7 Edw. 7, c. 9), *Sections* 1 (2), 4, 4*A*, *and* 7 (3).
   (*b*) *Sections* 1 (2), 1*A* (2), 4, 4*A*, *and* 7 (3) of the aforesaid Act, as applied to the Auxiliary Air Force by the Auxiliary Air Force Order, 1924.
5. The Air Force Constitution Act, 1917 (7 & 8 Geo. 5, c. 71), *Section* 2 (3).
6. The Army Act, *except* Sections 108A and 114 thereof.
7. The Air Force Act, *except* Sections 108A and 114 thereof.

B

The Diseases of Animals Act, 1894 (57 & 58 Vict. c. 57), *Section* 27. [4404]

Part II

Any document which by virtue of paragraph (2) of Regulation 102A of the Defence (General) Regulations, 1939, is deemed to be a statutory rule to which the Rules Publication Act (Northern Ireland), 1925, applies. [4405]

EXPLANATORY NOTE

(*This Note is not part of the Order, but is intended to indicate its general purport.*)

The Regulations provide for the numbering, printing and sale of Statutory Instruments under the Statutory Instruments Act, 1946, *and other matters in connection therewith. They come into force on the* 1*st January*, 1948, *on which day come also into force the Statutory Instruments* (*Confirmatory Powers*) *Order*, 1947 (*S.I.* 1948 *No.* 2), *and the Act itself* (*by the Statutory Instruments Act*, 1946 (*Commencement*) *Order*, 1947 (*S.I.* 1948 *No.* 3)).

By virtue of Regulation 3 *of the Regulations, the Regulations, the Confirmatory Powers Order, and the Commencement Order, are all allocated to the* 1948 *series of Statutory Instruments.*

* The Statutory Instruments Act, 1946, commences January 1st, 1948 (S.I. 1948 No. 3).

STATUTORY INSTRUMENTS (CONFIRMATORY POWERS) ORDER, 1947

S.I. 1948 *No.* 2

December 19, 1947

His Majesty, in pursuance of subsection (1) of section nine of the Statutory Instruments Act, 1946, and of all other powers enabling him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1.—(1) Where any Minister of the Crown exercises any power conferred on him by any Act of Parliament passed before the commencement of the Statutory Instruments Act, 1946,* to confirm or approve any orders or rules or regulations or other subordinate legislation made by an authority who is not a rule-making authority as defined in the Rules Publication Act, 1893, and the subordinate legislation so confirmed or approved, being of a legislative and not an executive character, is required to be laid before Parliament or the House of Commons, then, subject to the provision of paragraph (2) of this Article any document by which that power is exercised after the coming into operation of this Order shall be known as a statutory instrument, and the provisions of the Statutory Instruments Act, 1946, shall apply to that document accordingly

(2) This Article shall not apply to any document which by virtue of subsection (2) of section one of the Statutory Instruments Act, 1946, is a statutory instrument within the meaning of that Act otherwise than by virtue of this Order or would be such an instrument but for regulations made under paragraph (*d*) of subsection (1) of section eight of that Act.† [4406]

2. Any document by which any power conferred by an Act mentioned in the first column of the Schedule to this Order to confirm subordinate legislation of the description mentioned in the second column of that Schedule is exercised after the coming into operation of this Order by the Ministers specified in the third column of that Schedule shall be known as a statutory instrument, and the provisions of the Statutory Instruments Act, 1946, shall apply to that document accordingly. [4407]

3. In this Order references to a Minister of the Crown include references to the Treasury, the Admiralty, the Board of Trade, and any other Government department. [4408]

4.—(1) This Order shall come into operation on the 1st day of January, 1948 ; and may be cited as the Statutory Instruments (Confirmatory Powers) Order, 1947.

(2) The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament. [4409]

* * * * *

* The Statutory Instruments Act, 1946, commenced the 1st January, 1948 (S.I. 1948 No. 3).

† See the Statutory Instruments Regulations, 1947 (S.I. 1948 No. 1).

THE SCHEDULE

STATUTE	SUBORDINATE LEGISLATION	MINISTER WITH POWER TO CONFIRM OR APPROVE
1. Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 67) *Section 27*	Orders by the County of London Quarter Sessions regulating proceedings on assessment appeals	Secretary of State.
2. Midwives Act, 1902 (2 Edw. 7, c. 17) *Section 3*	Rules made by Central Midwives Board	Minister of Health.
3. Midwives (Scotland) Act, 1915 (5 & 6 Geo. 5, c. 91) *Section 5*	Rules made by Central Midwives Board for Scotland	Secretary of State.
4. Education (Scotland) Act, 1946 (9 & 10 Geo. 6, c. 72) *Section 126*	Schemes made by Governing bodies of endowments of an annual value under £50	Secretary of State.
5. Local Government Act, 1929 (19 & 20 Geo. 5, c. 17)		
(a) *Section 4*	Administrative Schemes ..	Minister of Health.
(b) *Section 24*	Schemes for the administration of Registration Acts in counties and county boroughs	Minister of Health.
6. Local Government (Scotland) Act, 1947 (10 & 11 Geo. 6, c. 43) *Section 38*	District Council schemes made by County Councils	Secretary of State.
7. Livestock Industry Act, 1937 (1 Edw. 8 & 1 Geo. 6, c. 50) *Section 17*	General (but not special) byelaws made by the Livestock Commission	Minister of Agriculture and Fisheries (in relation to byelaws applicable only to premises in England). Secretary of State (in relation to byelaws applicable only to premises in Scotland). [4410]

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

The Order subjects to the provisions of the Statutory Instruments Act, 1946, *and the Treasury Regulations thereunder (see the Statutory Instruments Regulations,* 1947 (*S.I.* 1948 *No.* 1)) :—

(1) *confirmation of subordinate legislation of a legislative and not an executive character, where the subordinate legislation is required to be laid before Parliament or the House of Commons and was not a statutory rule before the commencement of the Act; and*

(2) *the confirmations set out in the Schedule.*

By virtue of Regulation 3 *of the Statutory Instruments Regulations the Order is allocated to the* 1948 *series of Statutory Instruments.*

STATUTORY INSTRUMENTS ACT, 1946 (COMMENCEMENT) ORDER, 1947

S.I. 1948 *No.* 3

December 19, 1947

His Majesty, in pursuance of subsection (1) of section ten of the Statutory Instruments Act, 1946, and of all other powers enabling him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. The Statutory Instruments Act, 1946, shall come into operation on the 1st day of January, 1948. [4411]

2.—(1) This Order shall come into operation on the 1st day of January, 1948 ; and may be cited as the Statutory Instruments Act, 1946 (Commencement), Order, 1947.

(2) The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament. [4412]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

The Order brings the Statutory Instruments Act, 1946, into force on the 1st January, 1948 ; on which day come also into force the Statutory Instruments Regulations, 1947 (S.I. 1948 No. 1) and the Statutory Instruments (Confirmatory Powers) Order, 1947 (S.I. 1948 No. 2).

By virtue of Regulation 3 of the Statutory Instruments Regulations, those Regulations, the Confirmatory Powers Order, and the Commencement Order, are all allocated to the 1948 series of Statutory Instruments.

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STATUTES

CRIMINAL JUSTICE ACT, 1948

(11 & 12 Geo. 6, c. 58)

PRELIMINARY NOTE

It is only in certain aspects that the provisions of the Criminal Justice Act, 1948, which received the Royal Assent on July 30, 1948, impinge upon the functions of local authorities. The principal sections of the Act to be included in the present title are ss. 24 and 45–49. The first named provision, which was brought into operation on December 27, 1948, by Order in Council under s. 83 (2) of the Act (S.I. 1948 No. 2349), empowers courts of summary jurisdiction to direct persons to

be detained in institutions for those of unsound mind where the Bench are satisfied of such persons' guilt and accept evidence of insanity by at least two medical practitioners. Officers of the local health authority or the police may be authorised to convey persons to the institutions. The effect of such orders is similar to that of summary reception orders under s. 16 of the Lunacy Act, 1890 (11 Halsbury's Statutes 25).

The provisions of ss. 45–49, on the other hand, relate principally to the administrative side of the probation system. Ss. 45–47 and 49 were brought into operation on August 1, 1949 (S.I. 1949 No. 1045) and s. 48 on December 27, 1948 (S.I. 1948 No. 2349). By s. 45 the detailed provisions of Sched. V to the Act as to probation areas, probation committees, case committees and probation officers are applied to petty sessional divisions, subject to a strictly limited power of adaptation and modification vested in the Secretary of State. The next section empowers the same Minister to approve premises for use as " approved probation hostels " and " approved probation homes", the former term being applicable where the premises are used for accommodating persons, in respect of whom a probation or supervision order has been made, who work outside the premises. The Secretary of State is further empowered to make rules for the running of such hostels and homes. Other premises in which persons are required to reside are subject to official inspection and investigation, penalties being applicable in the event of obstruction (s. 47).

The succeeding section enables the Secretary of State in general terms to provide remand centres, detention centres, Borstal institutions and attendance centres, each of those terms being briefly defined. It may well be, however, that considerable time will elapse before the system envisaged by the Act becomes fully operative, for there is a grave shortage of suitable buildings and the need for personnel sufficiently trained to ensure fair chances of success is pressing. Such progress as circumstances permit is, however, being made.

S. 49 is concerned with remand homes. As from a date to be specified, premises are not to be used as a remand home without a certificate of approval from the Secretary of State, who may by rules apply to remand homes the provisions of ss. 79 and 106 (3) of the Children and Young Persons Act, 1933 (26 Halsbury's Statutes 218, 238), subject to any adaptations and modifications necessary. The appointment of persons to be in charge of remand homes is also subject to approval. In addition, s. 49 allows county and city borough councils to provide facilities for observation in remand homes with a view to the issue of reports as to the physical or mental condition of persons detained.

S. 76 contains general provisions as to rules and orders, and repeals affecting the law in England are effected by s. 83 and Sched. X, Part I.

The other sections appearing in this title are of a more general character. Other provisions of the Act are included in the title INFANTS, CHILDREN AND YOUNG PERSONS, *ante*. [4413]

ARRANGEMENT OF SECTIONS

PART I

POWERS AND PROCEEDINGS OF COURTS

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Reception orders

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PART II

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An Act to abolish penal servitude, hard labour, prison divisions and sentence of whipping; to amend the law relating to the probation of offenders and otherwise to reform existing methods and provide new methods of dealing with offenders and persons liable to imprisonment; to amend the law relating to the proceedings of criminal courts, including the law relating to evidence before such courts; to abolish privilege of peerage in criminal proceedings; to regulate the management of prisons and other institutions and the treatment of offenders and other persons committed to custody; to re-enact certain enactments relating to the matters aforesaid; and for purposes connected therewith. [4414]

[30th July, 1948.]

PART I

POWERS AND PROCEEDINGS OF COURTS

* * * * *

Reception orders

24. Power to make reception order.—(1) Where a person is charged before a court of summary jurisdiction with any act or omission as an offence punishable on summary conviction with imprisonment, and the court—

(*a*) is satisfied that the person did the act or made the omission charged; and

(*b*) is satisfied on the evidence of at least two duly qualified medical practitioners that the person is of unsound mind; and

(*c*) is also satisfied that he is a proper person to be detained,

the court may, in lieu of dealing with him in any other manner, by order direct him to be received and detained in such institution for persons of unsound mind as may be named in the order, and may further direct the duly authorised officer of the local health authority in whose area the court is situated, or any constable, to convey the person of unsound mind, forthwith to that institution; and the provisions of the Lunacy and Mental Treatment Acts, 1890 to 1930, shall have effect as if an order made under this section were a summary reception order made under section sixteen of the Lunacy Act, 1890. [4415]

(2) The court by which an order is made under this section shall send to the institution named in the order such information in the possession of the court as it considers likely to be of assistance in dealing with the person to whom the order relates. [4416]

(3) The Costs in Criminal Cases Act, 1908, shall apply in relation to any duly qualified medical practitioner who gives evidence for the purposes of this section notwithstanding that the proceedings in which the evidence is given are not proceedings to which section one of that Act applies. [4417]

Commencement of section.—This section is brought into force as from December 27, 1948, by the Criminal Justice Act, 1948 (Date of Commencement) (No. 3) Order, 1948 (S.I. 1948 No. 2349).

Offence punishable . . . with imprisonment.—See s. 80 (4), *post.*

Evidence of . . . medical practitioners.—There is here no provision corresponding to that of s. 4 (7) of the Act, whereby a report in writing as to the mental condition of any person purporting to be signed by a duly qualified medical practitioner experienced in the diagnosis of mental disorders may, in certain circumstances, be received in evidence, and it will be necessary in all cases for the medical witnesses to be called. " Duly qualified " is not defined ; it means, presumably, " registered " and not specially qualified for the purposes of mental examination and treatment (cf. s. 42 of the Children and Young Persons Act, 1933 (26 Halsbury's Statutes 198).

In lieu of dealing with him in any other manner.—See s. 80 (6), *post.*

Local health authority.—This is not defined in the Act. The local authority for the purposes of the Public Health Acts is dealt with for London in s. 1 of the Public Health (London) Act, 1936 (30 Halsbury's Statutes 446) ; and elsewhere the definition is found in s. 1 of the Public Health Act, 1936 (29 Halsbury's Statutes 322), and is the council of the borough, urban district or rural district. In s. 19 (1) of the National Health Service Act, 1946 (39 Halsbury's Statutes 536), " local health authority " is defined for the purposes of Part III of that Act as the council of a county or county borough.

Lunacy and Mental Treatment Acts, 1890 to 1930.—These Acts comprise the Lunacy Acts, 1890, 1891, 1908 and 1922 (11 Halsbury's Statutes 17, 144, 151, 199), and the Mental Treatment Act, 1930 (23 Halsbury's Statutes 154).

Lunacy Act, 1890, s. 16.—11 Halsbury's Statutes 25.

No notice to defendant or to his parent or guardian.—It is to be noted that there is no provision in this section corresponding with that of s. 8 (5) of the Mental Deficiency Act, 1913 (11 Halsbury's Statutes 167), whereby the police are required, if they have knowledge of the alleged mental deficiency, to notify the local authority and to give notice to the defendant and to his parent or guardian if known.

Application of costs in Criminal Cases Act, 1908 (5 Halsbury's Statutes (2nd Edn.) 942 *et seq.*).—This makes provision for the payment of witnesses' allowances to doctors who give evidence for the purposes of this section. Whether this applies to a medical witness called by the defence to resist the making of an order under the section is not clear.

Definition.—For definition of " Court of summary jurisdiction ", see s. 80 (1), *post.*

* * * * *

PART II

ADMINISTRATIVE PROVISIONS AND PROVISIONS AS TO TREATMENT OF PRISONERS, ETC.

Arrangements for probation

45. Probation areas, probation committees and case committees, and probation officers.—(1) The provisions of the Fifth Schedule to this Act shall have effect with respect to—

(*a*) the constitution of probation areas, of probation committees for those areas and of case committees for petty sessional divisions ;

(*b*) the functions of probation committees and case committees ; and

(*c*) the appointment, functions, remuneration and conditions of service of probation officers. [4418]

(2) For the purposes of this section, and of the provisions of Part I of this Act relating to probation, each of the following places shall be deemed to be a petty sessional division that is to say—

(*a*) the City of London ;

(*b*) a division of the metropolitan police court area ; and

(*c*) any area, not being a petty sessional division, for which a stipendiary magistrate is appointed or other special court of summary jurisdiction is constituted, and which, by order of the Secretary of State,

is declared to be a petty sessional division for the purposes aforesaid. [4419]

(3) An order made by the Secretary of State under paragraph (*c*) of the last foregoing subsection may provide that in its application to the area to which the order relates the Fifth Schedule to this Act shall have effect subject to such adaptations and modifications as may be specified in the order, and may contain such consequential and supplemental provisions as appear to the Secretary of State to be expedient. [4420]

General note.—The Probation of Offenders Act, 1907 (11 Halsbury's Statutes 365 *et seq.*), except as to Scotland, and the whole of Part I of the Criminal Justice Act, 1925 (11 Halsbury's Statutes 395–401) are repealed; see s. 83 and Sched. X, *post*. S. 78 and Sched. VIII, para. 7 of the Act make provision for the transitory period.

Sub-s. (1), *supra*, serves merely to apply the detailed provisions of Sched. V, *post*, which sub-s. (2) defines the term "petty sessional division" by the reference to areas, with power for the Secretary of State in specified circumstances to restore additional areas to the petty sessional divisions, the relevant provisions of Sched. V, *post*, being adapted or modified as occasion may require (sub-s. (3)).

The section has been brought into operation as from August 1, 1949 by the Criminal Justice Act, 1948 (Date of Commencement) (No. 3) Order, 1949 (S.I. 1949 No. 1045).

Provisions of Part I of this Act relating to probation.—See ss. 3–12 of the Act.

City of London.—See generally the title CITY OF LONDON in Vol. 3, at p. 178.

Definitions.—For definitions of "metropolitan police court area" and "court of summary jurisdiction, see s. 80 (1) and the notes to s. 80, *post*. Provisions as to the construction of other terms in this section are contained in Sched. V, *post*.

46. Approved probation hostels and homes.—(1) The Secretary of State may approve premises for the reception of persons who may be required to reside therein by a probation order or a supervision order, and such premises shall be known—

(*a*) if the persons so residing are employed outside the premises, or are awaiting such employment, as "approved probation hostels";

(*b*) in any other case, as "approved probation homes". [4421]

(2) The Secretary of State may make rules for the regulation, management and inspection of approved probation hostels and of approved probation homes; and such rules may in particular provide that no person shall be appointed to be in charge of an approved probation hostel or home unless the Secretary of State has consented to his appointment:

Provided that the rules shall not prohibit the making of such an appointment in case of emergency without the previous consent of the Secretary of State, but may in that case require notice of the appointment to be given immediately to the Secretary of State and enable him, if he thinks fit, to require the appointment to be terminated. [4422]

General note.—By virtue of s. 5 (3) of the Criminal Justice Act, 1925 (11 Halsbury's Statutes 398) (as to the repeal of this subsection, see s. 83 (3) and Sched. X, *post*) the Secretary of State, with Treasury approval, has contributed towards the maintenance of persons in probation homes and hostels approved by him. This new section contains statutory recognition of the terms "approved probation hostels" and "approved probation homes" and gives the Secretary of State direct authority as to their management.

As to the inspection of other "institutions" used for the residence of probationers, see s. 47, *infra*.

This section has been brought into operation as from August 1, 1949 by the Criminal Justice Act, 1948 (Date of Commencement) (No. 3) Order, 1949 (S.I. 1949 No. 1045).

If he thinks fit.—This phrase gives the Secretary of State unfettered discretion subject only to his acting in good faith.

Definitions.—For definitions of "probation order" and "supervision order", see s. 80 (1), and the notes to s. 80, *post*.

47. Inspection of institutions for residence of probationers.—(1) Any institution, not being an approved probation hostel or an approved probation home, in which a person is required by a probation order or a supervision order to reside otherwise than for the purpose of his submitting to treatment for his mental condition as a resident or voluntary patient shall, so long as he resides there, be subject to inspection by the Secretary of State unless it is, as a whole, otherwise subject to inspection by a Government department. [4423]

(2) A person appointed by the Secretary of State to inspect any such institution as aforesaid shall have power to enter the institution and to make such investigation of the treatment of any persons residing there as he thinks fit; and any person who obstructs him in the exercise of the power aforesaid shall be liable on summary conviction to a fine not exceeding five pounds. [4424]

Commencement of section.—This section has been brought into operation as from August 1, 1949 by the Criminal Justice Act, 1948 (Date of Commencement) (No. 3) Order, 1949 (S.I. 1949 No. 1045).

Institution.—This expression is not defined in the Act.

Mental treatment.—Power to make probation orders requiring treatment for mental condition is conferred upon courts by s. 4 of the Act.

Powers of inspection.—The occasion of the inspection may be that a single probationer resides on the premises, but it would seem that the inspector is entitled to investigate the treatment of "any person residing there", even if not probationers.

Obstructs.—It is not necessary to allege wilful obstruction, but it may be that the omission of the word "wilful" makes little difference to the meaning.

Definitions.—For definitions of "probation order" and "supervision order", see s. 80 (1) and the notes to s. 80, *post*.

Institutions for offenders

48. Remand centres, detention centres and Borstal institutions.—(1) The Secretary of State may provide—

(*a*) remand centres, that is to say places for the detention of persons not less than fourteen but under twenty-one years of age who are remanded or committed in custody for trial or sentence;

(*b*) detention centres, that is to say places in which persons not less than fourteen but under twenty-one years of age who are ordered to be detained in such centres under this Act may be kept for short periods under discipline suitable to persons of their age and description; and

(*c*) Borstal institutions, that is to say places in which offenders not less than sixteen but under twenty-one years of age may be detained and given such training and instruction as will conduce to their reformation and the prevention of crime. [4425]

(2) The Secretary of State may provide attendance centres, that is to say places at which offenders of not less than twelve but under twenty-one years of age may be required to attend, in pursuance of orders made under section nineteen of this Act, on such occasions and at such times as will avoid interference so far as is practicable with their school hours or working hours, and be given under supervision appropriate occupation or instruction; and for the purpose aforesaid the Secretary of State may make arrangements with any local authority or police authority for the use of premises of that authority. [4426]

(3) The Secretary of State shall provide in remand centres facilities for the observation of any persons detained therein on whose physical or mental condition a medical report may be desirable for the assistance of the court in determining the most suitable method of dealing with his case. [4427]

(4) Where any person under seventeen years of age is committed to, or ordered to be detained in, a remand centre under this Act for the purpose of obtaining a medical report on his physical or mental condition, the council of the county or county borough who would be responsible for his maintenance if he were detained in a remand home shall pay to the Secretary of State, in such manner as the Secretary of State may with the approval of the Treasury determine, such sums in respect of the maintenance of that person as the Secretary of State may with the like approval direct. [4428]

(5) The Prison Acts, 1865 to 1898, shall, subject to such adaptations and modifications as may be made by rules of the Secretary of State, apply to remand centres, detention centres and Borstal institutions, and to persons detained therein, as they apply to prisons and prisoners. [4429]

(6) The appropriation of a prison vested in the Prison Commissioners

under the Prison Act, 1877, for use as a remand centre, detention centre or Borstal institution shall not be deemed, for the purposes of sections thirty-three and thirty-four of that Act, to be a discontinuance of the prison. [4430]

(7) Section six of the Prevention of Crime Act, 1871, and section eight of the Penal Servitude Act, 1891 (which relate to the registration, measurement and photographing of prisoners) shall have effect as if references therein to prisons and prisoners included references to remand centres, detention centres and Borstal institutions, and to persons detained therein. [4431]

Commencement of section.—This section has been brought into operation as from December 27, 1948 by the Criminal Justice Act, 1948 (Date of Commencement) (No. 3) Order 1948 (S.I. 1948 No. 2349).

Remand centres.—S. 27 of the Act specifies the occasions on which remand centres are to be used. Their use in certain circumstances where "interim orders" are made by courts is dealt with in s. 75 of the Act.

Detention centres.—The power of courts to order detention in a detention centre is dealt with in s. 18 of the Act. The shortage of suitable accommodation is likely to be particularly keenly felt in the provision of such centres.

Borstal institutions.—The new provisions as to sentences of borstal training are set out in s. 20 of the Act, and in Sched. II thereto.

Sub-s. (1) (*c*), *supra*, refers to Borstal institutions as places in which persons between 16 and 21 "may be detained". In fact, those are the ages between which they may be sentenced to such detention, and the actual detention may continue long after they have attained the higher age.

Responsibility for maintenance.—By s. 77 of the Children and Young Persons Act, 1933 (26 Halsbury's Statutes 216), it is the duty of county councils and county borough councils to provide remand homes for their area, and the section permits the establishment of "joint remand homes" and the use of certain other institutions as remand homes. The responsibility for maintenance referred to in sub-s. (3), *supra*, will normally rest on the authority in whose area the remanding court is situated.

Remand home.—See ss. 49 and 80 (1), *post*.

Prison Acts, 1865 to 1898.—The Acts comprised in this collective short title are the Prison Act, 1865 (13 Halsbury's Statutes 326); the Prison Act, 1877 (13 Halsbury's Statutes 337); the Prison (Officers Superannuation) Act, 1878 (13 Halsbury's Statutes 352); the Prison Act, 1884 (13 Halsbury's Statutes 354); the Prison (Officers Superannuation) Act, 1886 (13 Halsbury's Statutes 363); the Prison (Officers Superannuation) Act, 1893 (13 Halsbury's Statutes 368); and the Prison Act, 1898 (13 Halsbury's Statutes 369).

Prison Act, 1877.—13 Halsbury's Statutes 337. For ss. 33 and 34 thereof, see 13 Halsbury's Statutes 344.

Prevention of Crime Act, 1871, s. 6.—5 Halsbury's Statutes (2nd Edn.) 867. The correct short title of this Act is the Prevention of Crimes Act, 1871 (see s. 1 thereof; 5 Halsbury's Statutes (2nd Edn.) 806).

Penal Servitude Act, 1891, s. 8.—13 Halsbury's Statutes 367.

Registration, measurement and photographing of prisoners.—New powers of summary courts to order the taking of fingerprints in certain cases are contained in s. 40 of the Act.

Definitions.—For definitions of "sentence" and "local authority", see s. 80 (1) and the notes to s. 80, *post*.

49. Remand homes.—(1) As from such date as may be specified in an order made by statutory instrument by the Secretary of State, no premises shall be used as a remand home unless a certificate of approval has been issued by the Secretary of State. [4432]

(2) The Secretary of State may by rules made under this Act apply to remand homes, with such adaptations and modifications as he thinks fit, the provisions of section seventy-nine and subsection (3) of section one hundred and six of the Children and Young Persons Act, 1933 (which relate to the approval of schools for the purposes of that Act and the evidence of such approval. [4433]

(3) No person shall be appointed after the commencement of this Act to be in charge of a remand home established by a county council or a county borough council unless his appointment has been approved by the Secretary of State. [4434]

(4) Councils of counties and county boroughs may provide in remand homes provided for their areas facilities for the observation of any person detained therein on whose physical or mental condition a medical report may be desirable for the assistance of the court in determining the most suitable method of dealing with his case, or may, if facilities for observation are available at any other institution or place, arrange for the use of those facilities for the observation of any such person as aforesaid. [4435]

(5) Subsections (2) and (3) of section six of the Children and Young Persons Act, 1938 (which provide for the removal to a place of safety of persons found while detained in a remand home to be in need of medical treatment, and for giving notice to the clerk of the court by which the order for detention was made) shall apply in relation to the removal of any person from a remand home to an institution or place where facilities are available in pursuance of arrangements made under the last foregoing subsection for the purpose of obtaining such a report as aforesaid as they apply in relation to any such removal as is mentioned in the said subsection (2). [4436]

(6) Any expenses incurred by the council of a county or county borough in giving effect to arrangements made under subsection (4) of this section, and any sums paid by such a council under subsection (4) of the last foregoing section, shall be treated for the purposes of any grant under section one hundred and four of the Children and Young Persons Act, 1933, as expenses of the council in respect of remand homes. [4437]

Specified in an order.—Any such order may be varied or revoked (s. 76 (3), *post*).

Statutory instrument.—See the Statutory Instruments Act, 1946 (39 Halsbury's Statutes 783).

Remand home.—That is, premises established or used by the council of a county or county borough under s. 67 of the Children and Young Persons Act, 1933 (26 Halsbury's Statutes 210) (s. 80 (1), *post*).

Rules made under this Act.—This power to make rules is exercisable by statutory instrument (s. 76 (1), *post*).

As he thinks fit.—The Secretary of State has a complete discretion as to the adaptations and modifications to adopt, but they must not be so substantial as to amount to amendments.

Children and Young Persons Act, 1933, *ss.* 79, 104 *and* 106 (3).—26 Halsbury's Statutes 218, 237, 238.

Commencement of this Act.—That is, the date of commencement of the present provisions of the Act (s. 83 (2), *post*). The present section has been brought into operation as from August 1, 1948 by the Criminal Justice Act, 1948 (Date of Commencement) (No. 3) Order, 1949 (S.I. 1949 No. 1045).

Responsibility for provision of remand homes.—See the note to s. 48, *ante*, headed "Responsibility for maintenance."

Remand for medical report.—Where, under s. 26 of the Act, a remand for medical report is ordered in the case of a young person and no adequate facilities are available in the remand home the remand must be to a remand centre, when available (see s. 27 (3) of the Act).

Inspection of remand homes.—See the Remand Home Rules, 1939 (S. R. & O., 1939, No. 12), as to powers of inspection of remand homes by the Chief Inspector appointed by the Secretary of State, under s. 103 of the Children and Young Persons Act, 1933 (26 Halsbury's Statutes 236).

Children and Young Persons Act, 1938, s. 6 (2), (3).—31 Halsbury's Statutes 368, 369.

* * * * *

PART III

SUPPLEMENTAL

* * * * *

76. Rules and orders.—(1) Any power of the Secretary of State to make rules under this Act shall be exercised by statutory instrument. [4438]

* * * * *

(3) Any power to make Orders in Council under this Act, and any power of the Secretary of State to make orders under this Act, shall include power to revoke or vary any such Order in Council or order by a subsequent Order in Council or order. [4439]

Commencement of section.—This section has been brought into operation as from September 13, 1948 by the Criminal Justice Act, 1948 (Date of Commencement) (No. 2) Order, 1948 (S.I. 1948 No. 2056).

To make rules under this Act.—See ss. 46 (2), 48 (5) and 49 (2), *ante*, and Sched. V, paras. 2 (1) (*b*), (3), 3 (1), (2), (3), (5), (6), (7) and 5 (1) and (6), *post*, for rule-making powers relevant to the present title.

Statutory instrument.—See the Statutory Instruments Act, 1946 (39 Halsbury's Statutes 783).

To make orders under this Act.—See ss. 45 (2) (*c*) and 49 (1), *ante*, and Sched. V, paras. 1 and 7 (1) (*b*), *post*, for powers to make orders relevant to the present title.

* * * * *

80. Interpretation.—(1) In this Act, unless the context otherwise requires, the following expressions have the meaning hereby respectively assigned to them, that is to say :—

" Approved probation hostel " and " Approved probation home " have the meaning assigned to them by section forty-six of this Act ;

* * * * *

" Court " does not include a court-martial ;

" Court of summary jurisdiction " includes examining justices within the meaning of the Criminal Justice Act, 1925 ;

" Detention centre " has the meaning assigned to it by section forty-eight of this Act ;

" Enactment " includes an enactment contained in a local Act and any order, regulation or other instrument having effect by virtue of an Act ;

" England " includes Wales ;

" Impose imprisonment " means pass a sentence of imprisonment or commit to prison in default of payment of any sum of money or for failing to do or abstain from doing anything required to be done or left undone ;

" Local authority " means, in relation to any probation area, any authority out of whose funds the salary of the clerk to the justices for a petty sessional division or place contained in the probation area is paid ;

" Mental hospital " includes a Broadmoor institution ;

" Metropolitan police court area " means the area consisting of the police court divisions for the time being constituted under the Metropolitan Police Courts Acts, 1839 and 1840 ;

* * * * *

" Probationer " means a person for the time being under supervision by virtue of a probation order ;

" Probation order " has the meaning assigned to it by section three of this Act ;

" Probation period " means the period for which a probationer is placed under supervision by a probation order ;

" Remand centre " has the meaning assigned to it by section forty-eight of this Act ;

" Remand home " means premises established or used by the council of a county or county borough under the provisions of section seventy-seven of the Children and Young Persons Act, 1933 ;

" Sentence " includes an order for detention in a detention centre, an order for custody in a remand home under section fifty-four of the Children and Young Persons Act, 1933, and an order sending an offender to an approved school, but does not include a committal in default of payment of any sum of money or failing to do or abstain from doing anything required to be done or left undone ;

" Sum adjudged to be paid by a conviction " includes any costs, damages or compensation adjudged to be paid by the conviction of which the amount is ascertained by the conviction ;

" Supervising court " means, in relation to a probation order, a court of summary jurisdiction acting for the petty sessional division or place for the time being named in the order ; and where the probationer was a child or young person within the meaning of the Children and Young Persons Act, 1933, when the probation order was made, means a juvenile court for that division or place ;

" Supervision order " has the meaning ascribed to it by section seventy-four of this Act. [4440]

(2) Any reference in this Act to a previous sentence of imprisonment shall be construed as including a reference to a previous sentence of penal servitude; any such reference to a previous sentence of Borstal training shall be construed as including a reference to a previous sentence of detention in a Borstal institution; and any such reference to a previous conviction or sentence shall be construed as a reference to a previous conviction by a court in any part of Great Britain and to a previous sentence passed by any such court. [4441]

(3) Where the age of any person at any time is material for the purposes of any provision of this Act, or of any Order in Council made thereunder, regulating the powers of a court, his age at the material time shall be deemed to be or to have been that which appears to the court after considering any available evidence to be or to have been his age at that time. [4442]

(4) References in this Act to an offence punishable with imprisonment shall be construed, in relation to any offender, without regard to any prohibition or restriction imposed by or under this Act upon the imprisonment of offenders of his age, but shall not be construed as including an offence for which the court is required to impose a sentence of imprisonment for life. [4443]

(5) For the purposes of this Act, except subsection (6) of section three thereof, where a probation order or an order for conditional discharge has been made on appeal, the order shall be deemed to have been made by the court from which the appeal was brought. [4444]

(6) Where any provision of this Act empowers a court on conviction of an offender to pass a sentence or make an order in lieu of dealing with him in any other manner, the said provision shall not be construed as taking away any power of the court to order the offender to pay costs, damages or compensation. [4445]

Commencement of section.—The section has been brought into operation as from September 13, 1948 by the Criminal Justice Act, 1948 (Date of Commencement) Order, 1948 (S.I. 1948 No. 1840).

Criminal Justice Act, 1925.—11 Halsbury's Statutes 395.

Metropolitan Police Courts Acts, 1839 *and* 1840.—11 Halsbury's Statutes 249, 261.

"*Probation order.*"—This term is defined by s. 3 of the Act as meaning an order requiring a person convicted of an offence to be under the supervision of a probation officer for a period to be specified in the order of not less than one year nor more than three years.

Children and Young Persons Act, 1933.—26 Halsbury's Statutes 168. For ss. 54 and 77 thereof, see 26 Halsbury's Statutes 204, 216.

"*Supervision order.*"—This term is defined by s. 74 of the Act as meaning an order made under s. 64 or s. 84 of the Children and Young Persons Act, 1933 (26 Halsbury's Statutes 209, 221), placing a child or young person under the supervision of a probation officer or of some other person appointed for the purpose by the court.

S. 3 (6) *of the Act.*—This subsection relates to the giving of copies of probation orders to probation officers and various other persons interested.

* * * * *

83. Short title, commencement, extent and repeals.—(1) This Act may be cited as the Criminal Justice Act, 1948. [4446]

(2) This Act shall come into operation on such day as His Majesty may by Order in Council appoint:

Provided that different days may be appointed for the purposes of different provisions of this Act, and any reference in any provision of this Act to the commencement of this Act shall, unless otherwise provided by any such Order, be construed as a reference to the commencement of that provision. [4447]

(3) The enactments specified in Parts I to III of the Tenth Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule but without prejudice to the provisions of subsection (5) of section sixty-one, and of section seventy-eight of this Act; and Regulations 13, 15A and 17A of the Defence (Administration of Justice) Regulations, 1940, shall cease to have effect. [4448]

May by Order in Council appoint.—See the provisions of the Act appearing in the present title have been brought into operation (see the notes to the various sections).

S. 61 (5) *of the Act.*—This relates to the operation of Sched. VII and is not relevant for present purposes.

S. 78 *of the Act.*—This section refers to certain transitory provisions of the Act.

Defence (Administration of Justice) Regulations, 1940.—S. R. & O., 1940, No. 1028.

* * * * *

SCHEDULES

* * * * *

Section 45

FIFTH SCHEDULE

ADMINISTRATIVE PROVISIONS AS TO PROBATION

Probation Areas

1.—(1) If the Secretary of State is of opinion, either upon consideration of proposals submitted to him by a court of quarter sessions for a county or without any such proposals, that it is expedient that any two or more petty sessional divisions should form one probation area, he may by statutory instrument make an order to that effect; and the order may contain such incidental and consequential provisions as appear to the Secretary of State to be expedient for the purposes of the order.

(2) Before making an order under the last foregoing sub-paragraph, the Secretary of State shall give to the justices acting for any petty sessional division affected by the order an opportunity of making to him any representations which they may desire to make with respect to the order, and shall consider any representations made by them.

(3) Every petty sessional division which is not included in a probation area by virtue of an order made under the foregoing provisions of this paragraph shall itself constitute a probation area.

Probation Committees, Case Committees and Probation Officers

2.—(1) For every probation area there shall be a probation committee which shall, subject to the provisions of sub-paragraph (3) of this paragraph, consist—

(*a*) if the probation area comprises more than one petty sessional division, of such number of justices as may be specified by the order, appointed in the manner so specified by the justices acting for the several petty sessional divisions comprised in the area and, if the order so provides, of such additional justices holding any of the offices of chairman, deputy chairman, assistant chairman or recorder of a court of quarter sessions having jurisdiction in the area, as may be appointed by the order;

(*b*) if the probation area is one petty sessional division, of a prescribed number of justices appointed in the prescribed manner by the justices acting for that division.

(2) For every petty sessional division there shall be one or more committees, to be called "case committees", and every such committee shall, subject to the provisions of the next following sub-paragraph, consist—

(*a*) if the division is a separate probation area, of the probation committee;

(*b*) in any other case, of a prescribed number of justices appointed by the justices acting for that division.

(3) Any case committee for a petty sessional division not being a separate probation area, or any probation committee, may co-opt such number of persons, possessing such qualifications as may be prescribed as they think fit:

Provided that the number of members so co-opted shall not exceed one-third of the number of members of the committee, and no person shall be so co-opted if he is a justice of the peace for any county or borough in which the probation area or any part thereof is situated, or which is wholly or partly comprised in that area.

3.—(1) It shall be the duty of every probation committee—

(*a*) to appoint sufficient probation officers for their probation area, subject, in the case of such classes or descriptions of probation officers as may be prescribed, to the approval of the appointment by the Secretary of State, and to ensure that at least one probation officer who is a man and one probation officer who is a woman shall be appointed for or assigned by the committee to each petty sessional division;

(*b*) to pay to the probation officers appointed for their area such remuneration, allowances and expenses as may be prescribed;

(*c*) to provide for the efficient carrying out of the work of probation officers;

(*d*) to make such payments and to such persons as may be prescribed in respect of persons under the supervision of probation officers, being persons required by a probation order or supervision order to reside in any place otherwise than for the purpose of their submitting to treatment for their mental condition as voluntary or resident patients; and

(*e*) to perform such other duties in connection with the work of probation officers as may be prescribed.

(2) A probation committee may, in such cases and in such manner as may be prescribed, give financial and other assistance to persons under the supervision of probation officers appointed for their area.

(3) A probation committee shall pay any expenses incurred in accordance with rules made by the Secretary of State under this Schedule by a case committee for a petty sessional division in their probation area.

(4) A probation committee may delegate such of their functions as may be approved by the Secretary of State to a sub-committee consisting of such number of members of the committee as may be so approved.

(5) It shall be the duty of probation officers to supervise the probationers and other persons placed under their supervision and to advise, assist and befriend them, to inquire, in accordance with any directions of the court, into the circumstances or home surroundings of any person with a view to assisting the court in determining the most suitable method of dealing with his case, to advise, assist and befriend, in such cases and in such manner as may be prescribed, persons who have been released from custody and to perform such other duties as may be prescribed or may be imposed by any enactment.

(6) It shall be the duty of case committees to review the work of probation officers in individual cases, and to perform such other duties in connection with the work of probation officers as may be prescribed.

(7) Rules made under this Schedule relating to the procedure of case committees may provide that some only of the members of a case committee shall be summoned to deal with any particular case or class of case.

Selection of Probation Officers

4.—(1) The probation officer who is to be responsible for the supervision of any probationer shall be selected under arrangements made by the probation committee for the probation area which includes the petty sessional division for the time being named in the order from among the probation officers appointed for or assigned to that petty sessional division; and, if the probation officer so selected dies or is unable for any reason to carry out his duties, or if the case committee dealing with the case think it desirable that another officer should take his place, another probation officer shall be selected in like manner from among the probation officers appointed for or assigned to that division.

(2) The probation officer under whose supervision a woman or girl is placed shall be a woman.

Expenses

5.—(1) The sums required to meet any expenses incurred by a probation committee under the provisions of this Schedule, and expenses incurred by a probation committee in respect of superannuation allowances, gratuities or compensation payable by virtue of an order under the Probation Officers (Superannuation) Act, 1947, to or in respect of probation officers and clerks appointed by probation committees or probation officers to assist probation officers in the performance of their duties, and any other expenses incurred by a probation committee in accordance with rules made under this Schedule, shall be defrayed, in accordance with rules so made, by the local authority in whose area the probation area is situated:

Provided that the Secretary of State may, if he is satisfied that a probation committee are not efficiently performing their functions under this Schedule or have unreasonably incurred expenses in the performance of those functions, direct that the local authority shall be relieved, to such extent as may be specified in the direction, of their liability to defray the expenses of the probation committee.

(2) Where a probation area is situated in the area of two or more local authorities, the sums to be defrayed as aforesaid shall be apportioned between the several authorities in such manner as may be agreed upon between them, or, in default of agreement, as may be determined by the Secretary of State.

(3) Where a probation officer is appointed for more than one probation area, his salary and any expenses incurred by him or by a probation committee in respect of the performance of his duties, and any expenses incurred in respect of a superannuation allowance, gratuity or compensation payable to or in respect of him or any clerk appointed to assist him under an order under the Probation Officers (Superannuation) Act, 1947, shall be apportioned between the probation committees for the several probation areas for which he is appointed, in such manner as may be agreed upon by the probation committees after consultation with the local authorities affected, or, in default of agreement, as may be determined by the Secretary of State.

General

6. The Secretary of State may make rules—

(*a*) regulating the constitution, procedure, powers and duties of probation committees and case committees, and the expenses which may be incurred by them and the manner in which those expenses are to be defrayed ;

(*b*) regulating the qualifications, manner of appointment, conditions of service and duties of probation officers ;

(*c*) prescribing anything else which under the foregoing provisions of this Schedule may be prescribed ;

and in those provisions the expression " prescribed " means prescribed by rules of the Secretary of State.

7.—(1) The foregoing provisions of this Schedule shall in their application to the Metropolitan police court area have effect subject to the following modifications, that is to say—

(*a*) the Metropolitan police court area shall be a probation area ;

(*b*) the provisions with respect to the constitution of probation committees and case committees shall not apply ; and the Secretary of State may by order constitute committees to ensure that the work of probation officers is efficiently carried out and to review that work and for such other purposes as he may think fit ;

(*c*) the power to appoint probation officers and the other powers of probation committees shall be exercisable by the Secretary of State ;

(*d*) there shall be paid out of the Metropolitan police fund such sums as the Secretary of State may direct to meet the expenses and contributions which would, in the case of probation areas outside the Metropolitan police court area, be payable by local authorities.

(2) Notwithstanding anything in paragraph 1 of this Schedule, the City of London shall not be included in a probation area constituted by an order made thereunder. [4449]

Commencement of Schedule.—The Schedule was brought into operation as from August 1, 1949 by the Criminal Justice Act, 1948 (Date of Commencement) (No. 3) Order, 1949 (S.I. 1949 No. 1045).

Petty sessional divisions.—As to the construction of this term, see s. 45 (2), *ante*.

Statutory instrument.—See the Statutory Instruments Act, 1946 (39 Halsbury's Statutes 783).

Make an order.—Any such order may be varied or revoked (s. 76 (3), *ante*).

Duties of probation committee.—Thinly populated petty sessional divisions may not need the whole-time services of the two probation officers, and a probation officer may therefore be assigned to more than one division : see para. 5 (3), *supra*.

Presented.—That is, by rules made by the Secretary of State (para. 6, *supra*).

Duties of probation officers.—The use of the services of probation officers in matrimonial cases is recognised in ss. 4 and 5 of the Summary Procedure (Domestic Proceedings) Act, 1937 (30 Halsbury's Statutes 345–346), but, of course, justices must not receive reports from probation officers on the merits of a case : see *Pearce* v. *Pearce* (1929), 93 J. P. 64, and *Higgs* v. *Higgs*, [1941] P. 27 ; [1941] 1 All E. R. 214.

Probation Officers (Superannuation) Act, 1947.—40 Halsbury's Statutes 1086.

An order under the Probation Officers (Superannuation) Act, 1947.—See the Probation Officers (Superannuation) Order, 1948 (S.I. 1948 No. 1220), title SUPERANNUATION, *post*.

Para. 6.—For the general provisions as to rules under the Act, see s. 76 (1), *ante*, which requires rules to be made by statutory instrument.

City of London.—For a general account of the position of the City of London, see Vol. 3, at pp. 178 *et seq.*

Definitions.—For definitions of " probation order ", " supervision order ", " enactment ", " probationer ", " local authority " and " metropolitan police court area ", see s. 80 (1) and the notes to s. 80, *ante*.

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TENTH SCHEDULE

ENACTMENTS REPEALED

PART I

Repeals Extending to England only

Session and Chapter	Short Title	Extent of Repeal
* *	* *	* *
7 Edw. 7, c. 17.	The Probation of Offenders Act, 1907.	The whole Act.
* *	* *	* *
4 & 5 Geo. 5, c. 58.	The Criminal Justice Administration Act, 1914.	Sections seven to eleven, fifteen and sixteen, paragraph (6) of section seventeen, sections twenty-six and thirty-six and subsection (1) of section thirty-seven.
* *	* *	* *
15 & 16 Geo. 6, c. 86.	The Criminal Justice Act, 1925.	Sections one to ten. . . .
16 & 17 Geo. 5, c. 13.	The Criminal Justice (Amendment) Act, 1926.	The whole Act.
* *	* *	* * [4450]

General note.—The repeals of enactments specified in this Part of the Schedule took effect as follows :—

Probation of Offenders Act, 1907 ; the whole Act on August 1, 1949 (S.I. 1949 No. 1045).

Criminal Justice Administration Act, 1914 ; ss. 7–9 on August 1, 1949 (S.I. 1949 No. 1045) ; ss. 10, 11, on April 18, 1949 (S.I. 1948 No. 2349) ; ss. 15, 17 (para. 6), 37 (1) on December 27, 1948 (S.I. 1948 No. 2349) ; ss. 16, 26 on April 18, 1949 (S.I. 1949 No. 139) ; s. 36 on September 13, 1948 (S.I. 1948 No. 1840).

Criminal Justice Act, 1925 ; ss. 1–10 on August 1, 1949 (S.I. 1949 No. 1045).

Criminal Justice (Amendment) Act, 1926 ; the whole Act on August 1, 1949 (S.I. 1949 No. 1045).

* * * * *

ORDERS, CIRCULARS AND MEMORANDA

PROBATION RULES, 1948

S.I. 1948 *No.* 1387/L.15

June 23, 1948

In pursuance of the powers conferred upon me by section seven of the Probation of Offenders Act, 1907, and section eight of the Criminal Justice Act, 1925, I hereby make the following Rules :—

1. For Rule 31 of the Probation Rules, 1926, there shall be substituted the following Rule :—

" 31.—(1) Subject to the provisions of paragraph (2) of this Rule, no person who is under the age of twenty-three years or has attained the age of forty years shall be appointed a full-time Probation Officer unless he is serving as a full-time Probation Officer at the date of appointment.

(2) Notwithstanding anything in paragraph (1) of this Rule, where a person who has attained the age of forty years is serving as a Probation Officer but is not a full-time Probation Officer within the meaning of these Rules, he may be appointed a full-time Probation Officer—

(*a*) before the first day of January, 1949, if he was serving as a Probation Officer on the thirtieth day of June, 1948, and was at

that date devoting substantially the whole of his time to his duties as a Probation Officer; or

(*b*) at any time, if the Secretary of State is satisfied that he has satisfactorily completed a course of training under the direction of a body approved by the Secretary of State for the training of persons for appointment as Probation Officers." [4451]

2. For Rule 35 of the said Rules there shall be substituted the following Rule —

" 35.—(1) Subject as hereinafter provided, the Probation Committee may from time to time grant sick leave to a full-time Probation Officer.

(2) Sick leave for any period not exceeding two days may be granted without the production of a medical certificate; but save as aforesaid sick leave shall only be granted subject to the production of a certificate signed by a duly qualified medical practitioner.

(3) Sick leave with pay shall not, except with the authority of the Secretary of State, exceed in the aggregate three months in any period of twelve months.

(4) There shall be deducted from the pay of an officer the amount of any sickness benefit under the National Insurance Act, 1946, or injury benefit under the National Insurance (Industrial Injuries) Act, to which he may be entitled during any period of sick leave with full pay:

Provided that where an officer was immediately before the fifth day of July, 1948, a voluntary contributor under the National Health Insurance Act, 1936, no deduction on account of sickness benefit shall be made under this paragraph in respect of any period before the date on which he completes twenty-six contributions as an employed or self-employed person under the National Insurance Act, 1946." [4452]

3.—(1) These Rules may be cited as the Probation Rules, 1948.

(2) These Rules shall come into operation on the fifth day of July, 1948. [4453]

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SUPERANNUATION

PAGE

STATUTES:—

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STATUTES

SUPERANNUATION (MISCELLANEOUS PROVISIONS) ACT, 1948

(11 & 12 Geo. 6, c. 33)

PRELIMINARY NOTE

This Act, which received the Royal Assent on May 28, 1948, comprises a miscellaneous collection of provisions, many of which have little in common save that they relate to some branch of the law of superannuation. In nearly all cases these provisions take effect by amendment or application of the existing law. Most of the sections came into force on May 28, 1948, the date of passing of the Act, but a few are given retrospective or other special operation. The territorial application of the Act is for the most part related to that of the existing statutes which are amended or applied. There are fourteen principal sections and one Schedule, the remainder of the Act being merely ancillary. Various points of interest to local authorities in regard to the Act are touched upon in Circular 86/48, reproduced later in this title.

In moving the Second Reading of the Bill in the House of Commons on February 27, 1948, the Financial Secretary to the Treasury stated that it was hoped to introduce another Superannuation Bill, covering a wider field than the present measure, in the near future (447 H. of C. Official Report 2318 *et seq.*).

The main object of the present Act is to carry over into peace-time the practice of authorising civil servants, local government employees and teachers to count, for the purpose of reckoning periods of pensionable service, time spent in compulsory national service under the National Service Acts, 1939 to 1947 (now consolidated in the National Service Acts, 1948), the Act so some extent completing the provisions of the National Service Act, 1947 (40 Halsbury's Statutes 1142), extending the principle of compulsory service after the period of transition into peace-time proper.

In the case of civil servants' pensions, the Government had made arrangements during the recent war to make up the balance of pay while civil servants were on national service, and as they were still civil servants during their period of war service they could count such service for superannuation purposes. The Government ceased to make up their pay in this fashion as from July, 1947. Consequently, the national service of civil servants as from that date no longer counted as a pensionable period, and the present Act was passed to remedy what was felt to be a hardship (s. 1 and Sched.).

Local government employees and teachers were in a somewhat different position from civil servants. At the outbreak of the Second World War, the Local Government Staffs (War Service) Act, 1939 (32 Halsbury's Statutes 1118), and the Teachers Superannuation (War Service) Act, 1939 (32 Halsbury's Statutes 1131), authorised the war service of local government employees and teachers to count for pension purposes during the " present emergency " ; for present purposes March 31, 1949, has been declared the date on which the emergency ended ; see the Local Government Staffs (War Service) (End of Emergency) Order, 1949 (S.I. 1949 No. 839) and the Teachers Superannuation (War Service) (End of Emergency) Order, 1949 (S.I. 1949 No. 842). The present Act makes provision for compulsory national service to count for superannuation purposes thereafter.

The Act effects changes of lesser importance in the pensions code of the public services and teaching profession, the object of such changes being to remove particular anomalies which had occurred in practice where an individual changed his employment from one local authority to another ; from a local authority to the civil service or vice versa ; from a local authority to the teaching profession and vice versa ; and in certain other cases. In these circumstances the individual so transferring often became entitled to smaller pensions from both sources, there being no existing machinery to avoid this. In other cases, the individual might lose altogether the benefit of pensionable service with his previous employer. Under this Act the pensionable periods of individuals transferring may be " dovetailed " (s. 2).

Arrangements may also be made under s. 3 of the Act to safeguard the pension rights of officials of Approved Societies and of other organisations administering national health and unemployment schemes, who are transferred to the Ministry of National Insurance to assist with the administration of the National Insurance Act, 1946 (39 Halsbury's Statutes 412).

In addition, provision is made for safeguarding the pension rights of officials of the Safety in Mines Research Board who, as a result of the Coal Industry Nationalisation Act, 1946 (39 Halsbury's Statutes 290), are transferred to the Ministry of Fuel and Power or elsewhere, while in another sphere arrangements may be made under the Act to " dovetail " the pension rights of officials displaced on the winding-up of the War Agricultural Executive Committees under the Agriculture Act, 1947 (1 Halsbury's Statutes (2nd Edn.) 157), but who transfer to County Agricultural Executive Committees or elsewhere. Similar arrangements may be made under the Act to safeguard the pension rights of employees of the Meteorological Committee who were in 1920 transferred to the Air Ministry on the taking over of that Committee (s. 4).

Among the other matters dealt with by the Act and considered in detail in the notes to the individual sections is a provision for applying the Pensions (Increase) Act, 1947 (40 Halsbury's Statutes 1037) (which raised the amounts of civil service pensions) to civil pensioners of the Indian and Pakistan Governments residing in the United Kingdom (s. 5). S. 6 relaxes the superannuation law in cases where local government employees are found to be redundant during a period of economic emergency through the temporary reduction of expenditure or the re-allocation of labour resources to different purposes.

Next, machinery is provided by s. 7 for admitting certain associations of local authorities to the superannuation schemes of local authorities and for remedying defects which would otherwise arise on an interchange of officials between such associations and local authorities. Associations in the nature of " trade unions", such as the National Association of Local Government Officers, are excluded from the terms of the section.

Ss. 8 to 12, inclusive, make a number of amendments to the superannuation code applicable to teachers. Certain miscellaneous cases of hardship are to be remedied in such cases, *e.g.* where a teacher takes up a non-teaching post and afterwards returns to teaching; where a " supplementary " teacher does the same thing; where a teacher goes abroad in a civil service post; where he takes one of certain non-teaching posts in connection with education; or where training is interrupted by national service. Explanations of these provisions appear in the notes to the sections.

S. 13 relates to probation officers who have been seconded to other service, power being given to the Secretary of State to provide for such persons in making orders under s. 1 of the Probation Officers (Superannuation) Act, 1947 (40 Halsbury's Statutes 1087), which made provision for the transfer of probation officers to the local government superannuation provisions. Appropriate provision has since been made by Part III of the Probation Officers (Superannuation) Order, 1948 (S.I. 1948 No. 1220), *post*, which provides that probation officers seconded to posts in the colonies and elsewhere are, on returning to the English probation service after July 1, 1948, to have substantially the same rights as if they had been serving in England on that date.

Finally, provision is made for the superannuation rights of officials of approved schools, both in England and Wales and in Scotland, to be adjusted where they transfer to local government or other public service (s. 14), the principle of interchangeability being held to be of great value.

Many of the provisions of the Act are to be implemented by the making of rules, by means of statutory instruments subject to annulment by either House of Parliament (s. 15), by the Department appropriate to the circumstances of the case. [4454]

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SCHEDULE :

Part I.—Amendments of the Local Government Staffs (War Service) Act, 1939 1625
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Part III.—Amendments of the Education (Scotland) (War Service Superannuation) Act, 1939 1628

An Act to amend the law relating to pensions and other similar payments to be made to and in respect of persons who have been in certain employment, and for purposes connected with the matters aforesaid. [4455]

[28th May, 1948.]

1. Treatment of compulsory national service for pension purposes.—(1) Where a person, immediately before he enters upon compulsory national service, either—

(*a*) is a civil servant or serving the State in an unestablished capacity ; or

(*b*) is an employee of a local authority or is in any other employment by virtue of which he is for the time being entitled to participate in the benefits of a superannuation fund maintained under Part I of the Local Government Superannuation Act, 1937, or under Part I of the Local Government Superannuation (Scotland) Act, 1937, or under a local Act scheme ; or

(*c*) is employed in contributory service within the meaning of the Teachers (Superannuation) Acts, 1918 to 1946, or is so circumstanced that he is treated for any of the purposes of those Acts as engaged in a period of contributory service ; or

(*d*) is employed in service as defined in the Scottish Teachers Superannuation Scheme, or is so circumstanced that he is treated for any of the purposes of that Scheme as engaged in a period of service,

rules made under this section may provide that the period of his compulsory national service and such further period, if any, after the termination thereof as may be specified in the rules, shall be treated for the purposes of the Superannuation Acts, 1834 to 1946, as service as a civil servant or to the State in an unestablished capacity, for the purposes of the Local Government Superannuation Act, 1937, or the Local Government Superannuation (Scotland) Act, 1937, as contributing or non-contributing service, for the purposes of any local Act scheme as service for the purposes of that scheme, for the purposes of the Teachers (Superannuation) Acts, 1918 to 1946, or any scheme made thereunder as contributory service or approved external service, or for the purposes of the Scottish Teachers Superannuation Scheme as a

period of service as defined in that Scheme or a period during which he is so circumstanced that he is treated for any of the purposes of that Scheme as engaged in a period of service, as the case may be. [4456]

(2) Where a person who has been successful in a competitive examination for persons desiring to obtain posts in the permanent civil service of the State enters upon compulsory national service before becoming a civil servant, and that examination, or any subsequent examination for persons desiring to obtain similar posts, was one in which persons below the age of eighteen years were allowed to compete, then, where rules made under this section so provide, so much of the period of his compulsory national service as falls after the date on which the Civil Service Commissioners issue their certificate of qualification in relation to him, and such further period, if any, after the termination of his compulsory national service as may be specified in the rules, shall be treated for the purposes of the Superannuation Acts, 1834 to 1946, as service as a civil servant. [4457]

(3) Rules under this section shall, in relation to the Superannuation Acts, 1834 to 1946, be made by the Treasury, in relation to the Local Government Superannuation Act, 1937, and local Act schemes in England and Wales, be made by the Minister of Health, in relation to the Local Government Superannuation (Scotland) Act, 1937, and local Act schemes in Scotland, be made by the Secretary of State, in relation to the Teachers (Superannuation) Acts, 1918 to 1946, and schemes made thereunder, be made by the Minister of Education with the consent of the Treasury, and in relation to the Scottish Teachers Superannuation Scheme, be made by the Secretary of State with the like consent, and any such rules may require the payment of contributions or transfer values, and, where the rules are made by or with the consent of the Treasury, may provide for the payment into the Exchequer or out of moneys provided by Parliament or into or out of the Education (Scotland) Fund of any sums payment of which is required or authorised by the rules. [4458]

(4) Rules made under this section with respect to the persons referred to in paragraph (*a*) of subsection (1) of this section may be so framed as to apply, and to be deemed always to have applied, in relation to any person who entered upon his compulsory national service at any time after the beginning of July, nineteen hundred and forty-seven; and rules made under this section with respect to the persons referred to in subsection (2) of this section may be so framed as to apply, and to be deemed always to have applied, in relation to any person who entered upon his compulsory national service at any time after the beginning of the year nineteen hundred and forty-six. [4459]

(5) Rules made under this section shall not apply in relation to any of the persons mentioned in paragraphs (*b*), (*c*) and (*d*) of subsection (1) of this section unless their compulsory national service commences, in the case of persons mentioned in the said paragraph (*b*), after the expiration of the present emergency as defined for the purposes of the Local Government Staffs (War Service) Act, 1939, in the case of the persons mentioned in the said paragraph (*c*), after the expiration of the present emergency as defined for the purposes of the Teachers Superannuation (War Service) Act, 1939 and, in the case of the persons mentioned in the said paragraph (*d*), after the expiration of the present emergency as defined for the purposes of the Education (Scotland) (War Service Superannuation) Act, 1939; but the said Acts shall be amended in accordance with the provisions of Parts I, II and III respectively of the Schedule to this Act and, to the extent specified in those Parts of that Schedule, shall be deemed always to have had effect as so amended. [4460]

(6) The provisions of the Superannuation Schemes (War Service) Act, 1940, shall apply in relation to persons who cease to follow their employment

after the period of the present emergency (as defined in the said Act) in order to undertake compulsory national service as they apply in relation to persons who cease to follow their employment during the period of the present emergency (as so defined) in order to undertake service in any of the naval, military or air forces of the Crown. [4461]

(7) In this section, the expression "compulsory national service" means service in any of the armed forces of the Crown undertaken by virtue of an enlistment notice or a training notice served under the National Service Acts, 1939 to 1947, or work or training in pursuance of an order of a tribunal under section five of the National Service (Armed Forces) Act, 1939 (which relates to conscientious objectors). [4462]

Sub-s. (1).—The subsection applies to the four particular types of employee listed in paras. (*a*) to (*d*); that is, to civil servants, established or not; to local government employees; to teachers; and to Scottish teachers. In any of these cases rules may be made to allow the compulsory national service of such persons, possibly with an additional period at the end of such service, to count for pension.

Compulsory national service.—For definition, see sub-s. (7), *supra*. See also Circular 86/48, *post*.

Civil servant.—By s. 17 (1), *post*, this means a person serving in an established capacity in the permanent civil service of the State within the meaning of s. 17 of the Superannuation Act, 1859 (16 Halsbury's Statutes 184). This definition distinguishes the "civil servant" (permanent and established) from the person "serving the State in an unestablished capacity", *infra*.

Serving the State in an unestablished capacity.—This is the case of the so-called "unestablished civil servant". The term is defined in s. 17 (1), *post*.

Local authority.—For definition, see s. 17 (1), *post*, and s. 40 of the Local Government Superannuation Act, 1937 (30 Halsbury's Statutes 417).

Any other employment by virtue of which he is . . . entitled to participate.—S. 5 of the Local Government Superannuation Act, 1937 (30 Halsbury's Statutes 391), allows employees of certain undertakers, subject to the consent of the Minister of Health, to be brought within a local authority's superannuation fund. By the same section provision is made for the continuance of "admission agreements" under s. 5 (3) of the Local Government and Other Officers' Superannuation Act, 1922 (10 Halsbury's Statutes 865), also relating to employees of undertakers. Special provision was made as to the managers of non-provided schools and their employees. In addition, certified midwives employed by voluntary organisations by arrangement with local authorities could be brought within the superannuation fund.

Superannuation fund maintained, etc.—See s. 4 of the Local Government Superannuation Act, 1937 (30 Halsbury's Statutes 390), or the provisions of the local Act scheme applicable.

Part I of the Local Government Superannuation Act, 1937.—Part I comprises ss. 1 to 25 of this Act (30 Halsbury's Statutes 385 *et seq.*), which first made compulsory upon local authorities in England and Wales the maintenance of a superannuation fund, or a joint superannuation fund in combination with other authorities, for the superannuation of their officers and employees.

Local Act scheme.—By s. 17 (1), *post*, this phrase has the same meaning as in the Act of 1937, *supra*. In effect, this means a superannuation scheme administered by a local council who, not having adopted the Act of 1922, *supra*, maintains a superannuation fund under a local Act (see the Local Government Superannuation Act, 1937, ss. 1 (3) (*b*) and 40 (1); 30 Halsbury's Statutes 388, 416). An example of a local Act scheme is that applicable in Manchester under the Manchester Corporation (Superannuation) Acts, 1920 and 1946, as modified by the Manchester Corporation Superannuation Scheme, 1938, made by the Manchester City Council under s. 26 (1) of the Local Government Superannuation Act, 1937 (30 Halsbury's Statutes 407). A local Act scheme is also applicable in the case of the London County Council.

Contributory service.—As regards service before April 1, 1945, the expression "contributory service" in relation to teachers has the meaning assigned to it by s. 2 of the Teachers (Superannuation) Act, 1925 (7 Halsbury's Statutes 319), as amended by the Local Government Act, 1929, Sched. X, para. 19 (10 Halsbury's Statutes 998); on and after that date a lengthy new definition was introduced by s. 1 (1) of the Teachers (Superannuation) Act, 1945 (38 Halsbury's Statutes 54), which sets out nine different classes of full-time service ranking as contributory service. The new definition was so framed as to bring the provisions of the Act of 1925, *supra*, into line with the new terminology adopted under the Education Act, 1944 (37 Halsbury's Statutes 123). The earlier definition was also extended to cover new classes of service not previously pensionable.

Teachers (Superannuation) Acts, 1918 to 1946.—These Acts comprise the School Teachers (Superannuation) Act, 1918 (7 Halsbury's Statutes 303), the School Teachers (Superannuation) Act, 1922 (7 Halsbury's Statutes 314), the School Teachers (Superannuation) Act, 1924 (7 Halsbury's Statutes 316), the Teachers (Superannuation) Act, 1925 (7 Halsbury's Statutes 317), the Teachers (Superannuation) Act, 1935 (28 Halsbury's Statutes 49), the Teachers (Superannuation) Act, 1937 (30 Halsbury's Statutes 180), the Teachers Superannuation (War Service) Act, 1939 (32 Halsbury's Statutes 1131), the Teachers (Superannuation) Act, 1945 (38 Halsbury's Statutes 53), and s. 6 (1) of the Superannuation Act, 1946 (39 Halsbury's Statutes 726), which by s. 10 (2) of the same Act may be cited as the Teachers (Superannuation) Act, 1946.

Treated . . . as engaged in a period of contributory service.—See s. 14 of the Teachers (Superannuation) Act, 1925 (7 Halsbury's Statutes 331) (full-time service as an organiser, and employment by the Central Welsh Board for Intermediate Education); s. 2 of the

Teachers (Superannuation) Act, 1945 (38 Halsbury's Statutes 56) (educational service otherwise than as a teacher); and s. 1 of the Teachers Superannuation (War Service) Act, 1939 (32 Halsbury's Statutes 1131 (war service).

Rules made under this section.—Such rules are to be made by the Departments specified in sub-s. (3), *supra*. Further provisions as to the application of such rules are contained in sub-ss. (4) and (5), *supra*, while the general provisions applicable to rules under the Act are contained in s. 15, *post*. See also the notes to that section. The power to make rules is to be exercised by statutory instrument subject to annulment by resolution of either House of Parliament (s. 15 (2), *post*). The Minister of Education with the consent of the Treasury have made the Teachers Superannuation (National Service) Rules, 1949, S.I. 1949 No. 468; the Treasury has made the Superannuation (Treatment of Compulsory National Service of Civil Servants) Rules, 1949, S.I. 1949 No. 517 and the Minister of Health has made the Superannuation (Local Government Staffs) (National Service) Rules, 1949, S.I. 1949 No. 545.

Such further period . . . as may be specified in the rules.—Compare with this provision that of s. 2 (5) of the Teachers Superannuation (War Service) Act, 1939, as amended by s. 11 (6), of, and Sched. II to the Teachers (Superannuation) Act, 1945 (38 Halsbury's Statutes 63, 67), whereby if a person after the conclusion of his period of war service has spent a further period completing his course of training, that period is to rank as contributory service.

Superannuation Acts, 1834 to 1946.—These are the Superannuation Acts, 1834, 1859, 1866, 1876, 1884, 1887, 1892, 1909, 1914 (16 Halsbury's Statutes 122, 179, 238, 378, 551, 566, 686, 741, 772), the Superannuation (Prison Officers) Act, 1919 (13 Halsbury's Statutes 374), the Superannuation Act, 1935 (28 Halsbury's Statutes 295), Part I of the Foreign Service Act, 1943 (36 Halsbury's Statutes 45) and the Superannuation Act, 1946 (39 Halsbury's Statutes 721).

Approved external service.—This term is defined for the purposes of that section in s. 13 of the Teachers (Superannuation) Act, 1925 (7 Halsbury's Statutes 328), as modified by s. 6 (1) of the Superannuation Act, 1946 (39 Halsbury's Statutes 726).

Transfer values.—A transfer value may arise where an employee transfers from one type of employment to another. If he has been in pensionable employment and leaves it for other pensionable employment, the former employer may be required to pay to the new employer a total sum, known as a "transfer value". On payment of this amount the former employer is freed from all further obligation and the employee's pension rights become enforceable against the new employer. This procedure avoids both the return of contributions and the possible payment in the future of two pensions, one from the former, and one from the new, authority.

Sub-s. (5).—Just as sub-s. (4), *supra*, affects civil servants, established and unestablished, so this subsection affects the other classes of employee referred to in sub-s. (1), that is to say, employees of local authorities, teachers and teachers serving in Scotland. But the plan is different. In the case of civil servants the previous position had been to some extent administrative, but in the present cases definite principles had been laid down by emergency legislation passed at the outbreak of war, these provisions being limited to end with the expiration of the present emergency. For the purposes of the Acts in question the emergency has now been declared at an end (see note *infra*). The provisions of the present section substantially continue the same provisions for these classes of employee.

Expiration of the present emergency, etc.—March 31, 1949 has been declared the date on which the emergency ended for the purposes of the three enactments referred to in sub-s. (5), *supra*; see the Local Government Staffs (War Service) (End of Emergency) Order, 1949 (S.I. 1949 No. 839) and the Teachers Superannuation (War Service) (End of Emergency) Order, 1949 (S.I. 1949 No. 842).

Teachers Superannuation (War Service) Act, 1939.—32 Halsbury's Statutes 1131.

Sub-s. (6).—The Superannuation Schemes (War Service) Act, 1940 (33 Halsbury's Statutes 542), made general provision for preventing loss of benefits under superannuation schemes by persons serving in the Armed Forces or in war industry, etc., *other than* persons already covered by the enactments lastly before mentioned, the Teachers (Superannuation) Acts, 1918 to 1939, *supra*, and the Police and Firemen (War Service) Act, 1939 (32 Halsbury's Statutes 1149). In other words it applied to private superannuation schemes. It was an enabling Act and the affect of the present subsection is to empower (but not compel) the trustees, etc., of such schemes to allow compulsory national service to count for pension purposes after the end of the present emergency (defined by s. 1 (6) of the Act in the same terms as above) when the provisions of the Act would otherwise have come to an end.

Enlistment notice.—The essence of such a notice is that it signifies call-up for *whole-time* service. As from January 1, 1949, see s. 9 (1) of the National Service Act, 1948 (11 & 12 Geo. 6, c. 64).

Training notice.—This means a notice served or to be served on a person during his term of part-time service whereby he is called up for training for a period of not less than six days. As from January 1, 1949, see s. 34 (1) of the National Service Act, 1948, *supra*.

National Service Acts, 1939 to 1947.—These were the National Service (Armed Forces) Act, 1939 (32 Halsbury's Statutes 1041), the National Service (Armed Forces) Act, 1940 (33 Halsbury's Statutes 465), the National Service Act, 1941 (34 Halsbury's Statutes 270), the National Service (No. 2) Act, 1941 (34 Halsbury's Statutes 286), and the National Service Act, 1942 (35 Halsbury's Statutes 231), the National Service (Release of Conscientious Objectors) Act, 1946 (39 Halsbury's Statutes 775), and the National Service Act, 1947 (40 Halsbury's Statutes 1142). As from January 1, 1949, however, all those remaining unrepealed, with the exception of the Act of 1946, which had become largely spent, were repealed and consolidated in the National Service Act, 1948, *supra*, now amended as from its commencement by the National Service (Amendment) Act, 1948 (12 & 13 Geo. 6, c. 6).

Work or training.—This refers to the alternative service of a conditionally registered conscientious objector. As from January 1, 1949, the position is largely governed by s. 17 (6) of the National Service Act, 1948, *supra*, as amended.

In pursuance of an order of a tribunal.—Under s. 17 of the National Service Act, 1948, *supra*, local and appellate tribunals for conscientious objectors are empowered to register

applicants unconditionally, conditionally or for non-combatant military duties, unless they are regarded as insincere when they may be made liable for combatant military service. The present provision relates only to those who are *conditionally* registered for civilian service under that section. Full-time work on the land or in a hospital is frequently specified and applicants may in proper cases be registered conditionally on remaining in their present occupation.

2. Pensions of persons transferring to different employment.—(1) Where persons who have been employed in one employment become employed in another employment and either—

(*a*) one of the employments is, and the other employment is not, an employment of one of the classes specified in subsection (2) of this section; or

(*b*) one of those employments is of one of those classes and the other employment is of another of those classes,

rules may be made with respect to the pensions payable to and in respect of those persons by the appropriate Minister, or, as the case may be, the appropriate Ministers acting jointly:

Provided that this subsection shall not apply unless either—

(i) both employments are pensionable employments; or

(ii) the first employment is of one of the classes specified in paragraphs (*c*) and (*d*) of subsection (2) of this section and the second employment is of such a nature as may be specified in rules to be made by the Minister of Health, or, in relation to Scotland, by the Secretary of State, and is undertaken with the approval of the local authority by which the superannuation fund concerned is maintained. [4463]

(2) The classes of employment referred to in subsection (1) of this section are the following, that is to say—

(*a*) employment as a civil servant; and

(*b*) employment as a member of the metropolitan police staff; and

(*c*) employment by virtue of which the person employed is or is deemed to be, or, but for any rules made under this section, would be or be deemed to be, a contributory employee or local Act contributor within the meaning of the Local Government Superannuation Act, 1937, or the Local Government Superannuation (Scotland) Act, 1937; and

(*d*) employment (not being such employment as is specified in paragraph (*c*) of this subsection) by virtue of which the person employed is entitled to participate in any of the benefits of a superannuation fund maintained under a local Act scheme in England or Wales; and

(*e*) employment in contributory service within the meaning of the Teachers (Superannuation) Acts, 1918 to 1946, or in service as defined in the Scottish Teachers Superannuation Scheme. [4464]

(3) Where either of the employments in question falls within one of the classes specified in subsection (2) of this section, the appropriate Minister, or, as the case may be, one of the appropriate Ministers, for the purposes of subsection (1) of this section shall be—

(i) in relation to the class specified in paragraph (*a*) of the said subsection (2), the Treasury;

(ii) in relation to the class specified in paragraph (*b*) of the said subsection (2), the Secretary of State;

(iii) in relation to the class specified in paragraph (*c*) of the said subsection (2), the Minister of Health or the Secretary of State;

(iv) in relation to the class specified in paragraph (*d*) of the said subsection (2), the Minister of Health;

(v) in relation to the class specified in paragraph (*e*) of the said subsection (2), the Minister of Education or the Secretary of State, acting in either case with the consent of the Treasury,

and the said subsection (1) shall be construed accordingly. [4465]

(4) Rules made under this section may require the making of the following payments, that is to say—

(*a*) where the person who changes his employment has received any payment in respect of his pension rights upon ceasing to be employed in his former employment, payments by that person equal to all or any of the amounts so received;

(*b*) where either of the employments is such an employment as is mentioned in paragraph (*a*) of subsection (2) of this section, payments out of moneys provided by Parliament;

(*c*) where either of the employments is such an employment as is mentioned in paragraph (*b*) of the said subsection (2), payments out of the Metropolitan Police Fund;

(*d*) where either of the employments is such an employment as is mentioned in paragraph (*e*) of the said subsection (2), payments out of moneys provided by Parliament or out of the Education (Scotland) Fund; and

(*e*) where either of the said employments is such an employment as is mentioned in paragraph (*c*) or paragraph (*d*) of the said subsection (2), payments by a local authority or out of a superannuation fund maintained by a local authority,

and may provide for any of the said payments, or any payments made in connection with the change of employment otherwise than by virtue of the rules, being made into the Exchequer, into the Metropolitan Police Fund, into the Education (Scotland) Fund, to a local authority or into a superannuation fund maintained by a local authority; and the payments mentioned in paragraphs (*b*), (*c*), (*d*) and (*e*) of this subsection may include repayments of contributions, payments of transfer values, payments towards the burden of a pension payable by another person or out of another pension fund, and payments of premiums or other payments directed to the creation or preservation of pension rights of the person in question. [4466]

(5) Any rules under this section may be so framed as to apply to persons ceasing to be employed in one employment and becoming employed in another notwithstanding that the cessation of the first employment or the commencement of the second employment was before the date of the making of the rules or before the date of the passing of this Act, and may vary or provide for the variation of pensions notwithstanding that the pensions have been granted before either of the said dates:

Provided that, subject to the provisions of subsection (7) of this section, no rules shall be framed so as to apply when the cessation of the first employment took place before the making of the rules unless—

(*a*) the rules are only to apply with the consent of the person ceasing to be employed or that person is by the rules given an opportunity to elect that they shall not apply to him; and

(*b*) where the rules provide for payment by a local authority or out of a superannuation fund maintained by a local authority, that authority has consented to the making of the rules or the rules are only to apply with the consent of that authority or that authority is by the rules given an opportunity to elect that they shall not apply. [4467]

(6) Section nine of the Superannuation Act, 1935, shall cease to have effect, but any rules made thereunder shall be treated as if they were rules duly made by the appropriate Minister or Ministers under the preceding provisions of this section. [4468]

(7) Paragraph (*b*) of the proviso to subsection (5) of this section shall not apply to any rules in so far as they vary any rules made under the said section nine or under section fifty-one of the Unemployment Act, 1934. [4469]

(8) Rules made under this section may provide that, in the application of the rules to Scotland, for the purposes of paragraph (*d*) of subsection (2) of section sixty-nine and of subsection (4) of section seventy of the Education (Scotland) Act, 1946, sums paid out of moneys provided by Parliament and sums paid into the Exchequer in pursuance of such rules in respect of employment in contributory or recognised service within the meaning of the Teachers (Superannuation) Acts, 1918 to 1946, shall be respectively deemed to be sums spent on the superannuation of teachers under those Acts and to be sums received in respect of contributions paid by teachers and employers in England and Wales thereunder. [4470]

General note.—See Circular 86/46, *post*. The object of this section is to facilitate interchange of staff where desirable between civil servants, local government staff and the teaching profession, and between these employments and employment such as service with a public board. Prior to this Act, one of the obstacles to this interchange was the question of pensions of those who transferred from one service to another. This section provides wide powers for devising new arrangements which will (1) preserve all former pension rights, and (2) simplify the machinery of administration so that instead, *e.g.* of an individual who has changed his employment from one of these heads to another receiving a pension from both sources on retirement, he will receive such pension only from the authority in whose service he was on his retirement. This pension will be based on the entire period of pensionable service throughout his career, on his salary at date of retirement and the pension code of such employee on retirement.

Rules.—Under this section the Minister of Health has made the Superannuation (Policy and Local Government Schemes) Interchange Rules, 1948, S.I. 1948 No. 1446, *post* and the Superannuation (Local Act Authorities Schemes) Interchange Rules, 1949, S.I. 1949 No. 630; the Treasury have made the Superannuation (Transfer of Silicosis Medical Officers) Rules, 1949, S.I. 1949 No. 168 and the Minister of Education has made the Teachers Superannuation (Approved External Service) Rules, 1949, S.I. 1949 No. 1393. See Circular 125/48, *post*, as to the operation of S.I. 1948 No. 1446.

Metropolitan police staff.—The Metropolitan police staff were inserted into this section by amendment in Standing Committee of the House of Commons (H. of C. Official Report, S.C.C., March 16, 1948, col. 7), the purpose of such amendment being to remove doubt as to whether the transfer provisions under this section applied to them. For definition of "Metropolitan police staff", see s. 17 (1), *post*.

Sub-s. (2) (*c*).—The words "or, but for any rules made under this section, would be or be deemed to be" were inserted into this paragraph in order to apply its provisions to nurses who left district nursing associations to enter the employ of local health authorities when the Health Service came into being, and who desire to remain on the federated superannuation scheme for nurses instead of the local government superannuation scheme (155 H. of L. Official Report 714).

Contributory employee.—S. 17 (1), *post*, applies for the purposes of the present Act the definition of this term in s. 3 of the Local Government Superannuation Act, 1937 (30 Halsbury's Statutes 389).

Local Act contributor.—This means a person in the employment of a local Act authority who on or after the appointed day under the Local Government Superannuation Act, 1937, is entitled to participate in the benefits of a superannuation fund maintained under a local Act scheme as defined in s. 1 of the said Act (s. 17 (1), *post*, and s. 40 (1) of the Local Government Superannuation Act, 1937; 30 Halsbury's Statutes 416).

Local Act scheme in England and Wales.—S. 17 (1), *post*, applies for the purposes of the present Act the definition in the Local Government Superannuation Act, 1937, the relevant passage of which occurs in s. 1 (3) thereof (30 Halsbury's Statutes 388).

Teachers (Superannuation) Acts, 1918 to 1946.—The Acts comprised in this series are listed in the notes to s. 1, *ante*.

Metropolitan Police Fund.—This means the rates, contributions and funds for the time being applicable for defraying the expenses of the Metropolitan Police Force (s. 7 of the Metropolitan Police Act, 1886; 12 Halsbury's Statutes 844). See also 12 Halsbury's Statutes 737.

Superannuation Act, 1935, s. 9.—28 Halsbury's Statutes 302. This section empowered the Treasury to make rules to dovetail the superannuation provisions in respect of persons transferred between local authorities and the civil service. Rules so made do not cease to have effect by virtue of the present Act.

Unemployment Act, 1934, s. 51.—27 Halsbury's Statutes 799. This section empowered the Treasury to make rules to dovetail the superannuation schemes in respect of persons transferred from local government to the Unemployment Assistance Board, now the National

Assistance Board (s. 2 of the National Assistance Act, 1948, title PUBLIC ASSISTANCE, *ante*). Rules so made are preserved by the present Act.

Recognised service.—Service of specified kinds before April 1, 1926, the date of commencement of the Teachers (Superannuation) Act, 1925 (see s. 2 thereof; 7 Halsbury's Statutes 318), as against "contributory service", which is service as a teacher in one of certain specified capacities after the commencement of the Act. See, however, the notes on "Contributing service" to s. 1, *ante*.

Definitions.—For definitions of "pension", "local authority", "civil servant" and "pension rights", see s. 17 (1), *post*. Other definitions are referred to in the notes *supra*.

3. Former employees of Approved Societies, etc., becoming civil servants.—(1) Rules to be made by the Minister of National Insurance with the consent of the Treasury may make provision with respect to the pensions payable to and in respect of persons who have been employed full time—

(*a*) by an Approved Society; or

(*b*) by some other body (including a body of which the Society is a branch or section) administering the affairs of an Approved Society; or

(*c*) by a body administering a special scheme under section seventy-three of the Unemployment Insurance Act, 1935,

and, whether before or after the passing of this Act but before such date as may be specified in the rules, become civil servants. [4471]

(2) Any such rules may include provisions—

(*a*) authorising or requiring persons who have received payments in respect of their pension rights to pay all or any of the amounts received into the Exchequer; or

(*b*) continuing, amending, repealing or revoking any pension scheme under which the persons to whom the rules apply have pension rights and any statutory provisions relating thereto and any trust deed, rules or other instrument made for the purposes thereof, and providing for the transfer in whole or in part of any pension funds or assets held for the purposes of, or any liabilities under, any such scheme, or for the winding up of any such scheme or the extinguishment of any such liabilities; or

(*c*) dealing in such manner as may appear appropriate with cases in which, in connection with any provision made by this Act or by the National Insurance Act, 1946, or in anticipation of the making of any such provision, pension rights have been created otherwise than in the ordinary course. [4472]

(3) Where the persons having pension rights under any pension scheme or interested in any pension fund include both such persons as are mentioned in subsection (1) of this section and other persons in respect of whom the following conditions are fulfilled, that is to say—

(*a*) that they have been employed full time by any such society or body as is mentioned in subsection (1) of this section; and

(*b*) that they have lost that employment; and

(*c*) that the loss of employment is directly attributable to the passing of the National Insurance Act, 1946, or the making of any regulations thereunder,

the rules to be made under this section may apply in relation to pensions payable to and in respect of those other persons as if they were persons such as are mentioned in the said subsection (1), and may provide for payments out of moneys provided by Parliament in respect of the pension rights of those other persons, so, however, that nothing in this subsection shall be construed as requiring identical provision to be made in relation to persons who fall, and persons who do not fall, within the said subsection (1). [4473]

(4) The provisions of this section shall have effect in relation to any persons notwithstanding that provision could be made in relation to those

persons under any other provision of this Act, and nothing in any such other provision shall be construed as limiting the powers exercisable under this section. [4474]

General note.—In view of the coming into operation of the National Insurance Act, 1946 (39 Halsbury's Statutes 412), on July 5, 1948 (see S.I. 1948 No. 54), many of the employees of Approved Societies and similar bodies were displaced from their work and faced the alternative either of entering the service of the Ministry of National Insurance as civil servants or taking up employment of a different character. The present section provides for these two classes of case which may, and almost certainly will, be treated differently. First, in the case of full-time employees of an Approved Society or similar body who transfer to the civil service before a date to be specified, the Minister of National Insurance is empowered to make rules governing the pension position on transfer. Secondly, in the case of full-time employees of an Approved Society or similar body, displaced through the operation of the Act of 1946, who do not transfer to the civil service, provision may also be made on the same subject. The present section is additional to, and not in substitution for, any other provisions of the Act which may be applicable.

Rules.—For the general provisions applicable, see s. 15, *post*, and the notes to s. 1, *ante*. Under the present section the Minister of National Insurance, with the consent of the Treasury, made the National Insurance and Civil Service (Superannuation) (Schemes and Funds) Rules, 1948 (S.I. 1948 No. 1407), which came into operation on July 2, 1948, but on November 10, 1948, they were revoked and replaced as from November 16, 1948, by the National Insurance and Civil Service (Superannuation) Rules, 1948 (S.I. 1948 No. 2434).

Approved Society.—An Approved Society is defined by s. 78 of the National Insurance Act, 1946 (39 Halsbury's Statutes 488), to mean "a society approved under the National Health Insurance Act, 1936 [see Part III of that Act; 29 Halsbury's Statutes 1108], or a branch of such a society recognised by a Minister under that Act." Under the National Insurance Scheme it was found impossible to use the Approved Societies as organised bodies in the administration of the 1946 Act, *supra*, but it was the intention of the Government to use as many as possible of the experienced officials of these organisations.

Body of which the Society is a branch or section.—By the National Insurance Act, 1911, which introduced compulsory insurance on a contributory basis, any Friendly Society registered for any purpose was allowed to form a separate section as an Approved Society (see ss. 23 and 24 thereof). Even Industrial Life Offices, insurance companies and Collecting Societies engaged in industrial assurance were allowed to become or become associated with Approved Societies. For instance, four technically separate Societies with a total membership of some four million were associated with the Prudential Assurance Company, Limited.

Special scheme under s. 73 of the Unemployment Insurance Act, 1935.—See 28 Halsbury's Statutes 543. The section in question exempted from the general liability to insure under that Act persons covered by an approved scheme in force at the commencement of the said Act as regards a particular industry, *e.g.* banking and insurance, such schemes being applied for the purposes of the Act. The said s. 73 was repealed as from July 5, 1948, by the National Insurance Act, 1946, s. 65 and Sched. IX (39 Halsbury's Statutes 475, 498), *in conjunction* with S.I. 1948 No. 54. The National Insurance (Unemployment Insurance Special Schemes) Regulations, 1948 (S.I. 1948 No. 1325) provide for the winding up of the banking and insurance schemes made under its provisions.

National Insurance Act, 1946.—39 Halsbury's Statutes 412.

Directly attributable to the passing, etc.—Compensation may be payable by virtue of regulations under s. 67 of the National Insurance Act, 1946 (39 Halsbury's Statutes 477), for loss of employment or for loss or diminution of emoluments or of superannuation or similar rights where "directly attributable to the passing of this Act [*i.e.* the Act of 1946] or the making of any regulations." The classes of employee affected by this provision substantially include those set out in sub-s. (1) (*a*) and (*b*), *supra*.

Any other provision of this Act.—See, for instance, s. 2, *ante*.

Definitions.—For definitions of "pensions", "civil servant", "pension rights", "pension scheme", "statutory provisions" and "pension fund", see s. 17 (1), *post*.

4. Special provision as to certain other transfers to the service of the State.—(1) Rules to be made by the Treasury under this subsection may make provision with respect to the pensions payable to and in respect of the following persons, namely—

(*a*) persons who, having been employed in one or more of the following employments, that is to say—

(i) as officers or servants of a local authority in service all or any part of which was not pensionable employment; or

(ii) in any other employment service in which was not then pensionable but was service in respect of which those persons would, if they had continued in that employment, have become entitled to participate in the benefits of a superannuation fund maintained under Part I of the Local Government Superannuation Act, 1937, or Part I of the Local Government Superannuation (Scotland) Act, 1937, or under a local Act scheme,

left any such employment, before such date before the passing of this Act as may be specified in the rules, in order to become civil servants in the department of the Assistance Board; and

(*b*) persons who, having been employed by the Safety in Mines Research Board, or by a War Agricultural Executive Committee, become, whether before or after the passing of this Act but before such date as may be specified in the rules, civil servants or persons employed in service to the State in an unestablished capacity; and

(*c*) persons who, having been employed in the body which, at the time when it ceased to exist, was known as "K" Signals Company of the Royal Corps of Signals, became, before such date before the passing of this Act as may be specified in the rules, civil servants employed in the Post Office; and

(*d*) persons who, having been employed by the body known as the Meteorological Committee, became at any time before the passing of this Act civil servants in the Meteorological Office of the Secretary of State, not being civil servants subject to a superannuation scheme to which section five of the Superannuation Act, 1946 (which relates to the application to persons employed in the civil service of the State of certain superannuation schemes) applies,

and any such rules may provide for service in any such employment as aforesaid being reckoned, in such manner and to such extent as may be specified in the rules, as service to the State for the purposes of the Superannuation Acts, 1834 to 1946. [4475]

(2) Rules made under the preceding subsection may, in relation to persons of the class specified in paragraph (*a*) of the preceding subsection who—

(*a*) at any time before the coming into force of the rules, whether before or after they became civil servants, and whether by reason of their becoming civil servants or for any other reason, received any payment by way of a return of contributions under any enactment, including any scheme made thereunder or in pursuance thereof, relating to the superannuation of officers and servants of local authorities, being contributions in respect of a period of service as an officer or servant of a local authority which was pensionable employment; and

(*b*) in the case of such payments received before their appointment to be civil servants, did not, before their said appointment, refund the contributions so returned to them,

include provisions requiring those persons to pay into the Exchequer amounts equal to the whole or any part of the contributions so returned to them as a condition of their service as officers or servants of a local authority as aforesaid being reckoned, to the extent specified in the rules, as service to the State for the purposes of the Superannuation Acts, 1834 to 1946. [4476]

(3) Rules to be made by the Treasury under this subsection may make provision to secure that benefits corresponding as nearly as may be to the benefits conferred under subsection (1) of this section on or in respect of the persons specified in paragraph (*d*) of that subsection are conferred on or in respect of persons who, having been employed by the aforesaid Meteorological Committee, were at any time before the passing of this Act employed in the civil service of the State in the aforesaid Meteorological Office and became, and thereafter remained, subject to a superannuation scheme to which section five of the Superannuation Act, 1946, applies. [4477]

General note.—The miscellaneous classes of persons affected by this section have one thing in common—they have all transferred to the civil service, either in an established or unestablished capacity. The effect of this section is to empower the Treasury to make rules

to mitigate certain special cases of hardship resulting from an individual's transferring from a previous public employment outside the scope of s. 2, *ante*, and which may not be pensionable service, to a civil service post and becoming entitled to a civil service pension; it may enable him to count service in his former employment as pensionable.

Sub-s. (1), *supra*, sets out the categories coming within the scope of the present provisions and empowers the Treasury, as the department generally responsible for civil service matters, to make rules allowing the previous service to be counted for civil service pension purposes. Sub-s. (2) makes further provision as to the contents of such rules in the case of certain classes in category (*a*) of the previous subsection, while sub-s. (3) provides for an additional class of civil servants in the Meteorological Office who have become superannuable.

Rules.—For the general provisions applicable, see s. 15, *post*.

Superannuation fund maintained, etc.—See the notes to s. 1, *ante*.

Part I of the Local Government Superannuation Act, 1937.—30 Halsbury's Statutes 385 *et seq.*

Assistance Board.—This was formerly the Unemployment Assistance Board formed under s. 35 of the Unemployment Act, 1934 (27 Halsbury's Statutes 786). The name of the Board was altered and its powers increased by s. 10 of the Old Age and Widows' Pensions Act, 1940 (33 Halsbury's Statutes 517). The name of the Board has been further altered to the National Assistance Board (National Assistance Act, 1948, s. 2, title PUBLIC ASSISTANCE, *ante*).

Safety in Mines Research Board.—S. 42 of the Coal Industry Nationalisation Act, 1946 (39 Halsbury's Statutes 290), provides that the Mining Research (Safety and Health) Endowment Fund established on April 19, 1926, to defray the expenses of research into mining dangers carried on by the above-mentioned Board is to be wound up and that the duty of research is to vest in the Minister of Fuel and Power.

"*K*" *Signals Company.*—This was a body of between one and two hundred Post Office employees who, many years ago, were drafted to the Royal Corps of Signals but who continued to do Post Office duty in the Army. Agitation for redress of what was thought to be a grievance in regard to their pensions had taken place at various times since 1902, and the question was discussed by the Holt Committee in 1913. How many of the original number remain to be affected by the present provision is problematical.

Meteorological Committee.—From 1910 to 1920 the Meteorological Committee were responsible for Government meteorology. Some of the staff came under a pension scheme run by the Committee itself, but for the rest there were no superannuation provisions. In 1920 the Meteorological Office was taken over by the Air Ministry. Those who already came under the Committee's pension scheme elected to remain thereunder. Others of the staff came under the Federated Superannuation System for Universities as applied to Government servants. Yet others became established civil servants, foregoing any rights in the Committee's scheme. Sub-s. (1) (*d*), *supra*, relates to such civil servants as were not superannuable under the F.S.S.U., etc. (see the notes *infra*), whilst sub-s. (3), *supra*, relates to those who were.

Secretary of State.—The former employees of the Meteorological Committee in question are serving with the Air Ministry, that is, the department of the Secretary of State for Air.

S. 5 of the Superannuation Act, 1946.—39 Halsbury's Statutes 725. By sub-s. (4) of that section the schemes to which the section applies are the superannuation schemes operated under the Federated Superannuation System for Universities, the Federated Superannuation Scheme for Nurses and Hospital Officers, and any other scheme approved by the Treasury for the purposes of that section.

Superannuation Acts, 1834 *to* 1946.—As to this series of Acts, see the notes to s. 1, *ante*.

Definitions.—For definitions of "pension", "local authority", "pensionable employment", "local Act scheme", "civil servant", "War Agricultural Executive Committee" and "service to the State in an unestablished capacity", see s. 17 (1), *post*.

5. Pensions in respect of service to His Majesty in India.—(1) This section shall apply to any pension payable in respect of service to His Majesty out of the revenues of India or Pakistan to any person resident in the United Kingdom, or, where the pension is expressed in sterling, in any other place outside India and Pakistan, being service, whether by the recipient of the pension or some other person, either—

(*a*) in a civil capacity; or

(*b*) by virtue of which the recipient of the pension has pension rights in relation to any of the following funds, that is to say, the Bengal Military Fund and Orphans Society, the Bombay Military Fund, the Madras Military Fund, the Madras Medical Fund, or the Indian Navy Fund,

and being in either case service which ended before the fifteenth day of August nineteen hundred and forty-seven, or the termination of which is attributable to the passing of the Indian Independence Act, 1947. [4478]

(2) Rules to be made by the Treasury may make provision for any pension to which this section applies being increased, in respect of any period, whether falling before or after the passing of this Act, beginning on or after the first day of December, nineteen hundred and forty-six, by a like

amount to that by which it would have been increased by virtue of the Pensions (Increase) Act, 1947, if it were such a pension as is specified in the First Schedule to the Pensions (Increase) Act, 1944, which had been increased in accordance with the provisions of the last mentioned Act as originally enacted. [4479]

(3) Any such rules may provide for the method of calculation of any increase and as to the manner in which the increase is to be paid, and may provide for any increase under the rules to be defrayed out of moneys provided by Parliament. [4480]

General note.—The Pensions (Increase) Act, 1944 (37 Halsbury's Statutes 521), provided for an increase in various classes of public pensions to offset the higher cost of living, but the Act did not apply to Colonial or Indian employment. Nevertheless the then Government of India, after some difficulty, agreed to make corresponding increases to those of its pensioners who were living in the United Kingdom.

Later, however, the Pensions (Increase) Act, 1947 (40 Halsbury's Statutes 1037), was passed authorising further increases of pension, but the Government of India declined to apply that Act to those of its pensioners living in the United Kingdom or drawing their pensions in sterling.

At this point power in India was transferred to the Dominions of India and Pakistan, which finally agreed to apply the increases to military, but not to civil pensioners resident in the United Kingdom, the basis of the distinction being that they could not politically defend a decision to give more to civil pensioners living in the United Kingdom than they were prepared to give to their own civil pensioners in India.

The British Government, however, felt that the case for including the civil pensioners in the United Kingdom in the benefits of the Act of 1947 was indistinguishable from that for their inclusion in the Act of 1944, and the present section was therefore inserted in the Bill.

The section applies to certain pensioners (*a*) resident in the United Kingdom whether the pension is payable in sterling or rupees, and (*b*) resident in any other place outside India and Pakistan; but apart from certain small funds, the pension must be a civil one. In these cases the Treasury is empowered to make rules increasing the pensions in question to the higher limits applicable under the Act of 1947.

Pension.—For definition, see s. 17 (1), *post.*

India or Pakistan.—As from August 15, 1947, two independent Dominions were set up in India to be known by these names (s. 1 (1) of the Indian Independence Act, 1947; 10 & 11 Geo. 6, c. 30).

August 15, 1947.—The "appointed day" for transfer of political power to the Governments of the new Dominions of India and Pakistan under the Indian Independence Act, 1947.

Rules.—On November 22, 1948, the Increase of Pensions (India and Pakistan) Rules, 1948 (S.I. 1948 No. 2542), were made by the Treasury under sub-ss. (2) and (3), *supra.* These Rules came into operation on December 1, 1948.

Beginning on or after December 1, 1946.—The date when the increases of pension authorised by the relevant provision of the Pensions (Increase) Act, 1947 (40 Halsbury's Statutes 1037), first became operative.

As originally enacted.—See s. 17 (2), *post.* The point is that the Act of 1947, *supra*, amended the Act of 1944, *supra*, and it is not desired to refer to the latter in its amended form: hence the express provision.

6. Special provisions as to local government superannuation schemes during periods of emergency.—(1) If at any time it appears to the Minister of Health to be expedient in the national interest to encourage the taking of action for either of the following purposes (hereinafter in this section referred to as "emergency purposes"), that is to say, for the purpose of temporarily reducing expenditure or for the purpose of making persons engaged in employment by virtue of which they are contributory employees or local Act contributors under a local authority available for other employment, he may direct that such period as may be specified by him in the direction shall be treated as a period of emergency for the purposes of this section, and any period so specified is hereafter in this section referred to as "the period of emergency". [4481]

(2) The subsequent provisions of this section shall have effect in relation to any person (hereafter in this section referred to as "a person to whom this section applies") in relation to whom the following conditions are fulfilled, that is to say—

(*a*) that, having been engaged in employment by virtue of which he is a contributory employee or local Act contributor under a local authority, he ceases at any time during the period of emergency to be so employed; and

(*b*) that the local authority under whom he was such an employee or contributor certifies that the cessation of his employment is due to action taken for emergency purposes; and

(*c*) that he has not at any time since ceasing to be so employed made a claim under section ten of the Local Government Superannuation Act, 1937, or under any corresponding provision of a local Act scheme, for the return of contributions made by him for superannuation purposes:

Provided that where in any particular case the local authority refuse to certify as aforesaid, the person concerned may appeal to the Minister of Health, and the Minister of Health, if he thinks fit, may grant such a certificate, and the like consequences shall in that case ensue as if the certificate had been granted by the local authority. [4482]

(3) The following provisions of the Local Government Superannuation Act, 1937, that is to say—

(*a*) subsection (7) of section ten (which provides that, unless a claim is made, an administering authority shall not be under an obligation to make payments by way of a return of contributions until the expiration of one year from the date of the cessation of employment);

(*b*) section thirteen (which relates to the reckoning of service of a contributory employee or local Act contributor under a local authority who ceases to be employed by that authority but within twelve months after so ceasing becomes a contributory employee under another local authority, or of a contributory employee under a local authority who ceases to be employed by them but within twelve months after so ceasing again becomes such an employee under them);

(*c*) subsection (1) of section twenty-nine (which relates to the payment of transfer values in respect of a contributory employee or local Act contributor under a local authority who ceases to be employed by them but within twelve months after so ceasing becomes such an employee or contributor under another local authority); and

(*d*) the definition of "disqualifying break of service" in subsection (1) of section forty,

and any corresponding provision of a local Act scheme, shall have effect as if for any reference (however expressed) to a period of twelve months from the date of cessation of employment there were substituted, in relation to a person to whom this section applies, a reference to a period of five years from the date of cessation of employment, or such longer period as the Minister of Health may, in any particular case, allow. [4483]

(4) Where at any time during the relevant period under the last preceding subsection, and without having again become a contributory employee or local Act contributor, a person to whom this section applies—

(*a*) is sixty or more years of age and either has, or, if he had not ceased to be such an employee or contributor, would have, completed forty years' service; or

(*b*) attains the age of sixty-five years and, if he had not ceased as aforesaid, would, on attaining that age, have completed ten years' service,

he may apply to the local authority under whom he was last such an employee or contributor, and if that authority are satisfied that the provisions of this subsection are applicable in his case, he shall, notwithstanding that he had not at the date when he ceased to be such an employee or contributor attained the required age or completed the required service, be deemed to

have become entitled to receive a superannuation allowance upon ceasing to be a contributory employee or local Act contributor under that authority, and the Local Government Superannuation Act, 1937, or the local Act scheme shall have effect, and any benefits to or in respect of him shall be payable, accordingly :

Provided that no payment shall be made in respect of the period between the date when he ceased to be a contributory employee or local Act contributor and the date of his application under this subsection. [4484]

(5) Where a person to whom this section applies has, before the expiration of the relevant period under subsection (3) of this section, again become a contributory employee or local Act contributor under a local authority, then if—

(*a*) any event occurs by virtue of which a pension would but for the fact that he has not completed a specified number of years service, be payable to or in respect of him under the Local Government Superannuation Act, 1937, or the local Act scheme ; and

(*b*) he would, if he had not ceased to be such an employee or contributor owing to action taken for emergency purposes, have completed the aforesaid service by the date of the happening of the event,

a pension shall, notwithstanding the fact that he has not completed the aforesaid service, be deemed to be payable to or in respect of him on the happening of the said event and the said Act or scheme shall have effect accordingly. [4485]

(6) In its application to Scotland, this section shall have effect as if for references to the Local Government Superannuation Act, 1937, and to, or to any subsections of, sections ten, thirteen, twenty-nine and forty thereof there were respectively substituted references to the Local Government Superannuation (Scotland) Act, 1937, and to, or to those subsections of, sections ten, thirteen, twenty-four and thirty-four thereof, and as if for references to the Minister of Health there were substituted references to the Secretary of State. [4486]

General note.—The object of this section is to mitigate hardship resulting from the reduction in local government personnel arising from the nation's economic difficulties. For instance, the implementation of the proposals contained in the White Paper on Capital Expenditure (Cmd. 7268) to reduce work on highways involved the releasing of thousands of men for other types of work. The general effect can be seen from the fact that in a written answer to a question on this topic, the Minister of Transport stated in the House of Commons on March 22, 1948, that he had asked highway authorities to reduce their staffs by some 20,000 men from the numbers employed in September, 1947, the persons so released to be employed for other work more essential to national recovery (448 H. of C. Official Report *297*).

If such men are away from local government service for more than twelve months they would, by virtue of the provisions noted below apart from the present section, lose their right to count their past service for pension purposes. This section therefore allows the substitution of a period of five years where the Minister of Health has certified that an " emergency " exists and displaced employees of local authorities are given a certificate from their late employers or, on appeal, from the Minister of Health to the effect that their displacement is due to the emergency.

If it appears to the Minister.—These words are inserted for the purpose of making the Minister the sole judge (subject to Parliament) of the question whether or not it is expedient that a period should be treated as a period of emergency. Certain other expressions, such as " in the opinion of the Minister", " if the Minister is satisfied " and " if it is clear to the satisfaction of the Minister", have a similar effect ; see *Robinson* v. *Sunderland Corpn.*, [1899] 1 Q. B. 751, *per* CHANNELL, J., at pp. 756, 757 ; *R.* v. *Comptroller-General of Patents, Ex parte Bayer Products, Ltd.*, [1941] 2 K. B. 306, at p. 311 ; [1941] 2 All E. R. 677, *per* SCOTT, L.J., at p. 681 ; *Liversidge* v. *Anderson*, [1942] A. C. 206, at pp. 232, 233 ; [1941] 3 All E. R. 338, *per* Lord ATKIN, at pp. 353, 354 ; *Point of Ayr Collieries, Ltd.* v. *Lloyd-George*, [1943] 2 All E. R. 546 ; and *Robinson* v. *Minister of Town and Country Planning*, [1947] 1 All E. R. 851, C. A.

Period of emergency.—The Minister of Health has directed that the period ending June 30, 1949, is to be treated as the period of emergency for the purposes of the present section (Circular 86/48, *post*).

Claim under s. 10 of the Local Government Superannuation Act, 1937.—30 Halsbury's Statutes 396. This section provides for the return of contributions in certain circumstances where contributory employees of local authorities cease to be employed by them.

The person concerned may appeal.—No leave to appeal is required either from the employing authority or the Minister of Health. No express provision is made, as in the proviso

to s. 35 of the Local Government Superannuation Act, 1937 (30 Halsbury's Statutes 414), for reference by the Minister to the High Court in the form of a special case.

Local Government Superannuation Act, 1937.—30 Halsbury's Statutes 385. For ss. 10 (7), 13, 29 (1) and 40 (1), thereof, see 30 Halsbury's Statutes 398, 400, 410, 415. In the section last mentioned, " disqualifying break of service " in relation to any person is defined as meaning a continuous period of twelve months or longer during no part of which he was a contributory employee or local Act contributor or subject to the Local Government and Other Officers' Superannuation Act, 1922.

Such longer period as the Minister . . . may allow.—It was officially stated at the Committee Stage of the Bill in the House of Commons that the provision was " clearly for the really exceptional case " (see H. of C. Official Report, S.C.C., March 16, 1948, col. 42). This may be valuable as an expression of likely policy in administration, though it should be noted that the wording of the provision contains no reference to " the exceptional circumstances " of any particular case, which it could easily have done.

Definitions.—For definitions of " local authority", " contributory employee", " local Act contributor " and " local Act scheme", see s. 17 (1), *post*.

7. Power to extend Local Government Superannuation Act, 1937, or Local Government Superannuation (Scotland) Act, 1937, to employees of certain associations.—(1) If any body, being either—

(*a*) a body representative of local authorities ; or

(*b*) a body representative of local authorities and officers of local authorities ; or

(*c*) a body representative of officers of local authorities formed for the purpose of consultation as to the common interests of those authorities and the discussion of matters relating to local government,

makes application for the purpose to a local authority who are for the time being required to maintain a superannuation fund under Part I of the Local Government Superannuation Act, 1937, or under Part I of the Local Government Superannuation (Scotland) Act, 1937, the authority may, on such terms and conditions as they think fit, and with the approval of the Minister of Health, or, as the case may be, the Secretary of State, admit any employee of that body to participate in the benefits of the fund, and in that event the said Act shall have effect in relation to the body and any employee so admitted as if the body were a local authority and the employee were a contributory employee, and the body shall have all such powers as may be necessary for the purpose of giving effect to the terms and conditions approved by the Minister of Health to the Secretary of State. [4487]

(2) Where a person who—

(*a*) has at any time been, for a continuous period of not less than three years, in the employment of a body any of the employees of which have been admitted under subsection (1) of this section to participate in the benefits of a superannuation fund maintained by a local authority ; but

(*b*) left that employment before the date when employees of that body were first admitted as aforesaid (hereinafter in this section referred to as " the date of admission "),

is at the date of admission, or thereafter becomes, a contributory employee or a local Act contributor under any local authority, there shall be taken into account in reckoning his non-contributing service or his service for the purposes of the local Act scheme so much, if any, of the period of his employment by the body as the local authority under whom at the date of admission he is, as the case may be, the first local authority under whom he thereafter becomes, such an employee or contributor may, within one year from the date of admission or, as the case may be, the date upon which he becomes such an employee or contributor, determine. [4488]

(3) The last preceding subsection shall have effect in relation to an association of local authorities or of officers of local authorities any of the employees of which have been admitted under any provision of a local Act similar in effect to subsection (1) of this section to participate in the benefits

of a superannuation fund maintained by a local authority, subject to the following modifications, that is to say—

(*a*) the reference in the last preceding subsection to subsection (1) of this section shall be construed as a reference to that provision of that local Act; and

(*b*) in any case where the date of admission is before the date of the passing of this Act, for any reference in the last preceding subsection to the date of admission (except in paragraph (*b*) thereof) there shall be substituted a reference to the date of the passing of this Act. [4489]

General note.—The object of this section is to enable the Local Government Superannuation Act, 1937 (30 Halsbury's Statutes 385 *et seq.*), and the corresponding Scottish Act, to be extended to the employees of three different types of representative associations concerned with local government. The associations may, in the first place, apply to a local authority to admit all or any of their employees to the benefits of the authority's superannuation scheme. If the authority is agreeable to the suggestion it will lay down the terms and conditions of admission and these must in England and Wales be submitted for approval to the Minister of Health.

A body representative of local authorities.—This would include, for example, such bodies as the County Councils Association, the Association of Municipal Corporations, the Urban District Councils Association and the Rural District Councils Association, though the first and second are already covered by the West Sussex and Wallasey Schemes respectively under special provisions in the local Acts applicable.

Body representative of local authorities and officers of local authorities.—This would include, for instance, the National Housing and Town Planning Council.

Bodies within para. (*c*).—The wording of this paragraph is based on that of s. 129 of the Local Government Act, 1948, title FINANCE, *ante*, allowing payment of subscriptions by local authorities to certain types of association. The intention of Parliament in agreeing to this paragraph after the earlier wording had come in for severe criticism in Standing Committee of the House of Commons was to exclude "trade unions" such as the National Association of Local Government Officers to which the present provisions were considered inappropriate.

Part I of the Local Government Superannuation Act, 1937.—This Part of the Act comprises ss. 1 to 25 (30 Halsbury's Statutes 385 *et seq.*).

The authority may.—In addition to having a complete discretion as to the terms and conditions of admittance to its superannuation fund, the authority could, if it thought fit, decline to accept the representative body at all: the word "may" is permissive.

Terms and conditions approved, etc.—It is intended that in the case of agreements under the present section one of the terms will normally require the association concerned to share in any deficit in the superannuation fund (see H. of C. Official Report, S.C.C., March 16, 1948, cols. 20–21).

Sub-s. (2).—This provision, which allows the same arrangements to operate as in the case of members of associations which have secured admission to local government superannuation schemes by way of local Acts (see the notes *supra*), gives local authorities discretion in certain cases as to how far they will allow previous service with the association to be reckoned as non-contributing service. The subsection is careful to provide (*a*) for the person who is already an employee of a local authority at the "date of admission" of the association of which he was formerly an employee, and (*b*) for the person who only becomes such an employee of the local authority after the date of admission. Hence the alternative time limit at the end of the subsection.

Sub-s. (3).—This applies, with the necessary modifications, the machinery of sub-s. (2), *supra*, to associations, such as the County Councils Association and the Association of Municipal Corporations, whose employees already come within the scope of a local Act scheme (see *supra*).

That local Act.—*E.g.* the Wallasey Corporation Act, 1945 (9 & 10 Geo. 6, c. xiii), in the case of the Association of Municipal Corporations (see s. 21 thereof).

Definitions.—For definitions of "local authority", "contributory employee", "local Act contributor" and "local Act scheme", see s. 17 (1), *post*.

8. Amendment of Teachers (Superannuation) Act, 1925, s. 3.—(1) In subsection (1) of section three of the Teachers (Superannuation) Act, 1925 (which requires the Minister of Education to grant superannuation allowances as thereafter provided in that section to the teachers specified in that subsection), there shall be substituted for paragraph (*c*) the following paragraph, that is to say—

"(*c*) has attained the age of sixty years and has, either since the date of commencement of the first period during which he was employed in contributory or recognised service or since the date of commencement of any later period during which he was so employed—

(i) been employed for not less than ten years in such service; and

(ii) been so employed for periods equal in the aggregate to not less than two-thirds of the number of years between the relevant date of commencement aforesaid and the date on which he attained or will attain the age of sixty-five years; or" [4490]

(2) The said Act shall be deemed always to have had effect as amended by this section:

Provided that where, but for this proviso, by virtue of the preceding provisions of this section the date from which an annual superannuation allowance would have begun to accrue, or the date on which an additional allowance would have become due, falls before the date of the passing of this Act, the said allowance shall be deemed not to have begun to accrue, or, as the case may be, to have become payable, until the said date of the passing of this Act. [4491]

(3) Where a person who, at any time between the date of the commencement of the Teachers (Superannuation) Act, 1945, and the date of the passing of this Act, has been employed in contributory service by a local authority or by the managers or governors of a school maintained by a local education authority under the Education Acts, 1944 and 1946—

(*a*) was employed before the date of commencement of the said Act of 1945 in any service in respect of which he was entitled to make an application under section five of the said Act of 1945 that that service should be treated for the purposes of the Teachers (Superannuation) Act, 1925, as if it had been contributory service or recognised service; and either

(*b*) failed before the passing of this Act to make such an application; or

(*c*) upon making such an application, requested that his service before a date specified by him should not be so treated as aforesaid,

and where, if it were so treated as aforesaid, that service before the date of the commencement of the said Act of 1945 or any part of that service, or as the case may be, that service before the said date so specified by him or any part thereof—

(i) if the preceding provisions of this section had not been passed, would or might; but

(ii) by reason of the passing of the said provisions, could not

result in that person being prevented from being or becoming entitled to a superannuation allowance under section three of the Teachers (Superannuation) Act, 1925, that person may, within the period of six months from the date of the passing of this Act or within such longer period as the Minister of Education may in any particular case allow, make application under the said section five, or, as the case may be, make a new application thereunder in the manner prescribed for the purposes of that section in lieu of that previously made, and the said section five shall have effect, subject to any necessary adjustments in respect of payments of appropriate contributions already made, as if the relevant period under this subsection were the time prescribed for the making of applications under that section. [4492]

General note.—The principal object of this section is to prevent hardship to a teacher who had left his teaching post for some other employment and had subsequently taken up his teaching again.

Teachers (Superannuation) Act, 1925, *s.* 3 (1).—7 Halsbury's Statutes 321. This subsection sets out the classes of persons to whom superannuation allowances are to be granted by the Board (now the Minister) of Education.

Sub-s. (2).—The object of this subsection is that, in cases covered, the pension is to date from the passing of the present Act, since it would be impracticable to date such pension

from a time prior to the passing of the Act (H. of C. Official Report, S.C.C., March 16, 1948, col. 26).

Annual superannuation allowance.—See s. 3 (3), (4) of the Teachers (Superannuation) Act, 1925 (7 Halsbury's Statutes 322).

Passing of this Act.—May 28, 1948.

Sub-s. (3).—This complicated subsection is designed to deal primarily with the case, *e.g.* of a man who was a supplementary teacher in a public elementary school. Such a man was not eligible for a pension under the Teachers (Superannuation) Act, 1925 (7 Halsbury's Statutes 317), but he was eligible under the Local Government Superannuation Act, 1937 (30 Halsbury's Statutes 385). S. 1 (1) of the Teachers (Superannuation) Act, 1945 (38 Halsbury's Statutes 53), extended the definition of contributory service contained in s. 2 of the 1925 Act (7 Halsbury's Statutes 319) to supplementary teachers pensionable under the Act of 1937 mentioned above, so that the individual in question could count previous service as a supplementary teacher under s. 5 of the 1945 Act, although under the previous legislation he could not have done so. If such individual had broken service by going into business (as in the example earlier in these notes, *supra*), he could not, even under the 1945 Act, have had his back service taken into account, *i.e.* he could not have counted his previous period of teaching. Under this Act the anomaly is removed.

Date of the commencement of the Teachers (Superannuation) Act, 1945.—April 1, 1945 (Teachers (Superannuation) Act, 1945, s. 14 (3); 38 Halsbury's Statutes 65).

Local education authority.—The local education authority for each county is the council of the county, and that for each county borough is the council of the county borough (Education Act, 1944, s. 6; 37 Halsbury's Statutes 130).

Education Acts, 1944 and 1946.—37 Halsbury's Statutes 140; 39 Halsbury's Statutes 128.

S. 5 of the said Act of 1945.—That is, the Teachers (Superannuation) Act, 1945 (38 Halsbury's Statutes 59), which provided for the reckoning for pension purposes of certain service which was neither contributory nor recognised service (see the notes *supra*).

Teachers (Superannuation) Act, 1925.—This Act (7 Halsbury's Statutes 317) is the principal Act relating to the superannuation of teachers.

Recognised service.—See the notes to s. 2, *ante.*

S. 3 of the Teachers (Superannuation) Act, 1925.—7 Halsbury's Statutes 321. This section deals with the qualifications for grant of superannuation allowances.

In any particular case.—On the face of it this provision merely precludes the Minister of Education from granting a general extension of time applicable either to all cases or to all cases of a particular class. The implication is, however, that the Minister is to examine the circumstances of each case where application is made for an extension and in practice it may well be necessary to show special circumstances amounting to "reasonable cause" for the delay. Note that there is no limit to the extension that may be granted.

Definitions.—For definitions of "contributory service" and "local authority", see s. 17 (1), *post.*

9. Provisions as to Teachers (Superannuation) Act, 1925, s. 21.—(1) The purposes for which the Minister of Education may make schemes under subsection (1) of section twenty-one of the Teachers (Superannuation) Act, 1925, shall include the following purpose, that is to say, for applying the provisions of Part II of the said Act, with such modifications as may seem to the Minister desirable, to persons employed, whether in England or Wales or elsewhere, in the capacity of teachers or in some other capacity connected with education which to a substantial extent involves the control or supervision of teachers—

(*a*) in the naval, military or air forces of the Crown or any of the women's services mentioned in the First Schedule to the Superannuation Act, 1946 (other than persons who hold a permanent commission in any of those forces or services); or

(*b*) in the employment of a body in respect of whose expenditure a grant is made out of moneys provided by Parliament from or by some Department of His Majesty's Government in the United Kingdom, other than the Ministry of Education and a Department of the Secretary of State for Scotland. [4493]

(2) The said subsection (1) shall have effect and be deemed always to have had effect as if for the words "Government Departments in England or Wales" there were substituted the words "Government Departments of His Majesty's Government in the United Kingdom (other than a Department of the Secretary of State for Scotland)", and it is hereby declared that the power to make schemes under the said section twenty-one includes, and has always included, power to frame any such scheme so as to apply to service before the making of the scheme. [4494]

General note.—The principal effect of this section is to extend the scope of the schemes which may be made by the Minister of Education under s. 21 (1) of the Teachers (Super-

annuation) Act, 1925 (7 Halsbury's Statutes 335), to cover the pension entitlements of persons employed in a teaching or other educational capacity in the armed forces of the Crown, any of the women's services or in certain grant-aided bodies. This provision does not apply to persons holding permanent commissions in the Forces.

Schemes under s. 21 (1) *of the Teachers (Superannuation) Act,* 1925.—This subsection lists three cases in which the Board (now the Minister) of Education is empowered to make schemes extending the operation of that Act or particular provisions thereof. To these cases is now added a fourth. Under the existing cases schemes were made applying the relevant provisions to Juvenile Unemployment and Home Training Centres and to certain schools not being grant-aided schools.

Part II of the said Act.—That is, Part II of the Teachers (Superannuation) Act, 1925 (7 Halsbury's Statutes 318 *et seq.*).

With such modifications, etc.—This wording follows closely that of existing paragraphs of s. 21 (1) of the Act of 1925, *supra.*

Sched. I to the Superannuation Act, 1946.—39 Halsbury's Statutes 728.

Other than persons who hold a permanent commission, etc.—S. 2 of the Army and Air Force (Women's Service) Act, 1948 (11 & 12 Geo. 6, c. 21), provides for the grant of commissions to women in any land or air forces.

Sub-s. (2).—The words " Government Departments in England or Wales " appear in s. 21 (1) (*b*) of the Teachers (Superannuation) Act, 1925, *supra,* and the effect of the present subsection appears to be to bring employment in relation to Government departments in Northern Ireland within the framework of that paragraph. The latter part of the present subsection dispels any possible doubt as to the power to apply the provisions of schemes to service prior to the making thereof.

10. Amendment of Teachers (Superannuation) Act, 1945, s. 3.—Section three of the Teachers (Superannuation) Act, 1945 (which provides that a person in contributory service shall not be subject to an independent superannuation scheme, as there defined) shall, in relation to any person who becomes employed in contributory service after the passing of this Act, have effect as if for subsection (2) of that section (which relates to persons becoming employed in contributory service who, but for the said provision, would be subject to such a scheme) there were substituted the following subsection, that is to say—

" (2) Where a person who becomes employed in contributory service after the commencement of this Act—

(*a*) has, not more than one year before he so becomes employed in contributory service, been subject to an independent superannuation scheme ; and

(*b*) would, but for the fact that the service in which he so becomes employed is contributory service, be subject to such a scheme in respect of that service,

the service in which he so becomes employed shall not be treated as contributory service and he shall be subject to the independent superannuation scheme accordingly :

Provided that if any person who is subject to an independent superannuation scheme by virtue of the foregoing provisions of this subsection elects, by notice in writing to the Minister and to the body administering the scheme given within three months of the date of his becoming employed in contributory service, or within such longer period as the Minister may in any particular case allow, to withdraw from the scheme, the said provisions shall not have effect in relation to any service in which he is employed after the election takes effect ". [4495]

General note.—S. 3 of the Teachers (Superannuation) Act, 1945 (38 Halsbury's Statutes 57), made provision for safeguarding the pension rights of a certain class of women teachers who " helped out " the teaching staff of certain local elementary schools. This class consisted of women with no special qualifications and who were described as supplementary teachers. By this section the definition of contributory service was extended to cover service by teachers of this kind. Supplementary teachers who were contributors to pension schemes under the Local Government Superannuation Act, 1937 (30 Halsbury's Statutes 385), were allowed either to continue under that Act or to transfer therefrom to the pension schemes of the Teachers (Superannuation) Acts (see the notes to s. 1, *ante*), while supplementary teachers who were not contributors under the Act of 1937 were automatically to become contributors under the Teachers (Superannuation) Acts and were allowed to count back service for pension purposes. The effect of the present section is to secure that where a person who comes under some superannuation scheme becomes a teacher, and would be able to continue under the scheme but for the fact that his service as a teacher is contributory service under the Teachers (Superannuation) Acts, he may elect either to remain with the independent scheme or to come under the teachers' superannuation scheme.

Contributory service.—See the notes to s. 1, *ante*.

Independent superannuation scheme.—For definition, see s. 3 (5) of the Teachers (Superannuation) Act, 1945 (38 Halsbury's Statutes 57).

After the commencement of this Act.—This phrase, inserted in the substituted s. 3 (2) of the Teachers (Superannuation) Act, 1945, *supra*, refers to the date of commencement of that Act, namely, April 1, 1945, and not to the commencement of the present Act.

The Minister.—That is, the Minister of Education (s. 13 (1) of the Teachers (Superannuation) Act, 1945 (38 Halsbury's Statutes 57).

In any particular case.—See the notes to s. 8, *ante*.

11. Power to extend definition of approved external service.—(1) The Minister of Education may, with the consent of the Treasury, by rules provide that, for the purposes of section thirteen of the Teachers (Superannuation) Act, 1925 (which relates to the treatment of approved external service as contributory service in certain circumstances), any specified employment, whether before or after the passing of this Act, in the service of the government of, or of any public authority in, any part of His Majesty's dominions (as defined for the purposes of subsection (1) of section twenty-one of that Act), being employment which is or was pensionable or in respect of which contributions are or were payable to a provident fund, shall be treated as approved external service. [4496]

(2) Any such rules may include provisions modifying the said section thirteen in its application to any particular form of employment which under the rules is to be treated as approved external service for the purposes of that section. [4497]

General note.—The effect of this section is to extend the definition of approved external service to be found in s. 13 (1) of the Teachers (Superannuation) Act, 1925 (7 Halsbury's Statutes 328), to service by teachers who have gone abroad in civil service and similar posts. Under sub-s. (2) the Minister of Education may at his discretion exclude certain kinds of overseas service for this purpose (see H. of C. Official Report, S.C.C., March 16, 1948, col. 29).

By rules.—For the general provisions applicable, see s. 15, *post*. Under this section the Minister of Education has made the Teachers Superannuation (Approved External Service) Rules, 1949, S.I. 1949 No. 1393.

Teachers (Superannuation) Act, 1925, s. 13.—7 Halsbury's Statutes 328.

Approved external service.—This term is defined by s. 13 (1) of the Teachers (Superannuation) Act, 1925, *supra*, but the provisions of paragraph (*b*) thereof have been modified by s. 6 (1) of the Superannuation Act, 1946 (39 Halsbury's Statutes 726), though service which is treated as approved external service by virtue of that subsection is to be disregarded in calculating the average salary of a teacher in pursuance of the provisions of Part II of the Act of 1925, *supra*.

Contributory service.—See the notes to s. 1, *ante*.

His Majesty's dominions.—This term is defined by s. 21 (1) (*c*) of the Teachers (Superannuation) Act, 1925 (7 Halsbury's Statutes 336), as including any territory which is under His Majesty's protection or in respect of which a mandate is being exercised by the Government of any part of His Majesty's dominions. It will be noted that the definition is not exhaustive.

Employment which is or was pensionable.—For definition of "pensionable employment", see s. 17 (1), *post*.

12. Superannuation of certain persons serving in the educational services otherwise than as teachers.—(1) Where the Minister of Education is satisfied with respect to service in any particular appointment in an educational service that it is not service as a teacher and is not service which to a substantial extent involves the control or supervision of teachers, but that it is service in the performance of which teaching experience is of value, he may approve service in that appointment for the purposes of this subsection; and if any person is employed after the commencement of this Act in that appointment, his said employment after the commencement of this Act shall, if he makes application to the Minister of Education for that purpose within the time and in the manner prescribed by rules under section seventeen of the Teachers (Superannuation) Act, 1925, be treated for the purposes of that Act as if it were employment as a teacher in contributory service, and references in the said Act to teachers and to contributory service shall be construed accordingly:

Provided that the employment of a person shall not be treated as employment in contributory service by virtue of this subsection unless he has previously been employed for not less than three years, whether in England or Wales or elsewhere and whether before or after the commencement of

this Act, as a teacher in a capacity approved by the Minister of Education. [4498]

(2) Where, under the Teachers Superannuation (War Service) Act, 1939, a period of war service is treated for the purposes of Part II of the Teachers (Superannuation) Act, 1925, as if it were a period of contributory service, or where, under the Scottish Teachers Superannuation Scheme, a period of war service is treated as service for the purposes of that scheme, that period of war service shall also be treated as if it were a period of service as a teacher in a capacity approved by the Minister of Education for the purposes of this section, of section two of the Teachers (Superannuation) Act, 1945, and of section fourteen of the said Act of 1925. [4499]

(3) The last preceding subsection shall, in relation to the said section two and the said section fourteen, be deemed to have had effect as from the passing of the said Act of 1945. [4500]

(4) Subsection (3) of section two of the Teachers (Superannuation) Act, 1945, is hereby repealed. [4501]

General note.—This section allows certain service where teaching experience is of value, if approved by the Minister of Education, to rank as contributory service, but this can only apply where a person has three years' previous service as a teacher in an approved capacity. For instance, where a teacher takes a post as secretary to a regional council for further education, such employment would not count as service as a teacher in the ordinary way, nor would it rank as full-time service as an organiser under s. 14 of the Teachers (Superannuation) Act, 1925 (7 Halsbury's Statutes 331), nor would it count under the further provisions of s. 2 of the Teachers (Superannuation) Act, 1945 (38 Halsbury's Statutes 56). It would, however, come within the present section, provided the conditions applicable were satisfied.

Where the Minister is satisfied.—See the note to s. 6, *ante*, headed " If it appears to the Minister ".

If he makes application, etc.—These words secure that a person to whom the subsection applies is not brought automatically within the provisions of the Teachers (Superannuation) Acts, but, where applicable, may continue under the terms of the Local Government Superannuation Act, 1937 (30 Halsbury's Statutes 385), if he prefers to do so.

Within the time and in the manner prescribed by rules.—See r. 7 of, and the Sched. to, the Teachers Superannuation Amending Rules, 1948 (S.I. 1948 No. 1801, *post*), which came into operation on August 1, 1948.

S. 17 *of the Teachers* (*Superannuation*) *Act*, 1925.—7 Halsbury's Statutes 333. This is a section conferring general power to make rules for carrying that Act into effect. All rules thereunder are to be laid before both Houses of Parliament and, where issued on or after January 1, 1948, are statutory instruments under s. 1 (1) of the Statutory Instruments Act, 1946 (39 Halsbury's Statutes 784).

Employed for not less than three years, etc.—These requirements are similar to those applicable to organisers under s. 14 of the Teachers (Superannuation) Act, 1925, *supra*, and to the persons affected by s. 2 of the Teachers (Superannuation) Act, 1945, *supra*.

Sub-s. (2).—As sub-s. (1), *supra*, further extends the scope of employment which may be reckoned as contributory service, it is thought proper that in the present subsection the new category should also be brought within enlarged war service provisions: that is to say, not only may their employment as such rank as contributory service but approved war service will also rank in the same way (see, generally, H. of C. Official Report, S.C.C., March 16, 1948, col. 32).

Teachers Superannuation (*War Service*) *Act*, 1939.—32 Halsbury's Statutes 1131.

Period of war service.—See s. 9 of the Teachers (Superannuation) Act, 1945 (38 Halsbury's Statutes 62), which substitutes a new definition for that appearing in s. 11 of the Teachers Superannuation (War Service) Act, 1939 (32 Halsbury's Statutes 1136).

For the purposes of Part II of the Teachers (*Superannuation*) *Act*, 1925.—The effect of this phrase which replaces " under section one of the Teachers Superannuation (War Service) Act, 1939," as appearing in s. 2 (3) of the Teachers (Superannuation) Act, 1945 (now repealed; see *infra*), is to include war service of persons training or trained as teachers under s. 2 of the said Act of 1939, which is treated as contributory service for the purposes of the said Part II but did not arise under the said s. 1.

S. 2 *of the Teachers* (*Superannuation*) *Act*, 1945.—38 Halsbury's Statutes 56.

S. 14 *of the said Act of* 1925.—That is to say, the Teachers (Superannuation) Act, 1925, s. 14 (7 Halsbury's Statutes 331).

Shall be deemed to have had effect.—S. 2 (3) of the Teachers (Superannuation) Act, 1945 (38 Halsbury's Statutes 56), provided in effect that a period of war service should be treated as equivalent to approved service under s. 2 of the Act of 1945, *supra*, and s. 14 of the Act of 1925, *supra*, in cases to which those sections applied, such provision taking effect as from April 1, 1945. The present provisions are wider in scope and the opportunity has been taken to replace s. 2 (3), *supra*, with retrospective operation from March 28, 1945.

Passing of the said Act of 1945.—March 28, 1945.

13. Probation Officers.—Whereas under subsection (3) of section one of the Criminal Justice Act, 1925, arrangements were made for the establishment of a superannuation fund for certain probation officers;

And whereas payments have been and, until the winding-up thereof, will continue to be made into the said fund in respect of persons who, having been such probation officers as aforesaid, are seconded to other service ;

And whereas it is expedient to make provision for securing the pension rights of such persons as aforesaid as are still seconded at the date of the making of an order under the Probation Officers (Superannuation) Act, 1947, applying the provisions of the Local Government Superannuation Act, 1937, or of a local superannuation enactment, to probation officers ;

Now therefore—

(1) Notwithstanding anything in section one of the Probation Officers (Superannuation) Act, 1947, an order under that section may provide—

(*a*) for a part of the said superannuation fund being paid to a special fund to be constituted by or under the order, for the management of the said special fund and the investment of the assets thereof, and for the application thereof, in such manner as may be specified in the order, with a view to securing the pension rights of the said persons in respect of service before the date when they cease to be seconded ;

(*b*) for requiring such payments to be made into the said special fund by the persons aforesaid while still seconded and by their employers for the time being as may be specified in the order ;

(*c*) for applying the provisions of the Local Government Superannuation Act, 1937, or of a local superannuation enactment, subject in any case to such adaptations, modifications and exceptions as the Secretary of State thinks fit, to such persons as aforesaid when they cease to be seconded ;

(*d*) for transferring to such superannuation funds maintained under the said Act of 1937 or under a local superannuation enactment as may be specified in or under the order the liabilities of the said special fund in respect of payments of pensions to persons who become entitled to receive them on or before ceasing to be seconded ;

(*e*) for the payment out of moneys provided by Parliament into the said special fund of sums necessary to make good any amount by which that fund is insufficient for the purpose of making any payment necessary for securing the pension rights of the persons aforesaid ;

(*f*) for the winding up of the said special fund after all the persons aforesaid have ceased to be seconded, and for the payment into the Exchequer of any amount remaining after the payment of the expenses of the winding-up :

Provided that any order providing for payments out of moneys provided by Parliament shall only be made with the consent of the Treasury.

In this subsection, the expression "local superannuation enactment" has the meaning assigned to it by subsection (5) of section one of the Probation Officers (Superannuation) Act, 1947. [4502]

(2) Section four of the Pensions (Increase) Act, 1944 (which, subject to the limitations imposed by the Pensions (Increase) Act, 1947, enables pensions payable in respect of service as a probation officer to be increased) shall have effect as if the reference to such service included a reference to service while seconded as aforesaid. [4503]

(3) For the purposes of section two of this Act, the employment of the persons aforesaid while they are still seconded shall be deemed to be pensionable employment. [4504]

General note.—The purpose of the section is to protect the pension rights of probation officers seconded to non-probation service on the changeover from the old to the new system of superannuation for probation officers.

S. 1 (3) *of the Criminal Justice Act*, 1925.—11 Halsbury's Statutes 396. This subsection empowered the Secretary of State by scheme to make such arrangements as he thought fit

with a view to the provision of superannuation allowances or gratuities for probation officers or their legal personal representatives and it was under this power that the Secretary of State made the Probation Officers' Superannuation Rules, 1926 (S. R. & O., 1926, No. 1354/L.36), by which detailed provision for such superannuation was made. However, the Act of 1925 contained no power to vary the scheme so made; and accordingly various defects which have from time to time appeared could be set right only by Act of Parliament.

Having been such probation officers as aforesaid.—Note that this does not apply to probation officers' clerks, as such persons became superannuable as such only under the provisions of the Probation Officers (Superannuation) Act, 1947 (40 Halsbury's Statutes 1080) and therefore could not come under the old scheme.

Order under the Probation Officers (Superannuation) Act, 1947.—On June 9, 1948, the Secretary of State in pursuance of the powers conferred on him by s. 1 of that Act, as extended by the present section, with the consent of the Treasury, made the Probation Officers (Superannuation) Order, 1948 (S.I. 1948 No. 1220), *post*, which came into operation on July 1, 1948, amended, as from July 1, 1949, by the Probation Officers (Superannuation) Order, 1949, S.I. 1949 No. 1134.

Local Government Superannuation Act, 1937.—30 Halsbury's Statutes 385.

Local superannuation enactment.—By sub-s. (1), *supra*, this expression has the meaning assigned to it by s. 1 (5) of the Probation Officers (Superannuation) Act, 1947 (40 Halsbury's Statutes 1088).

S. 1 of the Probation Officers (Superannuation) Act, 1947.—40 Halsbury's Statutes 1087. This section set out the powers of the Secretary of State in relation to orders applying the local government superannuation provisions to probation officers and their clerks. The powers in question are extended to cover seconded officers by sub-s. (1), *supra*.

Order under that section.—See the Probation Officers (Superannuation) Order, 1948 (S.I. 1948 No. 1220), *post*.

Sub-s. (2).—S. 4 of the Pensions (Increase) Act, 1944 (37 Halsbury's Statutes 526), allowed that Act to be extended by Order in Council to pensions payable in respect of service as a probation officer so that the pension increases for which provision was made by that Act might be made applicable to such officers. In this way the Act of 1944 was applied to probation officers by the Pensions (Increase) Act (Extension) Order, 1944 (S. R. & O., 1944, No. 934). On June 22, 1948, however, this order was revoked as from July 1, 1948, by the Pensions (Increase) Act (Extension) Order, 1948 (S.I. 1948 No. 1343), *post*, which applied the Pensions (Increase) Act, 1944, *supra*, to pensions under the new arrangements.

Pensions (Increase) Act, 1947.—40 Halsbury's Statutes 1037. For limitations imposed, see s. 3 thereof.

Pensionable employment.—For definition, see s. 17 (1), *post*.

14. Approved school officers.—The power conferred by paragraph 14 of the Fourth Schedule to the Children and Young Persons Act, 1933, or by paragraph 14 of the Second Schedule to the Children and Young Persons (Scotland) Act, 1937, on the managers of an approved school to pay or contribute towards the payment of superannuation allowances or gratuities to or to the dependants of certain officers, shall be construed as including power to pay or contribute towards the payment of such allowances or gratuities in the case of persons who cease to be officers in the service of the school in order to enter into pensionable employment of a class referred to in subsection (2) of section two of this Act, or to pay or contribute towards the payment of transfer values or other similar payments in respect of those persons, and the reference in the proviso to each of the said paragraphs to payments or contributions in respect of any superannuation allowance or gratuity shall be construed as including a reference to payments or contributions under this section, and the powers to make rules conferred by those provisos shall be extended accordingly. [4505]

General note.—This section is designed to facilitate the transfer of officers of approved schools to other public employment of the types specified in s. 2 (2), *ante*, by removing any pension difficulties that might otherwise have impeded transfer.

Para. 14, *etc.*—For para. 14 of Sched. IV to the Children and Young Persons Act, 1933, see 26 Halsbury's Statutes 248.

Pensionable employment.—For definition, see s. 17 (1), *post*.

Transfer values.—See the notes to s. 1, *ante*.

15. General provisions as to rules under this Act.—(1) Any rules under this Act may contain such consequential and incidental provisions as appear to the authority making the rules to be necessary or expedient, including provisions requiring the giving of information and the production of documents, and provisions repealing, revoking, varying or applying any statutory provision relating to the subject matter of the rules; and any such rules may make different provision for different cases or classes of cases. [4506]

(2) Any power conferred by this Act to make rules shall be exercisable by statutory instrument, and any statutory instrument made in the exercise

of any such power shall be subject to annulment by resolution of either House of Parliament. [4507]

(3) Anything which the Secretary of State is empowered by this Act to do by rules in relation to the Scottish Teachers Superannuation Scheme may be done by such rules or by amendment of the said scheme under section one hundred and one of the Education (Scotland) Act, 1946. [4508]

Rules under this Act.—Power to make rules under the present Act is conferred on various Departments by ss. 1 to 5 and 11. Under this section, the Minister of Health has made the Superannuation (Local Government Staffs) (National Service) Rules, 1949, S.I. 1949 No. 545 and the Superannuation (Local Act Authorities Schemes) Interchange Rules, 1949, S.I. 1949 No. 630.

Statutory provision.—For definition, see s. 17 (1), *post.*

Exercisable by statutory instrument.—See the Statutory Instruments Act, 1946 (39 Halsbury's Statutes 783).

16. Financial provisions.—Any increase attributable to the provisions of this Act or of any rules made thereunder in the sums which are payable out of moneys provided by Parliament under the Superannuation Acts, 1834 to 1946, the Teachers (Superannuation) Acts, 1918 to 1946, or the Education (Scotland) Act, 1946, shall be defrayed out of moneys so provided. [4509]

Superannuation Acts, 1834 to 1946.—For the Acts comprised in this series, see the notes to s. 1, *ante.*

Teachers (Superannuation) Acts, 1918 to 1946.—For the Acts comprised in this series, see the notes to s. 1, *ante.*

17. Interpretation.—(1) In this Act, except so far as the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them—

"civil servant" means a person serving in an established capacity in the permanent civil service of the State within the meaning of section seventeen of the Superannuation Act, 1859;

"service to the State in an unestablished capacity" means employment in the civil service of the State otherwise than as a civil servant, being employment to which the person serving therein is required to devote his whole time, and the remuneration for which is paid entirely out of moneys provided by Parliament;

"contributory employee", "local Act scheme", "local Act contributor" and "local authority" have, in relation to England and Wales, the same meanings as in the Local Government Superannuation Act, 1937, and, in relation to Scotland, the same meanings as in the Local Government Superannuation (Scotland) Act, 1937;

"metropolitan police staff" means persons in employment—

(*a*) under the Commissioner of Police of the Metropolis or the Receiver for the Metropolitan Police District, otherwise than as constables;

(*b*) as members of the staff of the metropolitan police courts, otherwise than as metropolitan police magistrates;

"pension", in relation to any person, means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of him, and includes a lump sum or a gratuity so payable and a return of contributions to a pension fund, with or without interest thereon or any other addition thereto;

"pension fund" means a fund established for the purpose of paying pensions and includes the Metropolitan Police Fund and, in relation to the Superannuation Acts, 1834 to 1946, and the Teachers (Superannuation) Acts, 1918 to 1946, the Exchequer, and, in relation to the Education (Scotland) Act, 1946, the Education (Scotland) Fund;

" pension rights " includes, in relation to any person, all forms of right to, or eligibility for, the present or future payment of a pension to or in respect of that person ;

" pension scheme " includes any form of arrangements for the payment of pensions, whether subsisting by virtue of Act of Parliament, trust, contract or otherwise ;

" pensionable employment " means employment which is relevant in relation to the pension rights of the person employed, and includes all such employment, whether or not for a period sufficient to render him entitled to, or eligible for, the payment of a pension to or in respect of him ;

" Scottish Teachers Superannuation Scheme " has the meaning assigned by section one hundred and forty-three of the Education (Scotland) Act, 1946, to the expression " Teachers Superannuation Scheme " ;

" statutory provision " means a provision, whether of a general or special nature, contained in or in any document made or issued under any Act, whether of a general or special nature ;

" War Agricultural Executive Committee " has the same meaning as in the Agriculture (Miscellaneous War Provisions) Act, 1940. [4510]

(2) Any reference in this Act to any other enactment shall, except so far as the context otherwise requires, be construed as a reference to that enactment as amended by or under any other enactment, including this Act. [4511]

S. 17 *of the Superannuation Act*, 1859.—16 Halsbury's Statutes 184.
Local Act contributor.—See the notes to s. 2, *ante.*
Local Act scheme.—See the notes to s. 1, *ante.*
Local Government Superannuation Act, 1937.—30 Halsbury's Statutes 385.
Superannuation Acts, 1834 *to* 1946.—For the Acts comprised in this series, see the notes to s. 1, *ante.*
Teachers (Superannuation) Acts, 1918 *to* 1946.—For the Acts comprised in this series, see the notes to s. 1, *ante.*
War Agricultural Executive Committees.—As from October 1, 1947, these Committees are replaced by the County Agricultural Executive Committees established by s. 71 of the Agriculture Act, 1947 ; 1 Halsbury's Statutes (2nd Edn.) 157.
Agriculture (Miscellaneous War Provisions) Act, 1940.—1 Halsbury's Statutes (2nd Edn.) 344.
For definition of " War Agricultural Executive Committee", see s. 30 (1) (*b*) thereof.

18. Short title.—This Act may be cited as the Superannuation (Miscellaneous Provisions) Act, 1948. [4512]

Section 1

SCHEDULE

PART I

Amendments of the Local Government Staffs (War Service) Act, 1939

1. Where a person serving in any superannuable capacity specified in the first column of the Schedule to the Act ceased so to serve in order to undertake war service and had not then attained the age of eighteen years, and, if he had attained that age, any of his service before the date of the cessation would have been contributing service or service for the purposes of a local Act scheme, then, if he attains that age while in war service, he shall be entitled to reckon so much of his war service as falls after the attainment of that age as contributing service or service for the purposes of that local Act scheme, and section four of the Act shall have effect in respect of that part of his war service as if he had not ceased to serve as aforesaid in order to undertake war service until immediately after the date upon which he attains that age.

2. Where a person serving in any superannuable capacity specified in the first column of the Schedule to the Act ceased so to serve in order to undertake war service and had not then attained the age of eighteen years, and the provisions of paragraph 1 of this Part of the Schedule do not apply, the period of his war service

shall be taken into account for superannuation purposes in the same manner and to the same extent, if any, as it would have fallen to be taken into account if he had continued to serve in the same superannuable capacity as aforesaid throughout the period of his war service.

3. Where a person serving in a temporary capacity as a whole time officer of a local authority, being an authority specified in Part I of the First Schedule to the Local Government Superannuation Act, 1937, ceased so to serve in order to undertake war service and had then attained the age of eighteen years but was not then a contributory employee or a local Act contributor, and, if he had not ceased so to serve, he would have become a contributory employee or a local Act contributor on some date falling within the period of his war service, he shall be entitled to reckon so much of his war service as falls after the said date as contributing service or as service for the purposes of the local Act scheme, and section four of the Act shall have effect in respect of that part of his war service as if he had not ceased to serve as aforesaid in order to undertake war service until immediately after the said date.

4. It is hereby declared that where, under section three of the Act, the period of a person's war service falls to be aggregated with the period of his service in his civil capacity, then, for the purposes of sections thirteen and twenty-nine of the Local Government Superannuation Act, 1937, he shall not be deemed to have ceased to be employed by the authority by whom he was employed immediately before he undertook his war service until the expiration of his war service or, if before the expiration of his war service he makes a claim under section ten of the last mentioned Act for the return of contributions made by him for superannuation purposes, until the date on which the claim is made, and references in the said sections thirteen and twenty-nine to the cessation of his employment by that authority shall be construed accordingly.

5. Where a person who is in war service immediately before the end of the present emergency continues in the same service after the end thereof, the said service continued as aforesaid shall all be treated as war service for the purposes of the Act:

Provided that, except where the said person continues his war service in pursuance of a legal obligation so to do arising otherwise than by reason of a voluntary undertaking by him to continue it, the local authority by whom he was employed immediately before he undertook his war service may at any time by notice in writing given to him notify him that his war service for the purposes of the Act will be deemed to cease three months after the date of the service of the notice, and unless the authority withdraw their notice the said war service shall be deemed to cease accordingly.

6. The provisions of this Part of this Schedule shall be deemed always to have had effect and all necessary adjustments shall be made accordingly.

7. In its application to Scotland, this Part of this Schedule shall have effect as if for references to the Local Government Superannuation Act, 1937, and to sections ten, thirteen and twenty-nine thereof, there were respectively substituted references to the Local Government Superannuation (Scotland) Act, 1937, and to sections ten, thirteen and twenty-four thereof. [4513]

General note.—S. 1 (5), *ante*, enacts that "the said Acts [which include the Local Government Staffs (War Service) Act, 1939; 32 Halsbury's Statutes 1118] shall be amended in accordance with the provisions of Parts I, II and III respectively of the Schedule to this Act and, to the extent specified in those Parts of that Schedule, shall be deemed always to have had effect as so amended." In general, the amendments made bring the Act of 1939 into line with the general principles of the National Service Act, 1948 (11 & 12 Geo. 6, c. 64), as amended by the National Service (Amendment) Act, 1948 (12 & 13 Geo. 6, c. 6), and the present Schedule.

Local Government Staffs (War Service) Act, 1939.—32 Halsbury's Statutes 1118.

War service; local Act scheme; superannuation purposes; local authority.—See s. 14 of the last mentioned Act (32 Halsbury's Statutes 1127).

Local Government Superannuation Act, 1937.—30 Halsbury's Statutes 385. For ss. 10, 13 and 29 thereof and Part I of Sched. I thereto, see 30 Halsbury's Statutes 396, 400, 415 and 419.

Local Act contributor.—See the notes to s. 2, *ante*.

End of the present emergency.—See the notes to s. 1, *ante*.

PART II

Amendments of the Teachers Superannuation (War Service) Act, 1939

1.—(1) In paragraph (*b*) of subsection (3) of section two (which relates to the employer's contributions which must be paid by persons undertaking war service before completing their training as teachers or before becoming employed in contributory service if their war service is to count as contributory service) after the words "such amount" there shall be inserted the words "(not exceeding two and a half per cent. of the amount of his said salary as a teacher)".

(2) Sections two and three shall have effect as if section two had been enacted as amended by this paragraph.

2. After section seven the following section shall be inserted—

"7A. Where a person employed as a teacher in contributory service ceases to be so employed by reason that he is interned by the enemy or by a neutral power, this Act shall have effect as if he had ceased to be so employed in order to undertake war service and as if his war service had continued for the period of his internment".

3.—(1) Where a person who is in war service immediately before the end of the period of the present emergency continues in the same service either with the consent of his former employer (as defined for the purposes of the Act) or in pursuance of a legal obligation so to do arising otherwise than by reason of his voluntary continuance of his service, the said service continued as aforesaid shall all be treated as war service for the purposes of the Act; and section nine of the Teachers (Superannuation) Act, 1945 shall be construed accordingly.

(2) Where a person who is in war service immediately before the end of the period of the present emergency continues in the same service after the end thereof in pursuance of a legal obligation so to do arising by reason of his voluntary continuance of his service without the consent of his former employer, nothing in section nine of the Teachers (Superannuation) Act, 1945, shall be construed as enabling so much of the said service continued as aforesaid as falls after the end of the period of the present emergency to be treated as part of his period of war service.

4. The Act shall apply to a person whose employment is treated by virtue of section two of the Teachers (Superannuation) Act, 1945, as if it were employment as a teacher in contributory service as it applies to such a teacher, and any reference in the Act to a teacher or to contributory service shall be construed accordingly.

5. Notwithstanding anything in section eleven of the Act, the expression "contributory service", wherever used in the Act, shall, in relation to service after the commencement of the Teachers (Superannuation) Act, 1945, be construed, save where the context otherwise requires, as having the meaning assigned to it by subsection (1) of section one of the last mentioned Act.

6. The provisions of this Part of this Schedule shall be deemed always to have had effect, and all necessary adjustments shall be made accordingly. [4514]

General note.—S. 1 (5), *ante*, enacts that "the said Acts [which include the Teachers Superannuation (War Service) Act, 1939; 32 Halsbury's Statutes 1131] shall be amended in accordance with the provisions of Parts I, II and III respectively of the Schedule to this Act and, to the extent specified in those Parts of that Schedule, shall be deemed always to have had effect as so amended."

The provisions of this Part of the Schedule make a number of miscellaneous amendments, mostly of detail. Note the provisions of para. 2, *supra*, as to "war service" during internment. This will include internment as a civilian, prisoners of war being already covered by the existing provisions for service in the Armed Forces.

Teachers Superannuation (War Service) Act, 1939.—32 Halsbury's Statutes 1131. For ss. 2, 3 and 7 thereof, see 32 Halsbury's Statutes 1132, 1133, 1134.

War service.—See s. 11 of the last mentioned Act (32 Halsbury's Statutes 1136), and also s. 13 (1) of the Teachers (Superannuation) Act, 1945 (38 Halsbury's Statutes 64).

Contributory service.—See para. 5, *supra*. For definition, see s. 1 (1) of the Teachers (Superannuation) Act, 1945 (38 Halsbury's Statutes 54).

Period of the present emergency.—See the notes to s. 1, *ante*.

Former employer.—For definition, see s. 1 of the Teachers Superannuation (War Service) Act, 1939 (32 Halsbury's Statutes 1132).

Period of war service.—This was originally defined by s. 11 of the Teachers Superannuation (War Service) Act, 1939 (32 Halsbury's Statutes 1136), but s. 9 of the Teachers (Superannuation) Act, 1945 (38 Halsbury's Statutes 62) substituted a new definition with retrospective effect.

Teachers (Superannuation) Act, 1945.—38 Halsbury's Statutes 53. For ss. 1 (1), 2 and 9 thereof, see 38 Halsbury's Statutes 54, 56, 62.
Commencement of the Teachers (Superannuation) Act, 1945.—April 1, 1945 (see s. 14 (3) of that Act; 38 Halsbury's Statutes 65).

PART III

Amendments of the Education (Scotland) (War Service Superannuation) Act, 1939 [4515]

* * * * *

General note.—As its title implies, this Part of the Schedule relates only to Scotland.

ORDERS, CIRCULARS AND MEMORANDA

TEACHERS SUPERANNUATION (HOUSEWORKERS) SCHEME, 1947

S. R. & O., 1947, *No.* 2147

September 29, 1947

General note.—This scheme has been amended by the Teachers Superannuation (Houseworkers) Amending Scheme, 1949, S.I. 1949 No. 1394, owing to revised administrative arrangements made between the Ministry of Labour and National Service and the Ministry of Education in regard to the provision of training facilities by the National Institute of Houseworkers.

1. This Scheme may be cited as the Teachers Superannuation (Houseworkers) Scheme, 1947. [4516]

2. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Scheme as it applies for the purpose of the interpretation of an Act of Parliament. [4517]

3. In this Scheme—

"the Act" means the Teachers (Superannuation) Act, 1925, as amended by any subsequent enactment;

. . . . [4518]

4. In order to enable persons who on or after the date of this Scheme are employed full-time in the teaching service of the National Institute of Houseworkers to participate in the benefits of the Act the provisions of Part II of the Act shall apply to such persons as if such teaching service were contributory service for the purposes of the Act: provided that—

(*a*) in the case of persons employed in the capacity of teachers, otherwise than as organisers, the employment shall be in a training class which is conducted by the said Institute . . . . and in respect of which a grant is paid by the Minister of Labour and National Service; and

(*b*) in the case of persons employed in the capacity of organisers the employment shall be in full-time educational service which involves to a substantial extent the control or supervision of teachers and in respect of which a grant is paid by the Minister of Labour and National Service. [4519]

5. The date of this Scheme shall be the date on which it is sealed. [4520]

* * * * *

General note.—The words omitted from clauses 3 and 4, para. (*a*), were repealed by the Teachers Superannuation (Houseworkers) Amending Scheme, 1949, *supra*.

INCREASE OF PENSIONS (GENERAL) (NO. 2) REGULATIONS, 1947

S. R. & O., 1947, *No.* 2599

December 3, 1947

The Lords Commissioners of His Majesty's Treasury, in pursuance of their powers under sub-section (5) of Section 3 of the Pensions (Increase) Act, 1944, and of all other powers enabling Them in that behalf, hereby make the following Regulations :—

1.—(1) These Regulations may be cited as the Increase of Pensions (General) (No. 2) Regulations, 1947.

(2) The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [4521]

2. Regulation 10 of the Increase of Pensions (General) Regulations, 1947, shall be amended by the addition thereto of the following paragraph :—

"(5) Notwithstanding anything contained in these Regulations, where the first grant of an increase is made on or after the 1st December, 1946, and before the 1st April, 1947, it may, at the discretion of the Pension Authority but subject to the provisions of the second proviso to paragraph (2) of this Regulation, remain in force until the 31st March, 1949." [4522]

* * * * *

EXPLANATORY NOTE

(*This note is not part of these Regulations, but is intended to indicate their general purport.*)

Under paragraph (2) *of Regulation* 10 *of the Increase of Pensions* (*General*) *Regulations*, 1947, *an initial grant of increase under the Pensions* (*Increase*) *Acts*, 1944 *and* 1947, *normally remains in force until the* 31*st March next but one following the date from which the increase started to be payable; the pensioner has at the end of that period to complete a fresh declaration form to secure further payment of increase. The present Regulations give a Pension Authority discretion to extend the period of the initial grant of pension increase for a further twelve months* (i.e. *up to* 31*st March*, 1949) *when this increase has been granted from a date between* 1*st December*, 1946, *and* 31*st March*, 1947, *inclusive.*

LOCAL GOVERNMENT AND CIVIL SERVICE (SUPERANNUATION) RULES, 1947

S. R. & O., 1947, *No.* 2809

December 29, 1947

The Lords Commissioners of His Majesty's Treasury in exercise of the powers conferred upon Them by sub-paragraph (1) of paragraph 8 of the Second Schedule to the Superannuation Act, 1946, and of all other powers enabling Them in that behalf hereby make the following Rules :—

1.—(1) These Rules may be cited as the Local Government and Civil Service (Superannuation) Rules, 1947, and shall be construed as one and may be cited together with the Local Government and Civil Service (Superannuation) Rules, 1936.

(2) References in these Rules to any enactment or rule shall be construed as references to that enactment or rule as amended by any subsequent enactment or rule.

(3) The Interpretation Act, 1889, shall apply to the interpretation of these Rules as they apply to the interpretation of an Act of Parliament. [4523]

2. The Local Government and Civil Service (Superannuation) Rules, 1936, shall be amended, with effect from the day after the day of the commencement of the Superannuation Act, 1935, by the insertion in paragraph (1) of Rule 9 after the words " Civil Service " where they first appear and in paragraph (3) of Rule 10 after the words " Civil Service " of the words " , or any other public office or employment recognised by the Treasury as being employment to which it is expedient that the provisions of Section 4 of the Superannuation Act, 1914, should apply ". [4524]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of these Rules, but is intended to indicate their general purport.*)

Section 9 *of the Superannuation Act*, 1935, *and the Local Government and Civil Service* (*Superannuation*) *Rules*, 1936, *which were made thereunder, provided*, inter alia, *that when a local government officer transferred to an established post in the Civil Service, then, subject to the provisions of the Rules, on the officer's retirement from the Civil Service under conditions qualifying him for a Civil Service pension* (e.g. *on reaching age* 60 *or for reasons of ill-health*) *he might also be awarded a local government pension by the local authority in whose employment he was at the time of his transfer to the Civil Service.*

Paragraph 6 *of the Second Schedule to the Superannuation Act*, 1946, *amended the above-mentioned Section* 9 *of the Superannuation Act*, 1935, *so as to enable such an officer to retain his eligibility for a local government pension if, before reaching the retiring age, he transferred from the Civil Service either to any other " Public Office "* (*as defined by Section* 4 *of the Superannuation Act*, 1892), *or to " approved employment " under Section* 4 *of the Superannuation Act*, 1914. *The present Rules effect the necessary consequential amendments to the Local Government and Civil Service* (*Superannuation*) *Rules*, 1936.

TEACHERS SUPERANNUATION (INSTITUTIONS FOR DEFECTIVES) SCHEME, 1947

S. R. & O., 1947, *No.* 2855

December 30, 1947

1. This Scheme may be cited as the Teachers Superannuation (Institutions for Defectives) Scheme, 1947. [4525]

2. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Scheme as it applies for the purpose of the interpretation of an Act of Parliament. [4526]

3. In this Scheme—

" the Act " means the Teachers (Superannuation) Act, 1925, as amended by any subsequent enactment ;

" the Minister " means the Minister of Health ;

" Institution " means an institution for defectives of violent or dangerous propensities being either :—

(*a*) an institution established by the Board of Control under Section 35 of the Mental Deficiency Act, 1913, of which the property was on 1st July, 1947, vested in the Minister by Section 49 of the National Health Service Act, 1946, and which is designated by the Minister as an institution for such defectives ; or

(*b*) an institution designated by the Minister as an institution for such defectives after the said date. [4527]

4. The provisions of Part II of the Act shall apply to persons employed in the capacity of full-time teachers in any institution as if such employment were contributory service, and the Teachers Superannuation (State Institutions for Defectives) Scheme, 1935, as varied by the Teachers Superannuation (Section 21 (1) (*b*)) Varying Scheme, 1946, which provides that service in State Institutions should be treated as contributory service is hereby revoked. [4528]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Scheme, but is intended to indicate its general purport.*)

The existing Scheme providing for service of teachers in institutions for defectives to be contributory service under the Teachers (Superannuation) Acts is rendered inoperative by the transfer to the Minister of Health of certain functions of the Board of Control effected by the National Health Service Act, 1946.

The present Scheme is proposed in order to enable such service to continue to be contributory service under the Teachers (Superannuation) Acts.

NATIONAL INSURANCE (MODIFICATION OF TEACHERS PENSIONS) REGULATIONS, 1948

S.I. 1948 *No.* 889

April 28, 1948

Whereas the Treasury have determined under subsection (4) of Section 69 of the National Insurance Act, 1946, that the Minister of Education is the appropriate Minister to make regulations under that subsection for modifying the provisions of the Teachers (Superannuation) Acts, 1918 to 1946 and other instruments relating to the superannuation of teachers :

Now therefore the Minister of Education, in exercise of the powers conferred on him by the said subsection, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

PART I

INTRODUCTORY

1. Citation, commencement and interpretation.—(1) These regulations may be cited as the National Insurance (Modification of Teachers Pensions) Regulations, 1948, and shall come into operation on the 29th day of April, 1948.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

(3) In these regulations, unless the context otherwise requires :—

" the Act " means the National Insurance Act, 1946 ;

" the Act of 1922 " means the School Teachers (Superannuation) Act, 1922 ;

"the Act of 1925" means the Teachers (Superannuation) Act, 1925;

"the Act of 1945" means the Teachers (Superannuation) Act, 1945;

"the Teacher Acts" means the Teachers (Superannuation) Acts, 1918 to 1946;

"annual superannuation allowance" means annual superannuation allowance payable to a teacher under the Teachers Acts;

"approved external service" includes approved external service as defined by Section 13 of the Act of 1925 and service which is treated as approved external service under the Teachers (Superannuation) Act, 1946, or under any scheme made under Section 21 (1) (*c*) of the Act of 1925;

"contributions" mean contributions payable by or in respect of a teacher under the Teachers Acts;

"contributory service" and "recognised service" do not include approved external service but subject thereto have the same meanings respectively as they have under the Teachers Acts;

"teacher" includes any person who is treated as a teacher for the purposes of the Teachers Acts;

"existing teacher" has the meaning assigned to that expression by Regulation 4 (*b*);

"elects for modification" means, as respects any existing teacher who exercises his right under these regulations to elect for the modification of the Teachers Acts and other instruments so far as they affect him, exercises that right;

"the date of modification" means, as respects any existing teacher who elects for modification, the date prescribed by Regulation 7 (3) for that teacher;

"new entrant" has the meaning assigned to that expression by Regulation 4 (*a*);

"the Minister" means the Minister of Education;

"the material date" means the 1st July, 1948. [4529]

2. Modification of instruments.—Subject to the provisions of these regulations, the Teachers Acts and other instruments relating to the superannuation of teachers shall as from the material date have effect subject to the modifications hereinafter prescribed. [4530]

PART II

NEW ENTRANTS AND EXISTING TEACHERS

3. Classification of new entrants and existing teachers.—The provisions of this Part of these regulations shall apply to new entrants and existing teachers as herein defined, and shall be subject to the special provisions of Part III of these regulations as respects the classes of teachers dealt with therein. [4531]

4. In these regulations the expression:—

(*a*) "new entrant" means a teacher not being an existing teacher who enters upon contributory service under the Teachers Acts for the first time on or after the material date and includes any such teacher whose service before the commencement of the Act of 1945 is treated under section 5 (1) of that Act as if it had been contributory or recognised service; and

(*b*) " existing teacher " means—

(i) a teacher employed in recognised or contributory service under the Teachers Acts at any time before the material date : provided that a teacher shall be deemed to have been so employed before the material date if, although not otherwise employed in recognised or contributory service, he was employed in any service in respect of which contributions are repaid to him under Section 2 of the Act of 1922, Section 12 of the Act of 1925 or Section 8 of the Act of 1945 whether or not such contributions are subsequently repaid by him under the said Section 12, but shall not be deemed to have been so employed if he was employed in any service which was treated under Section 5 of the Act of 1945 as recognised or contributory service and he was not otherwise employed in recognised or contributory service before the material date ; or

(ii) a person who before the 1st March, 1948, had completed a course of training for teachers approved for the purpose of this regulation by the Minister (hereinafter called " an approved course "), or was engaged on an approved course, or had been accepted or provisionally accepted for an approved course, or had applied to be accepted for and had as a result of that application subsequently become engaged on an approved course : provided that if any such person fails to enter upon contributory service within six months after completing his approved course or within such longer period as the Minister may allow in the case of that person he shall at the expiration of that period cease to be an existing teacher and any act which he may have performed by virtue of his being an existing teacher shall be deemed to have been void. [4532]

New Entrants

5. Modification of annual superannuation allowances.—As respects new entrants the annual superannuation allowance payable to any man teacher after he has attained the age of 65 or woman teacher after she has attained the age of 60, shall be reduced by £1 14s. 0d. for each completed year of contributory service after the material date or by £67 15s. 0d. whichever is the less :

Provided that in computing any reduction of annual superannuation allowance—

(*a*) any period of service in respect of which contributions are repaid to the teacher under Section 12 of the Act of 1925 or Section 8 of the Act of 1945 and are not subsequently repaid by him under the said Section 12 shall not be counted as a period of recognised or contributory service as the case may be for the purposes of this regulation ;

(*b*) years of contributory service beyond 40 years of recognised or contributory service shall be ignored, and in calculating those 40 years a period of teaching service which is treated as service for one-and-a-half times that period for the purposes of the scheme made on the 2nd May, 1930, by the Board of Education with the consent of the Treasury under Section 21 (1) (*b*) of the Act of 1925 shall be similarly treated for the purposes of this proviso ;

(*c*) where the teacher has served in approved external service and in contributory service any period of contributory service in excess of the period of such service upon which annual superannuation

allowance is calculated in accordance with paragraph (*d*) or (*f*) of Section 13 (2) of the Act of 1925 shall be ignored, and as respects the period on which such allowance is calculated the allowance for any year shall be reduced by £1 14s. 0d. in respect of each completed year of service and by a proportionate amount of £1 14s. 0d. in respect of a part of a year ;

(*d*) any period of employment, war service or national service which is reckonable under Regulation 44 of the National Health Service (Superannuation) Regulations, 1947, as contributory service or recognised service, shall be similarly reckoned for the purposes of this regulation. [4533]

6. Modification as respects contributions.—(1) The contributions payable by or in respect of a new entrant shall be reduced by £5 18s. 0d. a year in the case of a woman and £4 16s. 0d. in the case of a man :

Provided that the reduction for which this paragraph provides shall not apply to any contributions payable under Section 5 (2) of the Act of 1945.

(2) The provisions of Section 9 of the Act of 1925 which provides for the payment both by the teacher and by the employer of contributions equal to 5 per cent. of the amount of the teacher's salary for the time being shall be modified so that the reduction for which this regulation provides shall apply as to half to the teacher's contributions and as to the other half to the employer's contributions. [4534]

Existing Teachers

7. Election for modification.—(1) Except as respects existing teachers who immediately before the 5th July, 1948, being the appointed day for Section 1 of the Act, will be over the age of 55 in the case of a man or 50 in the case of a woman, any existing teacher shall have the right to elect as to whether he shall be subject to the provisions of these regulations modifying the Teachers Acts and other instruments.

(2) Any teacher who wishes to exercise his right to elect for modification shall do so at any time during the period beginning with the date on which these regulations come into operation and ending—

(*a*) with the 30th September, 1948, in the case of a teacher who on the material date is in contributory service not being war service which is treated as contributory service under the Teachers Superannuation (War Service) Act, 1939 ;

(*b*) three months after the date on which he returns to contributory service not being war service as aforesaid in the case of a teacher who is on such war service on the material date ; and

(*c*) three months after the date on which he first enters upon or resumes contributory service after the material date in the case of any other teacher :

Provided that the Minister may, if he considers that there is reasonable ground for so doing, extend the period within which the existing teacher may so elect.

(3) Where an existing teacher elects for modification, the Teachers Acts and other instruments shall, as respects that teacher, be modified as from—

(*a*) the first day of the month next following the month in which the teacher elects if either he elects after the material date or he elects before the material date and is a voluntary contributor for an old age pension at the date when he elects ; and

(*b*) the material date, in the case of any other teacher.

(4) Any election under this regulation for modification of the Teachers Acts and other instruments shall be irrevocable, shall be notified to the Minister as soon as possible, and shall be in the form prescribed in Schedule I to these regulations. [4535]

8. Modification of annual superannuation allowances.—As respects existing teachers who elect for modification and who serve in contributory service for any period after the material date, the annual superannuation allowance payable after the attainment of the age of 65 in the case of a man or 60 in the case of a woman shall be reduced by an appropriate yearly sum for each completed year of contributory service after the date of modification, being the appropriate yearly sum prescribed in column 2 or column 3 of Schedule III to these regulations, or by £67 15s. 0d. whichever is the less :

Provided that in computing any reduction of annual superannuation allowance—

(*a*) any period of service in respect of which contributions are repaid to the teacher under Section 2 of the Act of 1922, Section 12 of the Act of 1925 or Section 8 of the Act of 1945 and are not subsequently repaid by him under the said Section 12 shall not be counted as a period of recognised or contributory service as the case may be for the purposes of this regulation ;

(*b*) years of contributory service beyond 40 years of recognised or contributory service shall be ignored, and in calculating those 40 years—

(i) a period of teaching service which is treated as service for one-and-a-half times that period for the purposes of the scheme made on the 2nd May, 1930, by the Board of Education with the consent of the Treasury under Section 21 (1) (*b*) of the Act of 1925 shall be similarly treated for the purposes of this proviso ; and

(ii) if the teacher is treated under Section 14 (2) (*b*) of the Act of 1925 as having served in recognised service for one half of the aggregate number of years of service as therein provided he shall be similarly treated for the purposes of this proviso ;

(*c*) where the teacher has served in approved external service and in recognised or contributory service and his period of recognised or contributory service is reduced by deduction as provided by paragraph (*d*) or (*f*) of Section 13 (2) of the Act of 1925 (which period as so reduced is herein called " the reduced period "), the period of service as respects which his annual superannuation allowance shall be reduced under this regulation shall be the reduced period less the period if any of recognised or contributory service in respect of which he is not subject to modification ; and

(*d*) any period of employment, war service or national service which is reckonable under Regulation 44 of the National Health Service (Superannuation) Regulations, 1947, as contributory service or recognised service, shall be similarly reckoned for the purposes of this regulation. [4536]

9. Modification as respects contributions.—(1) The contributions payable by or in respect of existing teachers who elect for modification for periods of contributory service after the date of modification shall be reduced by £5 18s. 0d. a year in the case of a woman and £4 16s. 0d. a year in the case of a man.

(2) The provisions of Section 9 of the Act of 1925 which provides for the payment both by the teacher and by the employer of contributions equal

to 5 per cent. of the amount of the teacher's salary for the time being shall be modified so that the reduction for which this regulation provides shall apply as to half to the teacher's contributions and as to the other half to the employer's contributions. [4537]

PART III

SPECIAL PROVISIONS FOR CERTAIN CLASSES OF TEACHERS

10. Teachers with Civil Service employment.—(1) Where a person becomes employed in contributory service within twelve months of ceasing to serve in the capacity of a Civil Servant and is entitled to count his service as a Civil Servant as approved external service, he shall be subject to the modifications for which these regulations provide if either :—

(*a*) he was subject to the modified scheme of superannuation as a Civil Servant in which case he shall be subject to the modifications relating to new entrants ; or

(*b*) being a person who was not subject to the modified scheme of superannuation as a Civil Servant, he elects to be subject to the modifications for which these regulations provide within three months after the date on which he becomes employed in contributory service in which case he shall be subject to the modifications relating to existing teachers.

(2) The Minister may, if he considers that there is reasonable ground for so doing, extend the period within which any person may exercise his right to elect under this regulation.

(3) As respects any person who exercises his right to elect as aforesaid, the Teachers Acts and other instruments shall be modified as from the first day of the month following that in which the right is exercised.

(4) Any election under this regulation for modification of the Teachers Acts and other instruments shall be irrevocable, shall be notified to the Minister as soon as possible, and shall be in the form prescribed in Schedule II to these regulations. [4538]

11. Teachers with approved external service in Scotland, etc.—(1) Where a person, not being an existing teacher by virtue of regulation 4 (*b*) (ii) of these regulations, who was not employed in recognised or contributory service at any time before the material date becomes employed in contributory service after that date, having previously been employed in approved external service in Scotland, Northern Ireland, Isle of Man, Jersey or Guernsey, he shall be treated for the purposes of these regulations as—

(*a*) a new entrant if his employment in such approved external service is wholly after the material date ; or

(*b*) an existing teacher if his employment in such approved external service was wholly or partly before the material date.

(2) Where a person is treated as an existing teacher under paragraph (1) (*b*) of this regulation, or where a person having been employed in recognised or contributory service at any time before the material date is employed in approved external service as aforesaid on or after the material date and subsequently becomes employed in contributory service—

(*a*) if in respect of his said approved external service he was subject to modification under any scheme applying to that service he shall be subject to the modifications for which these regulations provide ;

(*b*) if in respect of his said approved external service he was excepted from modification under any such scheme he shall not be subject to the modifications for which these regulations provide; and

(*c*) if in respect of his said approved external service he was neither subject to nor excepted from modification under any such scheme he shall have the right to elect for modification under these regulations in accordance with Regulation 7.

(3) Where a teacher to whom paragraph (2) of this regulation applies becomes subject to the modifications for which these regulations provide, he shall be so subject during any period of contributory service after the date of modification and the appropriate yearly sum for that person under Schedule III to these regulations shall be ascertained by reference to the age of that person when he first became subject to modification whether under these regulations or under the scheme relating to his approved external service.

(4) Notwithstanding any other provision of this regulation, where a teacher is treated under the Scottish regulations made under the Act as a teacher of the first category, a teacher of the second category, or a teacher of the third category respectively, he shall for the purpose of these regulations be treated as a new entrant, an existing teacher who elects for modification, or an existing teacher who does not so elect respectively. [4539]

12. Teachers with Health Service employment.—(1) Where a person to whom the provisions of Part I of the National Health Service (Superannuation) Regulations, 1947, apply becomes employed in contributory service and thereupon becomes subject to the provisions of Regulation 44 (1) (*c*) of those regulations, if he was subject to the modifications for which Regulation 30 of those regulations provides he shall be subject to the modifications for which these regulations provide but not otherwise.

(2) In the application of this regulation, the modification of annual superannuation allowances shall be:—

(*a*) as provided in Regulation 8 in the case of any person who was subject to comparable modification under the modified scheme to which he was first subject and, for the purposes of ascertaining the appropriate yearly sum for that person under Schedule III to these regulations, the reference therein to age at date of modification shall relate to the age of that person when he first became subject to a modified scheme of superannuation; and

(*b*) as provided in Regulation 5 in any other case. [4540]

PART IV

MISCELLANEOUS PROVISIONS

13. Scheme for independent schools.—The modifications of the Teachers Acts and other instruments for which these regulations provide shall apply to teachers in contributory service by virtue of the scheme made on 11th October, 1926, by the Board of Education with the consent of the Treasury under Section 21 (1) (*a*) of the Act of 1925 as amended by any subsequent scheme, as they apply to other teachers in contributory service. [4541]

14. Women teachers who marry.—Where the Teachers Acts and other instruments are modified under these regulations as respects a woman teacher, they shall continue to be so modified as respects that teacher notwithstanding that she marries and elects thereafter to qualify for retirement pension by virtue of her husband's insurance. [4542]

15. Contributions for intervals in service and for war service.—In the case of a teacher who is subject to the modifications for which these regulations provide—

(*a*) any payment by the teacher under Section 2 of the Teachers (Superannuation) Act, 1937, of contributions in respect of a period of absence from contributory service after the date of modification shall be reduced by an amount calculated at the rate of £5 18s. 0d. a year in the case of a woman and £4 16s. 0d. a year in the case of a man; and

(*b*) any payment by the teacher under Section 2 of the Teachers Superannuation (War Service) Act, 1939, of contributions of an amount less than ten per cent. of his salary as a teacher shall be reduced by a sum which, in relation to a complete year, bears the same ratio to £5 18s. 0d. or to £4 16s. 0d. as the case may be as the percentage of his salary which he pays in contributions bears to ten per cent. of his salary, and if a period of less than a year is in question there shall be a corresponding reduction of the payment to be made by the teacher. [4543]

16. Accounts.—(1) In this regulation the expression "the Treasury Regulations" means the Treasury Regulations dated 10th January, 1928, as amended by the Treasury Regulations dated 31st October, 1944, made under Section 15 of the Act of 1925 regarding the form and manner of preparation of the Account of Revenue and Expenditure to be kept in accordance with the directions contained in the Second Schedule to that Act.

(2) The product to be obtained as provided in paragraphs (*a*), (*b*) and (*c*) of Regulation 3 of the Treasury Regulations and the expenditure attributable to service before the 1st June, 1922, to be ascertained as provided in the said paragraph (*c*) shall be obtained and ascertained as the case may be by treating any reference in those paragraphs to "an annual allowance" as a reference to the annual superannuation allowance of the teacher unreduced by the foregoing provisions of these regulations.

(3) The expenditure attributable to service since the 1st June, 1922, shall be ascertained for the purposes of the said paragraphs (*a*) and (*b*) by reducing the said product or the appropriate proportion of the product as the case may be by the amount or by an appropriate proportion of the amount by which the annual superannuation allowance of the teacher is reduced by the foregoing provisions of these regulations. [4544]

17. Allocation of pension.—In the case of a teacher who is subject to the modifications for which these regulations provide, Rule 8 of the Teachers Superannuation (Allocation of Pension) Rules, 1937, which prescribe limits on the amount of annual superannuation allowance which a teacher can surrender when making an allocation to a beneficiary under those Rules, shall have effect with the following modifications:—

(*a*) references in paragraphs (*a*) and (*b*) of that Rule to the pension of a teacher shall be deemed to refer to the annual superannuation allowance of that teacher unreduced by the foregoing provisions of these regulations; and

(*b*) the reference in paragraph (*c*) of that Rule to the amount of the pension (as reduced by the amount surrendered) payable to the teacher shall be deemed to refer to the reduced annual superannuation allowance of the teacher. [4545]

SCHEDULES

SCHEDULE I

(Regulation 7 (4))

PRESCRIBED FORM FOR EXERCISE BY AN EXISTING TEACHER OF A RIGHT TO ELECT FOR MODIFICATION OF THE TEACHERS ACTS

The National Insurance (Modification of Teachers Pensions) Regulations, 1948

I .....

Date of birth.....

Reference No. (if allotted) .....
being an existing teacher for the purposes of the above regulations hereby notify the Minister of Education that I desire the Teachers (Superannuation) Acts, 1918 to 1946, and other instruments relating to the superannuation of teachers to be modified as respects myself in accordance with the provisions of the above regulations

Signed.....

Date .....

Address .....

.....

[4546]

SCHEDULE II

(Regulation 10 (4))

PRESCRIBED FORM FOR EXERCISE BY A PERSON WHO BECOMES EMPLOYED IN CONTRIBUTORY SERVICE WITHIN TWELVE MONTHS OF CEASING TO SERVE IN THE CAPACITY OF A CIVIL SERVANT OF A RIGHT TO ELECT FOR MODIFICATION OF THE TEACHERS ACTS

The National Insurance (Modification of Teachers Pensions) Regulations, 1948

I .....

Date of birth.....

Reference No. (if allotted) .....
being a person who has become employed in contributory service within twelve months of ceasing to serve in the capacity of a Civil Servant and not having been subject to the modified scheme of superannuation as a Civil Servant as provided by Regulation 10 (1) (*b*) of the above regulations hereby notify the Minister of Education that I desire the Teachers (Superannuation) Acts, 1918 to 1946, and other instruments relating to the superannuation of teachers to be modified as respects myself in accordance with the provisions of the above regulations.

Signed.....

Date .....

Address .....

.....

[4547]

SCHEDULE III

(Regulation 8 (1))

REDUCTIONS TO BE MADE IN THE ANNUAL SUPERANNUATION ALLOWANCES PAYABLE TO EXISTING TEACHERS AT THE AGE OF 65 IN THE CASE OF MEN AND 60 IN THE CASE OF WOMEN

Age of existing teacher at date of modification	Yearly reduction of annual superannuation allowance for each completed year of contributory service after date of modification	
Column 1	MEN Column 2	WOMEN Column 3
	£ s. d.	£ s. d.
20 or under	1 14 0	1 14 0
1	1 13 0	1 12 0
2	1 12 0	1 10 6
3	1 11 0	1 9 0
4	1 10 0	1 7 6
25	1 9 6	1 6 0
6	1 9 0	1 4 6
7	1 8 6	1 3 6
8	1 8 0	1 2 6
9	1 7 0	1 1 6
30	1 6 6	1 0 6
1	1 6 0	19 6
2	1 5 6	19 0
3	1 5 0	18 6
4	1 4 6	18 0
35	1 4 0	17 6
6	1 3 6	17 0
7	1 3 0	16 6
8	1 2 6	16 0
9	1 2 0	15 6
40	1 1 6	15 0
1	1 1 6	14 6
2	1 1 0	14 6
3	1 0 6	14 0
4	1 0 0	14 0
45	19 6	13 6
6	19 0	13 0
7	19 0	13 0
8	18 6	12 6
9	18 6	12 6
50 and over	18 6	12 0

[4548]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the above Regulations, but is intended to indicate their general purport.)

These Regulations modify the Teachers (Superannuation) Acts, 1918 to 1946, and the Scheme for independent schools made on October 11, 1926, under Section 21 (1) (a) of the Teachers (Superannuation) Act, 1925, by providing, subject to specified conditions, limitations and exceptions, for the reduction of the contributions payable thereunder by teachers (including educational organisers) who are insured persons and by their employers, and for the reduction of pensions payable thereunder by specified amounts according to circumstances, not in any case exceeding £67 15s. per annum, the equivalent of the National Insurance retirement pension of twenty-six shillings a week.

LOCAL GOVERNMENT SUPERANNUATION (ENGLAND AND SCOTLAND) REGULATIONS, 1948

S.I. 1948 *No.* 1131

May 28, 1948

The Minister of Health and the Secretary of State, acting jointly, in exercise of the powers conferred on them by section 38 of the Local Government Superannuation Act, 1937, and section 36 of the Local Government Superannuation (Scotland) Act, 1937, and of all other powers enabling them in that behalf, hereby make the following regulations :—

PART I

Preliminary

1. These regulations may be cited as the Local Government Superannuation (England and Scotland) Regulations, 1948, and shall come into operation on the 7th day of June, 1948. [4549]

2.—(1) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

(2) In these regulations the following expressions have the respective meanings hereby assigned to them :—

" the English Act " means the Local Government Superannuation Act, 1937 ;

" the Scottish Act " means the Local Government Superannuation (Scotland) Act, 1937 ;

" English contributory employee " means a contributory employee within the meaning of the English Act, " Scottish contributory employee " means a contributory employee within the meaning of the Scottish Act, and " English " or " Scottish ", as the case may be, in relation to the expressions " designated employee " " local Act authority " " local Act contributor " " local authority " and other expressions similarly used have corresponding meanings.

(3) Subject as aforesaid, references in these regulations applicable in relation to a person in the employment of a local authority at a point of time when that person is or was serving in England shall, save as otherwise provided and unless the context otherwise requires, be construed in conformity with the provisions of the English Act, and a similar construction in relation to the Scottish Act shall be adopted in respect of references applicable in relation to a person in the employment of a local authority at a point of time when that person is or was serving in Scotland. [4550]

Revocation

3. The Local Government Superannuation (England and Scotland) Regulations, 1939, are hereby revoked, but without prejudice to anything duly done or suffered, or to any right, privilege, obligation or liability acquired, accrued or incurred, thereunder. [4551]

PART II

RIGHTS AND LIABILITIES OF EMPLOYEES OF LOCAL AUTHORITIES SERVING IN SCOTLAND AFTER SERVICE IN ENGLAND, AND OF THE ENGLISH AND SCOTTISH LOCAL AUTHORITIES CONCERNED

Reckoning of previous service

4.—(1) This article applies to an English contributory employee or an English local Act contributor who ceases to be such an employee or contributor but within twelve months after so ceasing becomes a Scottish contributory employee or a Scottish local Act contributor.

(2) If a person to whom this article applies was an English contributory employee and is a Scottish contributory employee he shall be entitled to reckon as contributing service and non-contributing service respectively under the Scottish Act all service which in relation to his English employment he was entitled so to reckon under the English Act immediately before he ceased to hold that employment

(3) If a person to whom this article applies was an English local Act contributor and is a Scottish contributory employee he shall, in respect of the reckoning of previous service, enjoy rights and be subject to liabilities similar to those respectively conferred and imposed in relation to a Scottish local Act contributor who becomes a Scottish contributory employee by any regulations made under section 13 (1) (*b*) of the Scottish Act and for the time being in force, and those regulations shall apply accordingly with the necessary modifications.

(4) If a person to whom this article applies was an English contributory employee or an English local Act contributor and is a Scottish local Act contributor he shall, in respect of the reckoning of previous service, enjoy rights and be subject to liabilities similar to those respectively conferred and imposed, in relation to a Scottish contributory employee or a Scottish local Act contributor under a Scottish local authority who ceases to be such and becomes a Scottish local Act contributor under the Scottish local Act authority whose employment the person has entered, by the scheme made by that Scottish local Act authority under section 22 of the Scottish Act and for the time being in force, and that scheme shall apply accordingly, with the necessary modifications.

(5) This article shall not apply so as to enable a person to reckon any period of service as contributing service or service for the purposes of a local Act scheme unless within three months of entering upon his new employment he informs the Scottish local authority whose employment he has entered that he has previously served in the employment of an English local authority, and unless on becoming a contributory employee or local Act contributor he pays to the authority maintaining the superannuation fund relating to the employment in respect of which he is such employee or contributor an amount equal to any sum which, on his ceasing to hold his employment under the English local authority, was paid to him by way of a return, whether with or without interest, of such contributions to or additional contributory payment into a superannuation fund as are mentioned in subsection (5) of section 10 of the English Act or of moneys which pursuant to any regulations for the time being in force under that Act were treated as such contributions as aforesaid. [4552]

Payment of Transfer Values

5. Where a person who was an English contributory employee or an English local Act contributor has become a Scottish contributory employee or a Scottish local Act contributor in such circumstances that the last preceding article is applicable in relation to him, a transfer value calculated in the manner prescribed by any regulations for the time being in force under subsection (1) of section 24 of the Scottish Act or under subsections (1) and (2) of section 33 of that Act, as the case may require, shall be payable, as if the person had previously been a Scottish contributory employee or a Scottish local Act contributor, by the English local authority maintaining the superannuation fund out of which a transfer value would have been payable, had the employee become an English contributory employee or an English local Act contributor, to the Scottish local authority maintaining the superannuation fund relating to the employment which he has entered, to be by them paid into that fund, and the regulations aforesaid shall apply accordingly, with the necessary modifications. [4553]

Contributions of certain employees

6.—(1) In the case of a Scottish contributory employee or Scottish local Act contributor to whom article 4 of these regulations applies and who, had he become an English contributory employee or an English local Act contributor by virtue of the employment in respect of which he is a Scottish contributory employee or Scottish local Act contributor, would, by virtue of section 6 (1) (*a*) of the English Act or of any of the provisions of Part I of the Second Schedule to that Act or of such provisions contained in schemes made by English local Act authorities under subsection (1) of section 26 of the English Act as are mentioned in paragraph (*b*) of that subsection, have been required to contribute to the superannuation fund relating to his employment an amount not exceeding five per cent. of the remuneration or the emoluments of his employment, the percentage of the remuneration or emoluments of his Scottish employment which shall be payable by way of contribution to the superannuation fund relating to that employment shall be five per cent:

Provided that in the case of a Scottish local Act contributor subject to a local Act scheme under which the percentage contribution payable is less than five per cent., the percentage contribution payable shall be such smaller percentage contribution.

(2) A Scottish contributory employee to whom article 4 of these regulations applies shall not be required to make any contribution to the Scottish appropriate superannuation fund if, had he become an English contributory employee by virtue of the employment in respect of which he is a Scottish contributory employee, he would have been exempted from liability to contribute to the English appropriate superannuation fund by virtue of the proviso to subsection (1) of section 6 of the English Act. [4554]

Return of contributions

7.—(1) For the purposes of section 10 of the Scottish Act references to the aggregate amount of an employee's contributions to a superannuation fund in subsection (5) thereof, in relation to a person to whom article 4 applies, shall be deemed to include references to any such contributions or additional contributory payment paid or made by him to a superannuation fund as are mentioned in subsection (5) of section 10 of the English Act, and to moneys paid by him under any regulations for the time being in force under the English Act which pursuant thereto are to be treated as such contributions as aforesaid.

(2) For the purposes of subsection (1) of section 12 of the Scottish Act the reference to contributions under the Scottish Act in the proviso thereto, in relation to such a person as aforesaid, shall be deemed to include a reference to contributions under the English Act. [4555]

Teachers

8. If any Scottish contributory employee to whom article 4 of these regulations applies had been entitled as an English contributory employee to reckon under section 17 of the English Act any such service as is mentioned in that section, that service shall be deemed to be service to which section 15 of the Scottish Act applies as if in relation to that service—

(*a*) references therein to the Teachers Acts as therein defined or to the Teachers Acts and Superannuation Scheme framed in pursuance thereof were references to the Teachers Acts as defined in the English Act;

(*b*) there were substituted for the words " if any period which, in order to avoid duplicate pensions, has not been reckoned as service for the purpose of calculating his retiring allowance, had been so reckoned " the words " but for any deduction made by the Ministry of Education under section seven of the Teachers (Superannuation) Act, 1925 "; and

(*c*) the provisions of subsection (2) of section 17 of the English Act formed part of section 15 of the Scottish Act, with the substitution for the words " such a contributory employee as is mentioned in the preceding subsection " of the words " a contributory employee who before becoming such an employee had been a person entitled to the benefit of subsection (1) of section 17 of the Local Government Superannuation Act, 1937 ". [4556]

Female nurses, midwives and health visitors

9. If any Scottish contributory employee to whom article 4 of these regulations applies is a female nurse, midwife or health visitor who had been in a similar capacity an English contributory employee to whom section 16 of the English Act did not apply, she shall be deemed for the purposes of the Scottish Act to be a person to whom section 16 thereof does not apply. [4557]

Persons entering or leaving employment as mental hospital employees

10. If—

(*a*) an English mental hospital employee ceases to be employed as such; or

(*b*) an English contributory employee or an English local Act contributor under an English local authority ceases to be employed as such by them;

but within twelve months after so ceasing is employed by any Scottish body in such circumstances that, had the Scottish body been an English body, any of the provisions of Part V of the Second Schedule to the English Act would have had effect with respect to him, the English body shall be deemed to be a Scottish body for the purposes of the application in relation to him and the Scottish and English bodies concerned of the provisions of the Second Schedule to the Scottish Act and any regulations made thereunder and from time to time in force. [4558]

Whole-time officers appointed in a temporary capacity

11.—(1) An English contributory employee or an English local Act contributor who ceases to be employed as such and becomes such a whole-time

officer of such a Scottish authority as is mentioned in subsection (1) of section 25 of the Scottish Act shall be deemed to have been a Scottish contributory employee or a Scottish local Act contributor for the purpose of the application in relation to him of the proviso to that subsection.

(2) Where such a whole-time officer of a Scottish local authority as is mentioned in subsection (2) of section 25 of the Scottish Act has on or after the 1st day of April 1939 been in the employment of any English authority specified in Part I of the First Schedule to the English Act, that authority shall be deemed to be an authority specified in Part I of the First Schedule to the Scottish Act for the purpose of the application in relation to him of that subsection.

(3) If such a whole-time officer of an English local authority as is mentioned in subsection (3) of section 30 of the English Act ceases to be employed by them and within twelve months after so ceasing becomes a whole-time officer of an authority specified in Part I of the First Schedule to the Scottish Act, then, if at that time or later he becomes, by virtue of subsection (2) of the said section, or otherwise, a contributory employee or local Act contributor under that Scottish authority, such a transfer value as is mentioned in subsection (3) of the said section shall be payable in manner thereby prescribed as if the English authority had been a Scottish authority. [4559]

Regulations under proviso (ii) to section 8 (2) (b) of the English Act

12.—(1) Where an English contributory employee who is in course of paying a sum by instalments under the regulations made under proviso (ii) to section 8 (2) (*b*) of the English Act ceases to hold his employment and becomes a Scottish contributory employee in such circumstances that if the employment he holds were an English employment the provisions of paragraph 3 (*d*) of article 4 of those regulations would become applicable in relation to him, the corresponding provisions of the regulations made under proviso (ii) to section 8 (2) (*b*) of the Scottish Act and for the time being in force shall apply in relation to him and to the Scottish employing authority as if he had previously been a Scottish contributory employee paying a sum by instalments under those regulations.

(2) Where an English contributory employee who is in course of paying such a sum by instalments as is mentioned in the preceding paragraph ceases to hold his employment and becomes a Scottish local Act contributor, the provisions of the scheme made under section 22 of the Scottish Act by the Scottish local Act authority whose employment he has entered and for the time being in force relating to the reckoning of previous service by reference to the aggregate amount paid on account of a sum payable by instalments under regulations made under proviso (ii) to section 8 (2) (*b*) of the Scottish Act by a person who having been a Scottish contributory employee has become subject to the local Act scheme administered by that Scottish local Act authority shall apply as if the scheme contained a similar provision in relation to such English contributory employee as aforesaid in terms applicable to the regulation made under proviso (ii) to section 8 (2) (*b*) of the English Act. [4560]

Service in Scotland after teaching service in England

13. If a person who leaves the employment of an English local authority enters the employment of a Scottish local authority and then or subsequently becomes a Scottish contributory employee, whether by virtue of the Scottish Act or of that Act and these regulations, in such circumstances that had he become an English contributory employee he would have been entitled to the benefit of subsection (1) of section 17 of the English Act in regard to

the reckoning of such service as is mentioned in that subsection, article 8 of these regulations shall apply to him in respect of that service as it applies to a Scottish contributory employee to whom article 4 of these regulations applies. [4561]

Reduction of allowance during re-employment and adjustment of rights thereafter

14.—(1) If a person entitled to a superannuation allowance under Part I of the English Act (other than an allowance payable to him in respect of service rendered whether in England or in Scotland as a designated employee and a contributory employee for a period of years during no part of which was he for a continuous period of more than twelve months not a contributory employee or local Act contributor in either country or subject to the Act of 1922) proposes to accept further employment with any Scottish local authority, he shall inform the authority that he is so entitled and, if he enters their employment, shall forthwith give notice in writing that he is so employed to the authority from whom he receives the allowance.

(2) In any such case as aforesaid the superannuation allowance shall be deemed to be an allowance to which subsection (2) of section 26 of the Scottish Act applies and any regulations made thereunder shall apply accordingly as if references to a local authority or an authority included references to an English local authority or an English authority respectively, and as if references to any provision of the Scottish Act included references to the corresponding provision of the English Act. [4562]

PART III

RIGHTS AND LIABILITIES OF EMPLOYEES OF LOCAL AUTHORITIES SERVING IN ENGLAND AFTER SERVICE IN SCOTLAND AND OF THE SCOTTISH AND ENGLISH LOCAL AUTHORITIES CONCERNED

Reckoning of previous service

15.—(1) This article applies to a Scottish contributory employee or a Scottish local Act contributor who ceases to be such an employee or contributor but within twelve months after so ceasing becomes an English contributory employee or an English local Act contributor.

(2) If a person to whom this article applies was a Scottish contributory employee and is an English contributory employee he shall be entitled to reckon as contributing service and non-contributing service respectively under the English Act all service which in relation to his Scottish employment he was entitled so to reckon under the Scottish Act immediately before he ceased to hold that employment.

(3) If a person to whom this article applies was a Scottish local Act contributor and is an English contributory employee he shall, in respect of the reckoning of previous service, enjoy rights and be subject to liabilities similar to those respectively conferred and imposed in relation to an English local Act contributor who becomes an English contributory employee by any regulations made under section 13 (1) (*b*) or the English Act and for the time being in force, and those regulations shall apply accordingly with the necessary modifications.

(4) If a person to whom this article applies was a Scottish contributory employee or a Scottish local Act contributor and is an English local Act contributor he shall, in respect of the reckoning of previous service, enjoy rights and be subject to liabilities similar to those respectively conferred and imposed, in relation to an English contributory employee or an English local Act contributor under an English local authority who ceases to be such and

becomes an English local Act contributor under the English local Act authority whose employment the person has entered, by the scheme made by that English local Act authority under section 26 of the English Act and for the time being in force, and that scheme shall apply accordingly, with the necessary modifications.

(5) This article shall not apply so as to enable a person to reckon any period of service as contributing service or service for the purposes of a local Act scheme unless within three months of entering upon his new employment he informs the English local authority whose employment he has entered that he has previously served in the employment of a Scottish local authority, and unless on becoming a contributory employee or a local Act contributor he pays to the authority maintaining the superannuation fund relating to the employment in respect of which he is such employee or contributor an amount equal to any sum which, on his ceasing to hold his employment under the Scottish local authority, was paid to him by way of a return, whether with or without interest, of such contributions to or additional contributory payment into a superannuation fund as are mentioned in subsection (5) of section 10 of the Scottish Act or of moneys which pursuant to any regulations for the time being in force under that Act were treated as such contributions as aforesaid. [4563]

Payment of Transfer Values

16. Where a person who was a Scottish contributory employee or a Scottish local Act contributor has become an English contributory employee or an English local Act contributor in such circumstances that the last preceding article is applicable in relation to him, a transfer value calculated in the manner prescribed by any regulations for the time being in force under subsection (1) of section 29 of the English Act or under subsections (1) and (2) of section 39 of that Act, as the case may require, shall be payable, as if the person had previously been an English contributory employee or an English local Act contributor, by the Scottish local authority maintaining the superannuation fund out of which a transfer value would have been payable, had the employee become a Scottish contributory employee or a Scottish local Act contributor, to the English local authority maintaining the superannuation fund relating to the employment which he has entered, to be by them paid into that fund, and the regulations aforesaid shall apply accordingly, with the necessary modifications. [4564]

Contributions of certain employees

17.—(1) In the case of an English contributory employee to whom article 15 of these regulations applies and who, had he become a Scottish contributory employee by virtue of the employment in respect of which he is an English contributory employee, would, by virtue of section 6 (1) (*a*) of the Scottish Act, have been required to contribute to the superannuation fund relating to his employment an amount equal to five per cent. of the remuneration of his employment, the percentage of the remuneration of his English employment which shall be payable by way of contribution to the superannuation fund relating to that employment shall be the same percentage thereof.

(2) An English contributory employee to whom article 15 of these regulations applies shall not be required to make any contribution to the English appropriate superannuation fund if, had he become a Scottish contributory employee by virtue of the employment in respect of which he is an English contributory employee, he would have been exempted from liability to contribute to the Scottish appropriate superannuation fund by virtue of the proviso to subsection (1) of section 6 of the Scottish Act. [4565]

Return of contributions

18.—(1) For the purposes of section 10 of the English Act references to the aggregate amount of an employee's contributions to a superannuation fund in subsection (5) thereof, in relation to a person to whom article 15 applies, shall be deemed to include references to any such contributions or additional contributory payment paid or made by him to a superannuation fund as are mentioned in subsection (5) of section 10 of the Scottish Act, and to moneys paid by him under any regulations for the time being in force under the Scottish Act which pursuant thereto are to be treated as such contributions as aforesaid.

(2) For the purposes of subsection (1) of section 12 of the English Act the reference to contributions under the English Act in the proviso thereto, in relation to such a person as aforesaid, shall be deemed to include a reference to contributions under the Scottish Act. [4566]

Teachers

19. If any English contributory employee to whom article 15 of these regulations applies had been entitled as a Scottish contributory employee to reckon under section 15 of the Scottish Act any such service as is mentioned in that section, that service shall be deemed to be service to which section 17 of the English Act applies as if in relation to that service—

(*a*) references therein to the Teachers Acts as therein defined were references to the Teachers Acts as defined in the Scottish Act or to the Teachers Acts as defined in the Scottish Act and the Superannuation Scheme framed in pursuance thereof as the case may require ;

(*b*) there were substituted for the words " but for any deduction made by the Board of Education under section seven of the Teachers (Superannuation) Act 1925 " the words " if any period which, in order to avoid duplicate pensions, has not been reckoned as service for the purpose of calculating his retiring allowance, had been so reckoned ". [4567]

Female nurses, midwives and health visitors

20. If any English contributory employee to whom article 15 of these regulations applies is a female nurse, midwife or health visitor who had been in a similar capacity a Scottish contributory employee to whom section 16 of the Scottish Act did not apply, she shall be deemed for the purposes of the English Act to be a person to whom section 16 thereof does not apply. [4568]

Persons entering or leaving employment as asylum employees

21. If—

(*a*) a Scottish asylum employee ceases to be employed as such ; or

(*b*) a Scottish contributory employee or a Scottish local Act contributor under a Scottish local authority ceases to be employed as such by them ;

but within twelve months after so ceasing is employed by any English body in such circumstances that, had the English body been a Scottish body, any of the provisions of the Second Schedule to the Scottish Act would have had effect with respect to him, the Scottish body shall be deemed to be an English body for the purposes of the application in relation to him and the English and Scottish bodies concerned of the provisions of Part V of the Second Schedule to the English Act and any regulations made thereunder and from time to time in force. [4569]

Whole-time officers appointed in a temporary capacity

22.—(1) A Scottish contributory employee or a Scottish local Act contributor who ceases to be employed as such and becomes such a whole-time officer of such an English authority as is mentioned in subsection (1) of section 30 of the English Act shall be deemed to have been an English contributory employee or an English local Act contributor for the purpose of the application in relation to him of the proviso to that subsection.

(2) Where such a whole-time officer of an English local authority as is mentioned in subsection (2) of section 30 of the English Act has on or after the 16th day of May, 1939, been in the employment of any Scottish authority specified in Part I of the First Schedule to the Scottish Act, that authority shall be deemed to be an authority specified in Part I of the First Schedule to the English Act for the purpose of the application in relation to him of that subsection.

(3) If such a whole-time officer of a Scottish local authority as is mentioned in subsection (3) of section 25 of the Scottish Act ceases to be employed by them and within twelve months after so ceasing becomes a whole-time officer of an authority specified in Part I of the First Schedule to the English Act, then, if at that time or later he becomes, by virtue of subsection (2) of the said section or otherwise, a contributory employee or local Act contributor under that English authority, such a transfer value as is mentioned in subsection (3) of the said section shall be payable in manner thereby prescribed as if the Scottish authority had been an English authority. [4570]

Regulations under proviso (ii) to section 8 (2) (b) of the Scottish Act

23.—(1) Where a Scottish contributory employee who is in course of paying a sum by instalments under the regulations made under proviso (ii) to section 8 (2) (*b*) of the Scottish Act ceases to hold his employment and becomes an English contributory employee in such circumstances that if the employment he holds were a Scottish employment the provisions of paragraph 3 (*d*) of article 4 of those regulations would become applicable in relation to him, the corresponding provisions of the regulations made under proviso (ii) to section 8 (2) (*b*) of the English Act and for the time being in force shall apply in relation to him and to the English employing authority as if he had previously been an English contributory employee paying a sum by instalments under those regulations.

(2) Where a Scottish contributory employee who is in course of paying such a sum by instalments as is mentioned in the preceding paragraph ceases to hold his employment and becomes an English local Act contributor, the provisions of the scheme made under section 26 of the English Act by the English local Act authority whose employment he has entered and for the time being in force relating to the reckoning of previous service by reference to the aggregate amount paid on account of a sum payable by instalments under regulations made under proviso (ii) to section 8 (2) (*b*) of the English Act by a person who having been an English contributory employee has become subject to the local Act scheme administered by that English local Act authority shall apply as if the scheme contained a similar provision in relation to such Scottish contributory employee as aforesaid in terms applicable to the regulations made under proviso (ii) to section 8 (2) (*b*) of the Scottish Act. [4571]

Service in England after teaching service in Scotland

24. If a person who leaves the employment of a Scottish local authority enters the employment of an English local authority and then or subsequently becomes an English contributory employee, whether by virtue of

the English Act or of that Act and these regulations, in such circumstances that had he become a Scottish contributory employee he would have been entitled to the benefit of section 15 of the Scottish Act in regard to the reckoning of such service as is mentioned in that section, article 19 of these regulations shall apply to him in respect of that service as it applies to an English contributory employee to whom article 15 of these regulations applies. [4572]

Reduction of allowance during re-employment and adjustment of rights thereafter

25.—(1) If a person entitled to a superannuation allowance under Part I of the Scottish Act (other than an allowance payable to him in respect of service rendered whether in England or in Scotland as a designated employee and a contributory employee for a period of years during no part of which was he for a continuous period of more than twelve months not a contributory employee or local Act contributor in either country or subject to the Act of 1922), proposes to accept further employment with any English local authority, he shall inform the authority that he is so entitled and, if he enters their employment, shall forthwith give notice in writing that he is so employed to the authority from whom he receives the allowance.

(2) In any such case as aforesaid the superannuation allowance shall be deemed to be an allowance to which subsection (2) of section 31 of the English Act applies and any regulations made thereunder shall apply accordingly as if references to a local authority or an authority included references to a Scottish local authority or a Scottish authority respectively, and as if references to any provision of the English Act included references to the corresponding provision of the Scottish Act. [4573]

PART IV

SETTLEMENT OF DISPUTES BETWEEN ENGLISH AND SCOTTISH LOCAL AUTHORITIES

26. Any question which may arise between an English local authority and a Scottish local authority as to the rights and liabilities of either authority under these regulations in relation to a person in the employment of a local authority within the meaning of the Scottish Act who has previously been in the employment of a local authority within the meaning of the English Act or a person in the employment of a local authority within the meaning of the English Act who has previously been in the employment of a local authority within the meaning of the Scottish Act shall be determined in the former case by the Secretary of State and in the latter case by the Minister of Health. [4574]

* * * * *

EXPLANATORY NOTE

(This Note is not part of these Regulations, but is intended to indicate their general purport.)

These Regulations revoke the Local Government Superannuation (England and Scotland) Regulations, 1939, *which have been in force since 1st April,* 1939, *as provisional regulations, and repeat the provisions of those regulations with slight modifications rendered necessary by the lapse of time.*

These Regulations also remove certain defects in the Regulations of 1939 *which have come to light in regard to the calculation of transfer values.*

PROBATION OFFICERS (SUPERANNUATION) ORDER, 1948

S.I. 1948 *No.* 1220

June 9, 1948

In pursuance of the powers conferred upon me by section one of the Probation Officers (Superannuation) Act, 1947, as extended by section thirteen of the Superannuation (Miscellaneous Provisions) Act, 1948, I hereby, with the consent of the Treasury, make the following Order :—

PART I

Application of the Act of 1937 *and local superannuation enactments*

1. On and after the appointed day and subject respectively to the adaptations, modifications and exceptions contained in the First, Second and Third Schedules to this Order—

(*a*) the Act of 1937 shall apply to—

(i) whole-time probation officers and whole-time clerks ;

(ii) part-time probation officers in receipt of a remuneration of not less than £130 a year,

being officers employed by a probation committee (other than the Probation Committee for the City of London or the City of Manchester), as the said Act applies to officers of a local authority other than a local Act authority ;

(*b*) the London superannuation enactment shall apply to probation officers and clerks, being whole-time officers whose remuneration is payable out of the Metropolitan Police Fund, as the said enactment applies to whole-time officers of the London County Council ;

(*c*) the Manchester superannuation enactment shall apply to probation officers and clerks, being whole-time officers employed by the Probation Committee for the City of Manchester, as the said enactment applies to whole-time officers of the Manchester City Council :

Provided that any probation officer in whose case the foregoing provisions of this Article apply on the appointed day may, unless immediately before the appointed day he was a contributor to the existing fund, give notice in writing within six months of the appointed day to the probation committee by whom he is employed or, if his remuneration is payable out of the Metropolitan Police Fund, to the Secretary of State that he does not desire the provisions of this Order to apply to him and thereupon the provisions of this Order shall cease to apply and be deemed never to have applied to him. [4575]

PART II

Provisions relating to existing pensioners and for winding up existing fund

2.—(1) Where immediately before the appointed day a right to a superannuation allowance under Rule 4 of the Rules of 1926 is vested in a retired probation officer, the said allowance shall on and after the appointed day be paid out of the superannuation fund to which he would have become a contributor under the provisions of Part I of this Order if he had continued to serve in the employment from which he retired and had been serving therein on the appointed day :

Provided that where by virtue of a combination order made by the Secretary of State under subsection (1) of section two of the Criminal Justice

Act, 1925, the powers of the probation committee by whom he was employed have become vested in the probation committee for the combined area constituted by that order, he shall, for the purpose of determining the superannuation fund out of which the said allowance is to be payable under the foregoing provisions of this paragraph, be deemed to have retired while in the employment of the probation committee for the combined area.

(2) Where a person having a vested right to a superannuation allowance as aforesaid dies before he shall have received by way of payment of the said allowance an amount equal to the aggregate of the amounts paid (whether by him or by any other person on his behalf) into the existing fund by way of employee's contributions, together with compound interest thereon, calculated to the date of his retirement at the rate of three per cent. per annum with yearly rests, there shall be paid to his legal personal representatives out of the fund from which at the time of his death the said allowance was payable a sum equal to the difference between the aggregate of the said amounts and the amount which he has received by way of payment of the said allowance.

(3) Any question arising under paragraph (1) of this Article as to the identity of the fund out of which a superannuation allowance is payable shall be determined by the Secretary of State, whose decision shall be final. [4576]

3. As soon as may be after the appointed day the managers of the existing fund shall wind up the said fund and, subject to the payment thereout of all expenses incurred in connection with the winding up, shall distribute the assets in the order following, that is to say—

(*a*) shall pay into a special fund for securing the pension rights of seconded officers (hereafter in this Order called " the special fund ") a sum, in respect of any seconded officer who remains seconded on the appointed day, equal to the aggregate of the amounts paid into the existing fund by or on behalf of that officer by way of employee's contributions under Rules 10 and 16 of the Rules of 1926, together with compound interest thereon, calculated to the appointed day at the rate of three per cent. per annum with yearly rests ;

(*b*) shall pay into the funds on which liabilities are imposed by paragraph (1) of the last foregoing Article such sums as the Government Actuary shall determine to be necessary for meeting those liabilities ;

(*c*) shall pay into the fund to which a probation officer becomes a contributor under the provisions of Part I of this Order on the appointed day a sum equal to the aggregate of the amounts paid into the existing fund by or on behalf of that officer by way of employee's contributions under Rules 10 and 16 of the Rules of 1926, together with compound interest thereon, calculated to the appointed day at the rate of three per cent. per annum with yearly rests ;

(*d*) shall distribute the residue between the funds into which payments (hereafter in this paragraph called " employee's contribution payments ") are made under paragraph (*a*) and paragraph (*c*) of this Article in such manner as will, in the opinion of the Government Actuary, ensure that the amount certified by him to be paid into any of the said funds under this paragraph shall be proportionate to the liabilities (other than liabilities accruing from employee's contribution payments) imposed on that fund under the provisions of this Order in relation to service rendered before the appointed day by the persons in respect of whom employee's contribution payments are made. [4577]

PART III

Special provisions relating to seconded officers

4.—(1) The special fund shall be administered by a body of managers (not exceeding three) appointed by the Secretary of State.

(2) All moneys payable into the special fund shall be paid into a separate banking account to be kept by the managers with such bank as the Secretary of State may prescribe.

(3) Any moneys belonging to, or balance lying to the credit of, the special fund may be invested by the managers in any security in which trustees are for the time being authorised by law to invest trust funds. [4578]

5.—(1) There shall be paid into the special fund by or on behalf of a seconded officer by way of employee's contribution at such times and in such manner as the Secretary of State may direct, in respect of the period commencing on the appointed day and terminating on the date on which the officer ceases to be seconded, the amount specified in paragraph (3) of this Article.

(2) The employer of a seconded officer shall, at such times and in such manner as may be so directed, pay into the special fund by way of employer's contribution an amount equal to that paid under the last foregoing paragraph by or on behalf of the officer.

(3) The amount to be paid by or on behalf of a seconded officer by way of employee's contribution under paragraph (1) of this Article shall—

(*a*) if the officer became a contributor to the existing fund before the first day of April, 1939, and has contributed continuously thereto until the appointed day, be five per cent. of his notional salary ;

(*b*) in any other case, be six per cent. of his notional salary.

(4) The notional salary of a seconded officer for the purpose of the last foregoing paragraph shall—

(*a*) if the officer became a seconded officer before the first day of December, 1946, be the salary to which he would have become entitled by adjustment under paragraph (1) of Rule 61 of the Probation Rules, 1926, had he remained in his employment as a probation officer until that date ;

(*b*) in any other case, be the salary which he was receiving as a probation officer immediately before the date on which he became a seconded officer. [4579]

6.—(1) Subject to the provisions of this Article, a seconded officer who is a contributor to the special fund shall—

(*a*) until he ceases to be seconded ; and

(*b*) on ceasing to be seconded unless he thereupon becomes a contributory employee or local Act contributor under the provisions of Part I of this Order,

have the same rights in relation to the special fund as he would have had as a full-time probation officer under the Rules of 1926 in relation to the existing fund, and for the purposes of the application of those Rules service as a seconded officer shall be treated as service as a full-time probation officer and any amounts paid into the special fund by or on behalf of a seconded officer under paragraph (1) of the last foregoing Article shall be treated as contributions paid by him under Rule 10 of those Rules.

(2) A seconded officer who does not become a contributory employee or local Act contributor under the provisions of Part I of this Order on ceasing to be seconded shall be deemed for the purposes of the application of Rules 4 and 6 of the Rules of 1926 to have resigned on the date on which he ceased to be seconded.

(3) The legal personal representatives of a seconded officer shall have the same rights in relation to the special fund as the legal personal representatives of a full-time probation officer have in relation to the existing fund under paragraph (i) of Rule 7 of the Rules of 1926.

(4) Where a seconded officer becomes entitled under the provisions of paragraph (1) of this Article to a superannuation allowance in accordance with Rule 4 of the Rules of 1926, the said allowance shall be paid out of the fund to which the officer would have become a contributor under the provisions of Part I of this Order on ceasing to be seconded had he thereupon been re-employed as a probation officer in the probation area from which he was seconded, and the managers of the special fund shall pay into the fund from which the said allowance becomes payable as aforesaid such amount as the Government Actuary shall determine to be necessary for meeting the liabilities of the said fund under the provisions of this paragraph.

(5) Where a seconded officer dies after becoming entitled to a superannuation allowance under paragraph (1) of this Article, his legal personal representatives shall have the same rights in relation to the fund out of which the said allowance is payable as the legal personal representatives of a full-time probation officer have in relation to the existing fund under paragraph (ii) of Rule 7 of the Rules of 1926.

(6) In this Article the expression "full-time probation officer" has the meaning assigned to that expression in Rule 1 of the Rules of 1926. [4580]

7. Where a seconded officer is a contributor to the special fund and becomes a contributory employee or local Act contributor under the provisions of Part I of this Order on ceasing to be seconded, the managers of the special fund shall pay into the fund to which he will contribute under the said provisions—

(*a*) a sum equal to the aggregate of the amounts paid by way of employee's contribution by or on behalf of the officer—

(i) into the existing fund under Rules 10 and 16 of the Rules of 1926; and

(ii) into the special fund under paragraph (1) of Article 5 of this Order, together with compound interest thereon, calculated to the date on which he ceased to be seconded at the rate of three per cent. per annum with yearly rests;

(*b*) a sum calculated in accordance with paragraph 5 of the First Schedule to the Local Government Superannuation (Transfer Value) Regulations, 1939, and Table I of the Tables subjoined thereto, in respect of service reckonable under the provisions of Part I of this Order in relation to any period before the date on which he became a contributory employee or local Act contributor under the said provisions on ceasing to be seconded. [4581]

8. Any payment falling to be made by the managers of the special fund under the provisions of this Part of this Order shall be made out of the said fund and, if the assets thereof are insufficient to enable any such payment to be made, there shall be paid into the said fund out of moneys provided by Parliament any sum necessary for enabling that payment to be made. [4582]

9. When all the seconded officers have ceased to be seconded the managers of the special fund shall wind up the said fund and any moneys remaining therein after payment of the expenses of winding up shall be paid into the Exchequer. [4583]

10. Regulation 10 of the National Insurance (Modification of Local Government Superannuation Schemes) Regulations, 1947, shall have effect

as if there were included in the list of persons excepted in the said Regulation 10 from the application of Regulation 3 of the said Regulations a seconded officer who becomes a contributory employee or local Act contributor under the provisions of Part I of this Order after the fifth day of July, 1948, on ceasing to be seconded; and the provisions of the said Regulation 10 relating to the giving of notice by a person so excepted to his employer and to the effect of such a notice shall apply to an officer who is excepted from the application of the said Regulation 3 under the foregoing provisions of this Article. [4584]

PART IV

General

11.—(1) In this Order, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

"the Act of 1937" means the Local Government Superannuation Act, 1937;

"appointed day" means the day on which this Order comes into operation;

"contributory employee", "local Act authority", "local Act contributor", "non-contributing service" and "officer" have respectively the meanings assigned to those expressions in the Act of 1937;

"clerk" means a person appointed to assist a probation officer in the performance of his duties either by a probation committee or the Secretary of State or before the first day of July, 1944, by a probation officer; and a clerk appointed by a probation officer as aforesaid shall, if his remuneration is paid by a probation committee, be deemed for the purposes of this Order to be employed by that probation committee;

"combined area" has the meaning assigned to that expression in section ten of the Criminal Justice Act, 1925;

"existing fund" means the superannuation fund established under the Rules of 1926;

"local authority" means a council mentioned in Part I of the First Schedule to the Act of 1937;

"local superannuation enactment" has the meaning assigned to that expression in subsection (5) of section one of the Probation Officers (Superannuation) Act, 1947;

"the London superannuation enactment" means the local superannuation enactment for the time being in force in relation to officers of the London County Council, that is to say—

(*a*) the provisions of the London Council (General Powers) Act, 1891, as amended or extended by subsequent enactments, relating to the establishment and administration of a superannuation and provident fund;

(*b*) section ninety-two of the London Government Act, 1939;

(*c*) the Scheme prepared by the London County Council pursuant to the provisions of the said Act of 1891 and approved by the Council on the twenty-eighth day of March, 1939; and

(*d*) the Scheme made by the London County Council on the twenty-ninth day of November, 1938, under subsection (1) of section twenty-six of the Act of 1937,

together with such amendments as may from time to time be made thereto;

"the Manchester superannuation enactment" means the local super-

annuation enactment for the time being in force in relation to officers of the Manchester City Council, that is to say—

(*a*) the Manchester Corporation (Superannuation) Acts, 1920 to 1946; and

(*b*) the Manchester Corporation Superannuation Scheme, 1938, made by the Manchester City Council under subsection (1) of section twenty-six of the Act of 1937,

together with such amendments as may from time to time be made thereto;

"the notional whole-time salary of a probation officer" means the sum determined in respect of any year of part-time service in accordance with the Fourth Schedule to this Order;

"part-time officer" means an officer other than a whole-time officer;

"part-time service" means service as a part-time officer;

"probation officer" means a probation officer appointed under Part I of the Criminal Justice Act, 1925, and does not include a seconded officer as long as he remains seconded;

"public funds" means a rate fund of a local authority, the Metropolitan Police Fund and the Exchequer;

"remuneration" means remuneration paid out of public funds, being either—

(*a*) salary or other remuneration paid in accordance with rules made by the Secretary of State under section eight of the Criminal Justice Act, 1925; or

(*b*) salary or other remuneration paid under the provisions of any enactment repealed by the said Act of 1925,

but does not include payments for overtime, or any allowance paid to an officer to cover cost of office accommodation or clerk's assistance, or any travelling or subsistence allowance or other moneys to be spent, or to cover expenses incurred, for the purposes of the officer's employment;

"the Rules of 1926" means the Probation Officers' Superannuation Rules, 1926;

"seconded officer" means a person who, having been appointed a probation officer, was seconded to other employment before the appointed day with the consent of the Secretary of State on the condition that his superannuation rights as a probation officer would be secured during the period of his secondment;

"seconded service" means any service as a seconded officer;

"special fund" has the meaning assigned to that expression in paragraph (*a*) of Article 3 of this Order;

"voluntary society" has the meaning assigned to that expression in subsection (2) of section four of the Criminal Justice Act, 1925;

"whole-time officer" means, in relation to a probation officer or clerk, an officer who devotes substantially the whole of his time to his duties as a probation officer or clerk and whose remuneration is paid wholly out of public funds;

"whole-time service" means service as a whole-time officer.

(2) References in this Order to any enactment shall, unless the context otherwise requires, be construed as references to that enactment as amended by any subsequent enactment.

(3) The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament. [4585]

12. This Order may be cited as the Probation Officers (Superannuation) Order, 1948, and shall come into operation on the first day of July, 1948. [4586]

* * * * *

SCHEDULES

Article I

FIRST SCHEDULE

ADAPTATION OF ACT OF 1937

1.—(1) In this Schedule, unless the context otherwise requires, "the Act" means the Act of 1937 and the following expressions, that is to say, "actuary," "additional contributory payment," "administering authority," "appropriate superannuation fund," "combination scheme," "constituent authority," "employing authority," "Minister" and "statutory resolution," have respectively the meanings assigned to them in the Act.

(2) A probation committee shall be deemed to be a local authority for all the purposes of the Act other than the application of section one, subsection (2) of section three, section five, subsection (3) of section twelve and sections fourteen, and sixteen thereof.

(3) For the purposes of sections thirteen and twenty-nine of the Act the expression "contributory employee or local Act contributor under a local authority" shall be deemed to include a person (whether employed by a probation committee or in the metropolitan police court district) who has become a contributory employee or local Act contributor under the provisions of Part I of the Order, and any reference in the said sections to a person becoming a contributory employee or local Act contributor under another local authority shall be construed and extended accordingly.

2. In its application to a part-time probation officer the Act shall apply as it applies to a part-time officer of a local authority who belongs to a class or description in respect of which the authority have passed a statutory resolution under paragraph (*b*) of subsection (2) of section three of the Act.

3.—(1) Where a part-time probation officer becomes a contributory employee under the provisions of Part I of this Order, subsection (3) of section three of the Act shall apply in his case notwithstanding that his annual remuneration is subsequently reduced to an amount less than £130.

(2) Subsection (4) of the said section three shall apply as if there were inserted after the words "this section" the words "or the provisions of Part I of the Probation Officers (Superannuation) Order, 1948."

(3) For the purposes of paragraph (*c*) of the said subsection (4) the age of compulsory retirement applicable in the case of a probation officer or clerk shall, unless otherwise provided in rules made by the Secretary of State under section eight of the Criminal Justice Act, 1925, be deemed to be sixty-five years.

4.—(1) Subsections (1) and (2) of section four of the Act shall not apply.

(2) The appropriate superannuation fund in relation to the contributory employees of an employing authority, being the probation committee for a single petty sessional division, shall—

(*a*) in the case of a borough petty sessional division, be the fund maintained under the Act by the council of the borough or, where no fund is maintained under the Act by the said council, the fund maintained under the Act by the council of the county in which that borough is situate;

(*b*) in the case of a county petty sessional division, be the fund maintained under the Act by the council of the county in which the petty sessional division is situate:

Provided in either case that if the council is a constituent authority under a combination scheme for the time being in force the appropriate superannuation fund shall be the joint fund maintained under the said scheme.

(3) The appropriate superannuation fund in relation to the contributory employees of an employing authority, being the probation committee for a combined area, shall be the fund determined in accordance with the last foregoing subparagraph in respect of any one of the petty sessional divisions comprising the combined area.

(4) Any question arising under this or the next succeeding paragraph as to the identity of the appropriate superannuation fund shall be determined by agreement between the probation committee and the local authority concerned or, failing agreement, shall be referred to the Minister, whose decision shall be final.

5.—(1) Where a probation officer or clerk is employed by two or more probation committees, such employment shall, for the purposes of the Act, be treated as a single employment and the appropriate superannuation fund shall be the fund determined in accordance with the last foregoing paragraph in respect of any one of the probation committees.

(2) Any action falling to be taken under the Act by an employing authority shall, in relation to a probation officer or clerk employed as aforesaid, be joint action taken by agreement between the probation committees by whom he is employed.

(3) Any question arising under the last foregoing sub-paragraph shall, failing agreement between the probation committees concerned, be referred to the Secretary of State, whose decision shall be final.

6. Where a probation officer became a contributor to the existing fund before the first day of April, 1939, and has contributed thereto continuously until the appointed day, he shall, if he becomes a contributory employee under the provisions of Part I of this Order—

(*a*) on the appointed day, or

(*b*) after the appointed day on ceasing to be a seconded officer,

be deemed to be a person to whom paragraph (*a*) of subsection (1) of section six of the Act applies.

7. The sum paid into the appropriate superannuation fund in respect of a probation officer under the provisions of paragraph (*c*) of Article 3 or paragraph (*a*) of Article 7 of this Order shall be deemed to be a sum paid by the officer by way of an additional contributory payment in pursuance of proviso (ii) to paragraph (*b*) of subsection (2) of section eight of the Act.

8.—(1) The reference to average remuneration in section eight of the Act shall, in relation to a part-time probation officer who has become a whole-time officer and whose part-time service is reckonable as whole-time service for a proportionately reduced period, be deemed to mean his average remuneration as a whole-time officer calculated in respect of his whole-time service in accordance with the provisions of subsection (5) of the said section eight.

(2) For the purposes of proviso (*a*) to the said subsection (5) the expression "appointed day" shall be deemed to mean the day on which this Order comes into operation.

9.—(1) In applying subsection (5) of section twelve of the Act to part-time service as a probation officer the proportionately reduced period for which such part-time service shall be treated as though it were whole-time service shall be determined by calculating separately in respect of any year of part-time service the proportionately reduced period for which that year is to count as whole-time service.

(2) The said proportionately reduced period in respect of any year of part-time service shall be the fraction formed by the proportion which the remuneration received by the probation officer in that year bears to the notional whole-time salary of a probation officer in respect of that year.

(3) The provisions of this paragraph shall apply proportionately to any period of part-time service of less than a year.

10. Any local authority which is responsible for defraying the whole or any part of the expenses of a probation committee and is dissatisfied at any action taken by the probation committee as employing authority under any of the following provisions of the Act, that is to say, proviso (i) to paragraph (*b*) of subsection (2) of section eight, subsection (4) of section ten and section eleven, may appeal to the Secretary of State, and the action to be taken thereunder shall thereupon be determined by the Secretary of State, whose decision shall be final.

11.—(1) Subsections (1) and (2) of section twenty-two of the Act shall not apply.

(2) As soon as may be after the appointed day an administering authority maintaining a superannuation fund to which on the appointed day employees of a probation committee become liable to contribute under the provisions of Part I of this Order shall obtain from an actuary a certificate as to the amount necessary to be paid annually into the said fund by the probation committee as employing authority during a period not exceeding twenty years from the

appointed day on account of the burden imposed on the said fund as from the appointed day by or under the said provisions in respect of their employees.

(3) In certifying the amount to be paid into a fund under the provisions of this paragraph the actuary shall take into account the amount paid into the fund under the provisions of paragraph (*d*) of Article 3 of this Order.

(4) A certificate obtained as aforesaid shall, for the purposes of subsection (2) of section six of the Act, be deemed to have been given under section twenty-two of the Act.

12. Notwithstanding anything in subsection (1) of section thirty of the Act a probation officer shall not be deemed to have been appointed in a temporary capacity for a period of not more than two years by reason only of the fact that his appointment is determinable within the said period unless it is confirmed by the Secretary of State.

13.—(1) Subsection (1) of section forty of the Act shall have effect as if for the definitions of " remuneration " and " whole-time officer " in the said subsection there were substituted the definitions of those expressions contained in Part IV of this Order :

Provided that the expression " whole-time officer " shall, in relation to any period of service which was reckonable in his case under Rule 5 of the Rules of 1926, be deemed to include a probation officer who has been the subject of an arrangement under Rule 16 thereof (which relates to arrangements with voluntary societies in respect of their agents) notwithstanding that his remuneration was payable in part by a voluntary society ; and in relation to any such period of service as aforesaid the expression " remuneration " shall be deemed to include the whole of his remuneration as a probation officer including any proportion borne by a voluntary society.

(2) For the purposes of the Act the expression " service " shall, in addition to any service within the meaning assigned to that expression in the said subsection (1), include—

(*a*) in the case of a probation officer who becomes a contributory employee or local Act contributor under the provisions of Part I of this Order on the appointed day or in the case of a seconded officer (being a contributor to the special fund under the provisions of Part III of this Order) who becomes a contributory employee or local Act contributor under the provisions of the said Part I after the appointed day on ceasing to be seconded—

(i) any service (whether whole-time or part-time) rendered as a probation officer before the appointed day in respect of which he received an annual remuneration of not less than £50 ;

(ii) any period of war service reckonable under the Rules of 1926 as service in his capacity as probation officer by virtue of subsection (1) of section three of the Local Government Staffs (War Service) Act, 1939 ;

(iii) any period of seconded service ;

(*b*) in the case of a clerk who becomes a contributory employee or local Act contributor under the provisions of the said Part I on the appointed day, any whole-time service as a clerk rendered before the appointed day ;

(*c*) in any case, any service as a probation officer or clerk rendered after the date on which he first becomes a contributory employee or local Act contributor under the said provisions,

being in all cases service rendered after attaining the age of eighteen years and before attaining the age of sixty-five years. [4587]

Article I

SECOND SCHEDULE

ADAPTATION OF LONDON SUPERANNUATION ENACTMENT

1.—(1) In this Schedule, unless the context otherwise requires—

" actuary " means such person, being a Fellow of the Institute of Actuaries, as shall be selected by the Council ;

" contributor " means a contributor to the Fund ;

" the Council " means the London County Council ;

" the Fund " means the superannuation fund maintained by the Council under the superannuation enactment ;

" the local Act scheme " means the superannuation scheme administered by the Council under and in pursuance of the London Council (General Powers) Act, 1891 ;

" the Scheme " means the scheme referred to in paragraph (*c*) of the definition of the expression " London superannuation enactment " in Part IV of this Order, and the " Modification Scheme " means the scheme referred to in paragraph (*d*) of the said definition ;

" the superannuation enactment " means the London superannuation enactment.

(2) References in the superannuation enactment to service under or employment by the Council shall, in the case of a person who becomes a contributor under the provisions of Part I of this Order, be deemed to include service or employment in the metropolitan police court district as a probation officer or clerk, and references in the said enactment to a person being or ceasing to be in the service or employment of the Council shall, in the case of such a person, be construed as a reference to that person being or ceasing to be employed in the said district as aforesaid.

(3) Subject as hereinafter provided, any reference in the superannuation enactment to salary or wages or emoluments shall, in relation to a probation officer or clerk, be construed as a reference to remuneration payable out of the Metropolitan Police Fund.

2. A probation officer shall, for the purposes of Clause 5 of the Scheme, be deemed to have been appointed to the permanent staff notwithstanding that he has been appointed for a period of one year only under the Probation Rules, 1926, and that his appointment will not be effective for more than the said period unless it is within that period confirmed by the Secretary of State.

3. Contributions payable under Clause 7 of the Scheme shall be deducted from the amount payable to the contributor by way of remuneration and shall be paid into the Fund by the Receiver.

4.—(1) Clause 8 of the Scheme shall not apply.

(2) The reference to the Comptroller in sub-paragraph (*b*) of paragraph (2) of Clause 9 of the Scheme shall be construed as a reference to the Receiver.

5.—(1) Clause 10 of the Scheme shall not apply.

(2) The rates of contribution to be paid into the Fund by way of employer's contributions in respect of persons who become contributors under the provisions of Part I of this Order shall be such as are from time to time payable by the Council in respect of its officers under the provisions of the said Clause 10.

(3) Contributions payable into the Fund under this paragraph shall be paid out of the Metropolitan Police Fund.

6.—(1) The reference to the Council in paragraph (3) of Clause 11 of the Scheme shall be construed as a reference to the Secretary of State.

(2) The reference in the said Clause 11 of the last five years of contribution and to the whole period of contribution shall, where a person has been a contributor to the Fund under the provisions of Part I of this Order for less than five years, be deemed respectively to mean the last five years of whole-time service as a probation officer or clerk and the whole period of such whole-time service ; and the remuneration reckonable under the said Clause in respect of any period of service which is deemed in the case of a probation officer to be whole-time service by virtue of sub-paragraph (4) of paragraph 12 of this Schedule shall be the whole of his remuneration as a probation officer including any proportion borne by a voluntary society.

7. Clauses 13 and 17 of the Scheme shall not apply.

8.—(1) As soon as may be after the appointed day the Council shall obtain from an actuary a certificate as to the amount necessary to be paid annually into the Fund during a period not exceeding twenty years from the appointed day on account of the burden imposed thereon as from the appointed day by or under the provisions of Part I of this Order, and the said amount shall, subject to the

assent of the Secretary of State, be paid annually into the Fund out of the Metropolitan Police Fund.

(2) In certifying the amount to be paid into the Fund under the provisions of this paragraph the actuary shall take into account the amount paid into the Fund under the provisions of paragraph (*d*) of Article 3 of this Order.

9.—(1) Any surplus or deficiency in the Fund disclosed in the periodical actuarial valuation under Clause 27 of the Scheme and certified by the actuary to be referable to persons who become contributors under the provisions of Part I of this Order shall be dealt with in such manner as may be agreed between the Council and the Secretary of State.

(2) There shall be paid into the Fund out of the Metropolitan Police Fund for the purpose of making good any deficiency disclosed and certified as aforesaid such sums as the Secretary of State may from time to time direct.

10. For the purposes of Articles 11 and 12 of the Modification Scheme the expression "a person who is a contributory employee or local Act contributor under another local authority" shall be deemed to include a person employed by a probation committee who becomes a contributory employee or local Act contributor under the provisions of Part I of this Order, and references in the said Articles to a local authority shall be deemed to include a probation committee.

11. For the purposes of determining whether a superannuation allowance or death benefit is payable the Council shall treat as a period of contribution under the local Act scheme—

(*a*) in the case of a probation officer who becomes a contributor under the provisions of Part I of this Order on the appointed day or in the case of a seconded officer (being a contributor to the special fund under the provisions of Part III of this Order) who becomes a contributor under the provisions of the said Part I after the appointed day on ceasing to be seconded—

(i) any service (whether whole-time or part-time) rendered as a probation officer before the appointed day in respect of which he received an annual remuneration of not less than £50 ;

(ii) any period of war service reckonable under the Rules of 1926 as service in his capacity as probation officer by virtue of subsection (1) of section three of the Local Government Staffs (War Service) Act, 1939 ;

(*iii*) any period of seconded service ;

(*b*) in the case of a clerk who becomes a contributor under the provisions of the said Part I on the appointed day, any whole-time service as a clerk rendered before the appointed day.

12.—(1) In the calculation of the amount of any superannuation allowance or of any sum payable on death which under the local Act scheme is to be calculated by reference to years of contribution and which may become due to or in respect of any probation officer or clerk—

(*a*) any period of whole-time service or war service or seconded service reckonable in his case under the provisions of the last foregoing paragraph shall be treated as a period of contribution under the local Act scheme of one-half its actual length ;

(*b*) any period of part-time service reckonable under the provisions of the said paragraph shall be treated as a proportionately reduced period of contribution under the local Act scheme calculated separately in respect of each year of such part-time service in accordance with the next succeeding sub-paragraph.

(2) The said proportionately reduced period in respect of any year of part-time service shall be the fraction formed by the proportion with the remuneration received by the probation officer in that year bears to twice the notional whole-time salary of a probation officer in respect of that year.

(3) The foregoing provisions of this paragraph shall apply proportionately to any period of part-time service of less than a year.

(4) For the purposes of this and the last foregoing paragraph the expression "whole-time service" shall, in relation to a probation officer who has been the subject of an arrangement under Rule 16 of the Rules of 1926, be deemed to include any period of service which was reckonable in his case under Rule 5 of those Rules.

13.—(1) The sum paid into the Fund in respect of a probation officer under the provisions of paragraph (*c*) of Article 3 or paragraph (*a*) of Article 7 of this Order shall operate to convert into an equivalent period of contribution for all purposes of the local Act scheme a period of service (being a period of service which would otherwise be reckonable under the provisions of the last foregoing paragraph as a period of contribution of one-half its actual length) equal to the period of non-contributing service in respect of which the officer would have become entitled to receive a superannuation allowance at the rate of one-sixtieth of his average remuneration had the said sum been paid by him on the appointed day or on the date on which he ceased to be seconded, as the case may be, as a contributory employee under proviso (ii) to paragraph (*b*) of subsection (2) of section eight of the Act of 1937.

(2) The sum paid into the Fund as aforesaid shall, for the purposes of Clauses 16, 18, 19 and 20 of the Scheme, be deemed to have been paid by the officer by way of employee's contributions.

14. Any sum payable by way of compensation under section ninety-two of the London Government Act, 1939, to a person who becomes a contributor under the provisions of Part I of this Order shall be paid out of the Metropolitan Police Fund.

15. Any discretion exercisable by the Council under the superannuation enactment shall, in relation to a person who becomes a contributor under the provisions of Part I of this Order, be exercised by the Council in such manner as shall be agreed between the Council and the Secretary of State. [4588]

Article I

THIRD SCHEDULE

ADAPTATION OF MANCHESTER SUPERANNUATION ENACTMENT

1.—(1) In this Schedule, unless the context otherwise requires—

"the Act of 1920" means the Manchester Corporation Act, 1920;

"the Act of 1930" means the Manchester Corporation (General Powers) Act, 1930;

"actuary" has the meaning assigned to it in section seventy-six of the Manchester Corporation Act, 1934;

"the Corporation" means the Lord Mayor, Aldermen and Citizens of the City of Manchester;

"the Council" means the Manchester City Council;

"contributor" means a contributor to the superannuation fund under the provisions of the superannuation enactment;

"the local Act scheme" means the superannuation scheme administered by the Council under or in pursuance of the Act of 1920 as amended by any subsequent Act or scheme;

"the probation committee" means the Probation Committee for the City of Manchester;

"the Scheme" means the Manchester Corporation Superannuation Scheme, 1938, made by the Council under subsection (1) of section twenty-six of the Act of 1937;

"the superannuation enactment" means the Manchester superannuation enactment;

"the superannuation fund" means the superannuation fund maintained by the Council under the superannuation enactment.

(2) References in the superannuation enactment to service under or employment by the Corporation or the Council shall, in the case of a person who becomes a contributor under the provisions of Part I of this Order, be deemed to include service under or employment by the probation committee, and references to a person being or ceasing to be in the service or employment of the Corporation or the Council shall, in the case of such a person, be construed as a reference to that person being or ceasing to be employed by the probation committee.

(3) The superannuation enactment shall apply as if for the expression " salary " wherever it occurs therein there were substituted the expression " remuneration " as defined in Part IV of this Order.

2.—(1) For the purposes of the application of subsection (1) of section fifty-nine of the Act of 1920 the expression " appointed day " shall be deemed to mean the day on which this Order comes into operation.

(2) Percentage amounts shall be deducted by the probation committee in accordance with subsection (2) of the said section fifty-nine from each and every payment made to a contributor by way of remuneration and shall be paid into the superannuation fund.

3. The reference in subsection (1) of section sixty of the Act of 1920 to the Corporation shall be construed as a reference to the probation committee.

4. In relation to a person who becomes a contributor under the provisions of Part I of this Order the reference in subsection (2) of section sixty-one of the Act of 1920 to the average amount of his salary shall be taken to mean the average amount of his remuneration as a whole-time officer ; and the remuneration reckonable under the said subsection in respect of any period of service which is deemed in the case of a probation officer to be whole-time service by virtue of sub-paragraph (4) of paragraph 9 of this Schedule shall be the whole of his remuneration as a probation officer including any proportion borne by a voluntary society.

5.—(1) Section sixty-eight of the Act of 1920 shall not apply.

(2) As soon as may be after the appointed day the Corporation shall obtain from an actuary a certificate as to the amount necessary to be paid annually into the superannuation fund during a period not exceeding twenty years from the appointed day on account of the burden imposed thereon as from the appointed day by or under the provisions of Part I of this Order, and the said amount shall be paid annually into the superannuation fund by the probation committee.

(3) In certifying the amount to be paid into the superannuation fund under the provisions of this paragraph the actuary shall take into account the amount paid into the said fund under the provisions of paragraph (*d*) of Article 3 of this Order.

6. The amount to be paid by the probation committee into the superannuation fund by way of employer's contribution shall be the normal contribution certified in accordance with subsection (1) of section sixty-nine of the Act of 1920.

7.—(1) Sections seventy-three to seventy-six of the Act of 1920 shall not apply.

(2) Sections thirty-five, thirty-eight and thirty-nine of the Act of 1930 shall not apply.

8. Service reckonable for the purposes of determining eligibility for superannuation allowance under the local Act scheme shall include—

(*a*) in the case of a probation officer who becomes a contributor under the provisions of Part I of this Order on the appointed day or in the case of a seconded officer (being a contributor to the special fund under the provisions of Part III of this Order) who becomes a contributor under the provisions of the said Part I after the appointed day on ceasing to be seconded—

(i) any service (whether whole-time or part-time) rendered as a probation officer before the appointed day in respect of which he received an annual remuneration of not less than £50 ;

(ii) any period of war service reckonable under the Rules of 1926 as service in his capacity as probation officer by virtue of subsection (1) of section three of the Local Government Staffs (War Service) Act, 1939 ;

(iii) any period of seconded service ;

(*b*) in the case of a clerk who becomes a contributor under the provisions of the said Part I on the appointed day, any whole-time service as a clerk rendered before the appointed day.

9.—(1) For all purposes of the local Act scheme other than those relating to eligibility for superannuation allowance—

(*a*) any period of whole-time service or war service or seconded service reckonable under the provisions of the last foregoing paragraph shall be treated as a period of service of one-half its actual length ;

(*b*) any period of part-time service as a probation officer reckonable under the provisions of the said paragraph shall be treated as a proportionately reduced period of service calculated separately in respect of each year of such part-time service in accordance with the next succeeding sub-paragraph.

(2) The said proportionately reduced period in respect of any year of part-time service shall be the fraction formed by the proportion which the remuneration received by the probation officer in that year bears to twice the notional whole-time salary of a probation officer in respect of that year.

(3) The foregoing provisions of this paragraph shall apply proportionately to any period of part-time service of less than a year.

(4) For the purposes of this and the last foregoing paragraph the expression " whole-time service " shall, in relation to a probation officer who has been the subject of an arrangement under Rule 16 of the Rules of 1926, be deemed to include any period of service which was reckonable in his case under Rule 5 of those Rules.

10.—(1) The sum paid into the superannuation fund in respect of a probation officer under the provisions of paragraph (*c*) of Article 3 or paragraph (*a*) of Article 7 of this Order shall operate to convert into service reckonable for all purposes of the local Act scheme at its actual length a period of service (being a period of service which would otherwise be reckonable under the last foregoing paragraph as a period of service of one-half its actual length) equal to the period of non-contributing service in respect of which the officer would have become entitled to receive a superannuation allowance at the rate of one-sixtieth of his average remuneration had the said sum been paid by him on the appointed day or on the date on which he ceased to be seconded, as the case may be, as a contributory employee under proviso (ii) to paragraph (*b*) of subsection (2) of section eight of the Act of 1937.

(2) The sum paid into the superannuation fund as aforesaid shall, for the purposes of sections sixty-three and sixty-four of the Act of 1920, be deemed to have been paid by the officer by way of contributions under section fifty-nine of the said Act.

11.—(1) For the purposes of Articles 12 and 13 of the Scheme the expression " a person who is a contributory employee or local Act contributor under a local authority " shall be deemed to include a person who becomes a contributory employee or local Act contributor under the provisions of paragraph (*a*) or paragraph (*b*) of Article 1 of this Order and references in the said Article 12 and the said Article 13 to a local authority shall be construed accordingly.

(2) Any period of part-time service as a probation officer reckonable under the Act of 1937 shall, whether or not contributions were paid in respect thereof, be reckonable for all purposes of the local Act scheme, other than those relating to eligibility for superannuation allowance, in accordance with the provisions of proviso (*a*) to paragraph (1) of the said Article 12 ; and for the purposes of the said proviso the actual length of such period of part-time service shall be deemed to be equal to twice the proportionately reduced period calculated in respect of such period of part-time service in accordance with paragraph 9 of this Schedule.

(3) Paragraph (1) of the said Article 13 shall have effect as if at the end thereof there were added the following proviso :—

" Provided also that no period of part-time service as a probation officer which had been reckonable under the Act of 1937 shall be reckonable for the purposes of the local Act scheme under the provisions of this Article at a length greater than the length at which the said period would have been reckonable under the provisions of the last foregoing Article had the officer become subject to the local Act scheme within twelve months of the date on which he ceased to be a contributory employee."

12. Article 14 of the Scheme shall not apply.

13.—(1) Any discretion exercisable by the Corporation or the Council under the superannuation enactment shall, in relation to a person who becomes a contributor under the provisions of Part I of this Order, be exercised by the probation committee.

(2) The probation committee upon the exercise of any discretion vested in them under the foregoing provisions of this paragraph shall forthwith give notice thereof in writing to the Council.

(3) The Council may within fourteen days of the receipt of any notice as aforesaid appeal to the Secretary of State against any decision of the probation committee which in the opinion of the Council is unreasonable, and the matter shall thereupon be determined by the Secretary of State, whose decision shall be final. [4589]

Article II, First Schedule, paragraph 9 (2); Second Schedule, paragraph 12 (2) Third Schedule, paragraph 9 (2)

FOURTH SCHEDULE

NOTIONAL WHOLE-TIME SALARY OF A PROBATION OFFICER

The notional whole-time salary of a probation officer in respect of any year of part-time service shall be the amount set out in the following Table, that is to say :—

(*a*) in the case of a man, the amount shown in the second column ;

(*b*) in the case of a woman, the amount shown in the third column,

opposite the entry in the first column having reference to the date on which the year of service commenced :—

TABLE

Date on which year of service commenced	Men	Women
On or before 31st day of December, 1914	£120	£80
1st day of January, 1915, to 31st day of December, 1919	£156	£104
1st day of January, 1920, to 30th day of June, 1926	£225	£135
1st day of July, 1926, to 30th day of June, 1937 ..	£275	£210
1st day of July, 1937, to 30th day of June, 1944 ..	£330	£290
1st day of July, 1944, to 30th day of November, 1946	£375	£330
On and after 1st day of December, 1946	£485	£420

[4590]

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

The purpose of this Order, which comes into operation on 1st July, 1948, is to bring probation officers (including existing pensioners) and their clerks within local government superannuation schemes. Neither part-time probation officers nor the clerks have hitherto been superannuable.

The Order supersedes the existing superannuation arrangements relating to full-time probation officers set up by the Probation Officers' Superannuation Rules, 1926 (S. R. & O., 1926, No. 1354), and provides for the winding-up of the fund established under those Rules and the distribution of the assets between the superannuation funds on which the liability to pay pensions will in future rest.

Service rendered by probation officers and clerks before 1st July, 1948, will be reckonable at non-contributing rates, and the contributions of probation officers to their existing fund are to be used to purchase additional benefits at contributing rates. The necessary adaptations of the Local Government Superannuation Act, 1937, and of the London and Manchester local Act schemes are effected in the First, Second and Third Schedules.

Special provision is made in Part III of the Order for securing the pension rights of probation officers who have been seconded to posts in the Colonies and elsewhere in connection with the organisation of social services: the purpose of this Part of the Order is to provide that these officers shall, on their return to the English probation service after 1st July, 1948, have substantially the same rights as if they had been serving in England on that date.

NATIONAL INSURANCE (MODIFICATION OF LOCAL GOVERNMENT SUPERANNUATION SCHEMES) AMENDMENT REGULATIONS, 1948

S.I. 1948 *No.* 1225

June 10, 1948

The Minister of Health, in exercise of the powers conferred on him by subsection (4) of section 69 of the National Insurance Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

1.—(1) These regulations may be cited as the National Insurance (Modification of Local Government Superannuation Schemes) Amendment Regulations, 1948, and shall come into operation on the eleventh day of June, 1948.

(2) These regulations shall be read as one with the National Insurance (Modification of Local Government Superannuation Schemes) Regulations, 1947 (in these regulations called "the principal regulations"), as amended, and may be cited together with the principal regulations and the National Insurance (Modification of Local Government Superannuation Schemes) Amendment Regulations, 1947, as the National Insurance (Modification of Local Government Superannuation Schemes) Regulations, 1947 and 1948.

(3) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [4591]

2. For the purposes of the principal regulations, as amended, the expression "local Act contributor" shall be deemed to include any person who is entitled to participate in any of the benefits of a superannuation fund maintained under a local Act scheme. [4592]

3. Regulation 10 of the principal regulations, as amended, shall be further amended by the insertion after the words "material date", where they first occur, the words "or within such longer period as the Minister may allow in any particular case or class of case". [4593]

4. In regulation 11 of the principal regulations, after the words "contributory employee", where they occur for the second time, there shall be inserted the words ", without a break of more than twelve months at any one time," and there shall be inserted after the words "that authority" the words "or in the employment of any other authority whose employment he enters in consequence of the transfer to that authority by any enactment of any functions of the first mentioned authority,". [4594]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations further amend the National Insurance (Modification of Local Government Superannuation Schemes) Regulations, 1947, as amended

by the National Insurance (Modification of Local Government Superannuation Schemes) Amendment Regulations, 1947. *Regulation 2 extends the principal regulations to certain persons who, although participating in local Act schemes are not technically local Act contributors. Regulation 3 extends the period within which an option to take the benefit of the principal regulations conferred on certain classes of persons can be exercised. Regulation 4 extends the right of contributory employees under the Local Government Superannuation Act*, 1937, *formerly subject to an existing scheme* (i.e. *a modification scheme made under section* 28 (3) *of the Widows', Orphans' and Old Age Contributory Pensions Act*, 1936) *to continue to enjoy the modifications contained in that scheme, and enables such persons to retain those modifications on transferring in consequence of any enactment to other employment in which they continue to be contributory employees.*

PENSIONS (INCREASE) ACT (EXTENSION) ORDER, 1948

S.I. 1948 *No.* 1343

June 22, 1948

His Majesty in pursuance of section four of the Pensions (Increase) Act, 1944, as amended by subsection (4) of section one of the Probation Officers (Superannuation) Act, 1947, and by subsection (2) of section thirteen of the Superannuation (Miscellaneous Provisions) Act, 1948, and of all other powers enabling Him in that behalf is pleased by and with the advice of His Privy Council to direct, and it is hereby directed, as follows :—

1. The Pensions (Increase) Act, 1944, shall (subject to the provisions of the Pensions (Increase) Act, 1947, have effect in relation to a pension payable in accordance with an order under section one of the Probation Officers (Superannuation) Act, 1947, in respect of service as a probation officer or clerk as if it were a pension specified in Part II of the First Schedule to the said Act of 1944. [4595]

2.—(1) Any increase payable under the said Act of 1944 in respect of any such pension as aforesaid shall be paid by the authority by whom the pension is payable.

(2) The said authority shall be reimbursed the cost of any such increase—

(*a*) where the salary of the pensioner was immediately before his retirement payable out of the metropolitan police fund, out of that fund ;

(*b*) in any other case, by the probation committee by whom the pensioner was employed at the time of his retirement :

Provided that where the pensioner was at the time of his retirement serving two or more probation committees the cost of the increase in his pension shall, for the purposes of the reimbursement of the said authority, be borne as between those probation committees in the like proportion as his salary was at that time borne or, in the event of any question arising, in such proportion as the Secretary of State may determine.

(3) Any sums payable by a probation committee under the last foregoing paragraph shall be defrayed as expenses in respect of superannuation allowances to probation officers and clerks under subsection (1) of section five of the Criminal Justice Act, 1925, by the local authority specified in that subsection, and any sums payable out of the metropolitan police fund under the said paragraph shall, for the purposes of Part I of the said Act of 1925, be treated as expenditure in respect of superannuation allowances

to probation officers and clerks under paragraph (*c*) of subsection (1) of section nine of that Act. [4596]

3. In this Order the expression "clerk" means a person appointed to assist a probation officer in the performance of his duties either by a probation committee or the Secretary of State or before the first day of July, 1944, by a probation officer. [4597]

4. Article 2 of the Pensions (Increase) Act (Extension) Order, 1944, is hereby revoked and the Schedule to that Order shall have effect as if paragraph 8 thereof were omitted. [4598]

5. The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament. [4599]

6.—(1) This Order may be cited as the Pensions (Increase) Act (Extension) Order, 1948, and shall come into operation on the first day of July, 1948.

(2) This Order shall not extend to Scotland. [4600]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Order, but is intended to indicate its general purport.*)

This Order is consequential on the Probation Officers (Superannuation) Order, 1948 (*S.I.* 1948 *No.* 1220), *made under section one of the Probation Officers (Superannuation) Act*, 1947. *That Order, which comes into operation on 1st July*, 1948, *supersedes the existing superannuation arrangements relating to probation officers and brings probation officers (including existing pensioners) and their clerks within local government superannuation schemes. The purpose of the present Order is to apply the Pensions (Increase) Act*, 1944, *to pensions under the new arrangements: the Act was applied to pensions under the existing arrangements by the provisions of the Pensions (Increase) Act (Extension) Order*, 1944, *revoked by Article* 4.

SUPERANNUATION (POLICY AND LOCAL GOVERNMENT SCHEMES) INTERCHANGE RULES, 1948

S.I. 1948 *No.* 1446

June 28, 1948

General note.—As to the operation of these Rules, see Circular 125/48, the text of which is reproduced *post.*
Their making was foreshadowed in Circular 86/48, *post.*

The Minister of Health, in exercise of the powers conferred on him by section 2 of the Superannuation (Miscellaneous Provisions) Act, 1948, hereby makes the following rules:—

1. These rules may be cited as the Superannuation (Policy and Local Government Schemes) Interchange Rules, 1948, and shall come into operation on the fifth day of July, 1948. [4601]

2. The Interpretation Act, 1889, applies to the interpretation of these rules as it applies to the interpretation of an Act of Parliament. [4602]

3. Where a person enters employment in which, but for the provisions of these rules, he would be or would be deemed to be a contributory employee

or local Act contributor, having within twelve months before entering such employment been employed in employment in which he was a participant in the pension scheme operated under the Federated Superannuation System for Universities or the Federated Superannuation Scheme for Nurses and Hospital Officers or any other similar pension scheme approved by the Minister of Health (hereinafter called " the Minister "), after consultation with associations of local authorities appearing to him to be concerned, then, if the person so requests the authority or body by whom he is employed in writing within three months after entering their employment, such authority or body may, with the consent of the body administering the scheme, and subject to such arrangements as they may make with that body, pay the contributions authorised or required by the scheme to be paid by the employer, and in that event the person shall not in that employment be subject to the provisions of the Local Government Superannuation Act, 1937 (hereinafter called " the Act of 1937 ") or the local Act scheme :

Provided that this rule shall not apply in the case of any person to whom any similar provision in regulations made by the Minister under section 67 of the National Health Service Act, 1946, applies. [4603]

4. Where contributions are paid by an employing authority or body under the provisions of the last preceding rule in respect of any person, the authority or body shall deduct from the person's remuneration the amount of the contributions required by the scheme to be paid by the employee. [4604]

5.—(1) Where a person within twelve months after ceasing to be employed in employment by virtue of which he was or was deemed to be a contributory employee or local Act contributor, and without having become entitled to any benefit under the Act of 1937 or the local Act scheme other than a return of contributions, enters employment in which he is a participant in the pension scheme operated under the Federated Superannuation System for Universities or the Federated Superannuation Scheme for Nurses and Hospital Officers or any other similar pension scheme approved by the Minister, after consultation with associations of local authorities appearing to him to be concerned, the person may within three months after becoming such participant notify the local authority maintaining the superannuation fund to which he was a contributor that he desires the provisions of these rules to apply to him, and in that event that authority may, if the body administering the pension scheme in which he is a participant (hereinafter called " the relevant scheme ") undertakes to invest or secure the investment of such sum for his benefit under the relevant scheme in the purchase of a policy of insurance on his life providing for the payment on his reaching a specified age or on his retirement of an annuity to him or of such joint annuity to him and another as he may be entitled to select in accordance with the terms of the relevant scheme, such annuity or joint annuity not to be capable of commutation or assignment, and to comply with the provisions of the next succeeding paragraph, pay out of the superannuation fund maintained by them to that body a sum not exceeding the amount of the transfer value which would have been payable had he become a contributory employee :

Provided that a person who received a return of contributions on or after ceasing to be employed as aforesaid shall not be entitled to the benefit of the foregoing provisions of this paragraph unless, on entering such further employment as aforesaid, he repays to the local authority maintaining the superannuation fund to which he was a contributor an amount equal to the sum paid to him by way of a return of contributions, together with an amount equal to any income tax which was deducted from his contributions in respect of such payment.

(2) If a person to whom the preceding paragraph has been applied ceases to participate in the relevant scheme in circumstances in which he becomes entitled to a benefit based solely on his contributions thereunder, the body administering the relevant scheme shall pay to the local authority maintaining the superannuation fund to which he was a contributor any moneys received under the policy purchased by them pursuant to the provisions of the preceding paragraph in respect of the person, and the local authority shall pay to him a sum equal to any amount which was paid to him by way of a return of contributions and repaid by him pursuant to the proviso to the preceding paragraph or, if no such payment was made to him, a sum equal to the amount which would have been paid to him by way of a return of contributions on his ceasing to be or to be deemed to be a contributory employee or local Act contributor, after the addition thereto of an amount equal to interest on the said sum, as from the date on which the policy was purchased, calculated at the rate which would have been applicable under the relevant scheme on contributions returned thereunder at that date.

(3) If such a person as is mentioned in the last preceding paragraph, within twelve months after ceasing so to participate in the relevant scheme and within five years after ceasing to be or to be deemed to be a contributory employee or local Act contributor, again enters employment in which he is or is deemed to be a contributory employee or local Act contributor, he shall be entitled, if he pays or repays to the local authority maintaining the superannuation fund in the benefits of which he is entitled to participate a sum equal to the amount (if any) which was paid to him pursuant to the provisions of the last preceding paragraph, to reckon such service as he would have been entitled to reckon had there been no break between his ceasing to be or to be deemed to be a contributory employee or local Act contributor and his again becoming such an employee or contributor as aforesaid.

(4) Any sums paid under the two last preceding paragraphs to a local authority maintaining a superannuation fund shall be paid by them into the fund.

(5) If a local authority have received a payment under paragraph (2) of this rule in respect of a person who makes a payment under paragraph (3) of this rule to another local authority, the first mentioned authority shall pay out of the superannuation fund maintained by them to that other authority an amount equal to the payment so received by the first mentioned authority, together with interest thereon, as from the date of receipt, calculated at the rate appropriate in relation to the superannuation fund maintained by them, and that other authority shall pay into the superannuation fund maintained by them the amount so received. [4605]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Rules, but is intended to indicate their general purport.*)

These Rules provide for the preservation of the contingent superannuation rights of persons leaving superannuable service under local authorities and entering employment in which they become participants in the Federated Superannuation System for Universities, the Federated Superannuation Scheme for Nurses and Hospital Officers or any other pension scheme approved by the Minister which provides benefits by means of policies of insurance, and vice versa.

TEACHERS SUPERANNUATION (ACCEPTED SCHOOLS) SCHEME, 1948

S.I. 1948 *No.* 1740

July 27, 1948

The Minister of Education in exercise of his powers under Section 21 (1) (*a*) of the Teachers (Superannuation) Act, 1925, as amended by Section 9 (2) of the Superannuation (Miscellaneous Provisions) Act, 1948, hereby makes the following Scheme :—

INTRODUCTORY

1. This Scheme may be cited as the Teachers Superannuation (Accepted Schools) Scheme, 1948, and shall come into operation on the 1st day of August, 1948. [4606]

2. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Scheme as it applies for the purpose of the interpretation of an Act of Parliament. [4607]

3. In this Scheme, unless the context otherwise requires—

" the 1925 Act " means the Teachers (Superannuation) Act, 1925 ;

" the 1937 Act " means the Teachers (Superannuation) Act, 1937 ;

" the 1939 Act " means the Teachers Superannuation (War Service) Act, 1939 ;

" the 1945 Act " means the Teachers (Superannuation) Act, 1945 ;

" the Minister " means the Minister of Education ;

" the 1926 Scheme " means the Scheme made by the Minister on 11th October, 1926, under Section 21 (1) (*a*) of the 1925 Act as varied by the Scheme made by the Minister on 21st March, 1946 ;

" accepted " means accepted by the Minister for the purposes of this Scheme ; and

" acceptance " shall be construed accordingly. [4608]

SCHOOLS WHICH MAY BE ACCEPTED

4. Schools which may be accepted by the Minister for the purposes of this Scheme shall not include any schools or institutions, service in which is contributory service under paragraphs (*a*), (*b*), (*c*), (*d*), (*e*), (*f*), (*g*) or (*i*) of Section 1 (1) of the 1945 Act, but subject thereto shall include—

(*a*) schools of the following classes which are recognised as efficient under Rules made from time to time by the Minister relating to such recognition or under any conditions which the Minister may prescribe for the purposes of the Scheme—

(i) Primary Schools ;
(ii) Secondary Schools ;
(iii) Establishments for Further Education ; and
(iv) Training Colleges other than Training Colleges forming part of a University or University College ;

and

(*b*) any schools or other types specially approved by the Minister for the purpose. [4609]

5.—(1) Application for the acceptance of a school shall be made by the Governing Body or proprietors of the school and the Governing Body or proprietors shall, when application is made, give an undertaking that the payment of contributions shall be a condition of the service of all teachers,

other than those excluded from contributory service as hereinafter provided, who shall be appointed to full-time service in the school after the date on which the Governing Body or proprietors of the school receive notification by the Minister of acceptance of the school.

(2) In the event of any breach of undertaking as aforesaid, future service in the school in question shall, as from such subsequent date as may be determined by the Minister, cease to be a contributory service under the Scheme, but without prejudice to the power of the Minister to accept the school again on a fresh undertaking. [4610]

6.—(1) If a school is accepted it shall become subject to the provisions of this Scheme as from the date of acceptance for that school.

(2) The date of acceptance for any school shall, unless some later date be approved for the purpose of that school by the Minister, be—

(*a*) in any case where application for acceptance of the school is made not later than three months after the date on which this Scheme comes into operation, the 1st January, 1948; or

(*b*) in any other case, the first day of the term in which application is made for acceptance, for which purpose a term shall be a period of four months beginning with the 1st January, 1st May, or 1st September as the case may be.

(3) A school which is for the time being subject to the 1926 Scheme may be accepted for the purposes of this Scheme and as from the date of acceptance the 1926 Scheme shall, notwithstanding anything to the contrary therein, without further formality cease to apply to that school. [4611]

PERSONS WITHIN SCHEME

7. As from the date of acceptance of a school, persons employed as teachers in full-time service in that school shall become subject to the provisions of this Scheme with the exception of—

(*a*) the proprietor of a school conducted for private profit or person who, in the opinion of the Minister, should be treated as a proprietor;

(*b*) a teacher subject to a pension scheme in operation in an accepted school who does not withdraw from the provisions of that Scheme; provided that the exception for which this paragraph provides shall apply to the teacher only so long as he continues in service in that school;

(*c*) a teacher, employed at the date of acceptance of the school, who notifies the Minister within three months after that date or within such further period as may be approved by the Minister, that he does not desire to be regarded as in contributory service;

(*d*) a teacher who becomes employed after the date of acceptance of the school but before the date on which the Governing Body or proprietors receive notification by the Minister of such acceptance and who notifies the Minister within three months after becoming so employed or within such further period as may be approved by the Minister that he does not desire to be regarded as in contributory service;

(*e*) a teacher who has been guilty of such misconduct as would, in the opinion of the Minister, have disqualified him for recognition in grant-aided service and who is for that reason excluded by the Minister from the benefit of this Scheme; and

(*f*) a teacher who has not previously been employed in recognised or contributory service whether under the 1926 Scheme or otherwise (including approved external service in Scotland or service which

is treated in the same manner as such last-mentioned service under any Scheme made under Section 21 (1) (*c*) of the 1925 Act) and who fails to satisfy the Minister of his physical capacity. [4612]

APPLICATION OF ACTS AS MODIFIED

8. The provisions of Part II of the 1925 Act as amended by the 1945 Act, and such of the provisions of the 1937 Act and the 1939 Act as are expressed to apply to a Scheme made under Section 21 of the 1925 Act shall apply in the case of any person to whom this Scheme applies subject to the following modifications. [4613]

Contributions

9.—(1) Section 9 (1) of the 1925 Act which provides for the payment of contributions by teachers and employers shall have effect with the substitution in paragraphs (*a*) and (*b*) thereof of six-and-a-quarter per cent. for five per cent. being a percentage of the amount of the teacher's salary for the time being.

(2) Section 2 (1) of the 1937 Act which provides for the payment of contributions by a teacher during intervals of service, shall have effect with the substitution of twelve-and-a-half per cent. instead of ten per cent. of the amount of the teacher's salary. [4614]

Average Salary

10. Section 10 (2) of the 1925 Act shall apply with the modification that the average salary of a teacher shall be taken to be the average amount of the teacher's full salary, as calculated under that section in respect of the last five years of his employment in contributory service under this Scheme, or, if the teacher has not been so employed for five years, then the average amount of salary during the period for which he has been so employed. [4615]

Accounting and Valuation

11. In respect of service under this Scheme the following provisions shall be substituted for the provisions of Section 15 of the 1925 Act—

(1) There shall be kept in accordance with the directions contained in the Schedule to this Scheme an account in such form and prepared in such manner as may be provided for by regulations made by the Treasury, of all revenue and expenditure (including any sums which are under the said Schedule to be deemed to be revenue and expenditure) under the Scheme, and at the expiration of such period after the commencement of this Scheme as the Treasury think practicable and at the expiration of every subsequent period of seven years, the Treasury shall cause an actuarial inquiry to be made for the purpose of determining whether on the basis of the said account the contributions payable under the Scheme are sufficient, or more than sufficient or less than sufficient, to support the benefits payable thereunder in respect of those contributions.

(2) The Treasury shall cause a report of every inquiry made under these provisions to be laid before both Houses of Parliament. [4616]

Consultation

12. Section 17 (1) of the 1925 Act which provides for consultation by the Minister with representatives of Local Education Authorities and of teachers affected shall have effect with the modification that the words "employers of accepted schools" shall be substituted for the words "Local Education Authorities". [4617]

Modifications as respects Contributory Service

13.—(1) Subject to the provisions hereinbefore contained, contributory service under this Scheme shall be treated as if it were contributory service under the 1925 Act as amended by the 1945 Act, provided that, except so far as may be otherwise prescribed under the 1925 Act, it shall not be so treated for the purpose of—

(*a*) determining for the purposes of Section 2 (1) (*a*) (iv) of the 1925 Act whether a teacher has been in some other form of contributory service ; or

(*b*) calculating the amount of any superannuation allowance or gratuity in respect of recognised or contributory service under the 1925 Act, the 1945 Act, or the 1926 Scheme ; or

(*c*) the proviso to Section 13 (2) (*b*) of the 1925 Act ; or

(*d*) determining whether a teacher died in contributory service under the 1925 Act, the 1945 Act, or the 1926 Scheme.

(2) Contributory service under the 1925 Act, the 1945 Act, or the 1926 Scheme shall not be reckoned for determining whether a teacher dies in contributory service under this Scheme. [4618]

Modifications for National Insurance

14. The modifications of the Teachers Acts and other instruments for which the National Insurance (Modification of Teachers Pensions) Regulations, 1948, provide shall apply to teachers in contributory service by virtue of this Scheme as they apply to other teachers in contributory service. [4619]

SCHEDULE

(Clause 11)

DIRECTIONS AS TO ACCOUNT

(1) The accounting periods for which the account shall be made up shall be from the 1st day of April in each year to the 31st day of March in the next year.

(2) There shall be treated as having been paid into the revenue for each accounting period—

(*a*) the amount of contributions attributable to the period ;

(*b*) a sum representing interest at the rate of 3½ per cent. per annum on the mean balance, if any, of revenue over expenditure during the period ; such mean balance being calculated by adding together one half of the balance (exclusive of any interest under this paragraph) remaining at the end of the period, and one half of the balance, if any, carried forward from the last preceding accounting period ;

c) the amount of any balance of revenue over expenditure remaining at the end of the last preceding accounting period ; and

(*d*) any other revenue attributable to the period. [4620]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Scheme, but is intended to indicate its general purport.*)

The purpose of this Scheme is to enable teaching service in schools which are efficient but not grant-aided to be pensionable on a scale approximating to the benefits payable under the Teachers (Superannuation) Act, 1925, in respect of service in grant-aided schools.

The Scheme is an alternative to the Scheme for non-grant-aided schools made in 1926. Under that Scheme the contributions are, as under the Act of 1925, at the rate of 10 per cent. ; but, in order to comply with the requirement of Section 21 (1) (a) of the Act that the Scheme should be self-supporting,

benefits under it are on a lower scale than those payable under the Act in respect of service in grant-aided schools.

The present Scheme provides benefits more nearly approximating to those payable under the Act in respect of service in grant-aided schools, but, in order to comply with the requirement that the Scheme should be self-supporting, the rates of contribution are fixed at 12½ *per cent. instead of* 10 *per cent.*

TEACHERS SUPERANNUATION AMENDING RULES, 1948

S.I. 1948 *No.* 1801

July 29, 1948

The Minister of Education, with the consent of the Treasury and after consultation with representatives of Local Education Authorities and teachers affected, in exercise of the powers conferred upon him by Section 17 of the Teachers (Superannuation) Act, 1925, and subsection (1) of Section 12 of the Superannuation (Miscellaneous Provisions) Act, 1948, hereby makes the following Rules :—

1. These Rules may be cited as the Teachers Superannuation Amending Rules, 1948, and shall come into operation on the first day of August, 1948. [4621]

2. The Interpretation Act, 1889, applies for the purpose of the interpretation of these Rules as it applies for the purpose of the interpretation of an Act of Parliament. [4622]

3. In these Rules unless the context otherwise requires—

" the Minister " means the Minister of Education ;

" existing rules " means the Teachers Superannuation Rules, 1926, as amended by the Teachers Superannuation Amending Rules, 1930, the Teachers Superannuation Amending Rules, 1937, the Teachers Superannuation Amending Rules, 1941, and the Teachers Superannuation Amending Rules, 1947 ; and

" the 1947 Amending Rules " mean the Teachers Superannuation Amending Rules, 1947. [4623]

4. The existing Rules shall have effect with the amendments for which these Rules provide. [4624]

5. In paragraphs (*d*), (*e*) and (*f*) of Rule 6 of the 1947 Amending Rules, for any reference to the Board of Control there shall be substituted a reference to the Minister of Health. [4625]

6. As from the 5th July, 1948, paragraphs (*d*) and (*f*) of Rule 6 of the 1947 Amending Rules are hereby altered in consequence of the amendments to the Teachers Acts made by Regulation 54 (*b*) of the National Health Service (Superannuation) Regulations, 1947, that is to say—

(*a*) the said paragraph (*d*) shall have effect with the addition at the end thereof of the following words :—

" the provisions of this paragraph shall also apply to any institution for defectives vested in the Minister of Health under the National Health Service Act, 1946 (other than any institution designated by him for defectives of violent or dangerous propensities)" ;

and

(*b*) the said paragraph (*f*) shall have effect with the addition after the words " employed within the scope of Section 1 (1) (*g*) of the 1945 Act " of the words " as amended by Regulation 54 (*b*) (ii) of the National Health Service (Superannuation) Regulations, 1947 ". [4626]

7.—(1) The prescribed time within which application shall be made to the Minister by any person who is employed in service in an appointment approved in pursuance of subsection (1) of Section 12 of the Superannuation (Miscellaneous Provisions) Act, 1948, and who wishes to make such application, shall be the period of three calendar months beginning with the date on which these Rules come into operation or with the date on which such person becomes so employed whichever is the later date.

(2) The prescribed manner in which such application shall be made is prescribed by the Schedule to these Rules. [4627]

8. These Rules shall be construed as one with the existing Rules. [4628]

SCHEDULE

(RULE 7 (2))

Ministry of Education

Application for service to be treated as contributory service under Section 12 (1) of the Superannuation (Miscellaneous Provisions) Act, 1948.

* Here insert name in full.

I* .....

Address.....

Reference number (Ministry of Education),

if allotted .....

Date of birth .....

hereby make application to the Minister of Education for my employment on and after the ..... day of ....., 19....., in service in the following appointment†..... being an appointment approved by the Minister for the purposes of subsection (1) of Section 12 of the Superannuation (Miscellaneous Provisions) Act, 1948, to be treated as contributory service for the purposes of the Teachers (Superannuation) Act, 1925.

† Here insert title of post.

Signature .....

Date .....

[4629]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Rules, but is intended to indicate their general purport.*)

These Rules make minor amendments of the existing Rules in order to bring the latter into line with the arrangements under the National Health Service Act, 1946; *and they also prescribe the method for claiming as pensionable certain educational service other than teaching.*

Circular 86/48

To all Local Authorities

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.
4th June, 1948

SIR,

SUPERANNUATION (MISCELLANEOUS PROVISIONS) ACT, 1948

I am directed by the Minister of Health to draw your attention to the passing of this Act and particularly the following provisions which affect local authorities.

" *National Service* "

Section 1 provides for the making of Regulations to deal with the preservation of superannuation rights during national service and the details of these and the winding up of the Local Government Staffs (War Service) Act, 1939, will be discussed with the Associations of Local Authorities in due course. Part I of the Schedule modifies the 1939 Act in various respects and is to be applied retrospectively (paragraph 6). Adjustments may need to be made for employees who entered on war service before the age of 18 but who would have become contributory employees had they remained with the authority; for " servants " who might have become superannuable at a certain time by reason of a resolution of the authority under section 3 (2) (*b*) of the Local Government Superannuation Act, 1937, had they not gone on war service; and for temporary officers who would have completed the two year period of service but for war service. The adjustments will include recovering contributions from the employee and adjustment of transfer values if he has gone to other employment.

Paragraph 4 of Part I of the Schedule ensures that a transfer value for an employee who goes (or has gone) straight from war service to an authority other than the one with which he had previously been employed shall be payable as if he had not ceased to be employed by his old authority until the expiration of his war service which, the Minister is advised, includes demobilisation leave.

Interchange with Other Employments

Section 2 gives a wide power for Regulations to be made enabling a freer movement between local government and other services. Revised Regulations for interchange with the civil service will be made at an early date, after consultation with the Associations of Local Authorities. It is also proposed to make Regulations, to come into force before 5th July, enabling a local authority to allow an officer newly appointed by them instead of becoming a contributory employee in the local government superannuation scheme to remain subject to the Federated Superannuation Scheme for Nurses and other Hospital Officers, or an insurance policy in the Federated Superannuation System for Universities, if he was subject to such a scheme in his last employment. This will be of particular value to local health authorities in taking over staff from District Nursing Associations.

General note.—The regulations referred to, *supra*, were made by the Minister of Health on June 28, 1948, under the title of the Superannuation (Policy and Local Government Schemes) Interchange Rules, 1948 (S.I. 1948 No. 1446), *ante*. They came into operation on July 5, 1948. See also Circular 125/48, *post*.

Preservation of Rights for Staff Dismissed on Reduction of Capital Expenditure, etc.

Section 6 enables the Minister to declare a " period of emergency " and any person who ceases to be employed during this period can get the advantages afforded by this section if the local authority certify that the

cessation of his employment is due to action taken for the temporary reduction of expenditure or for the purpose of making him available for other employment.

The rights referred to in subsections (3), (4) and (5) will then follow. I am to say that the Minister has directed that the period ending 30th June, 1949, shall be treated as the period of emergency for the purposes of this section.

Application of Local Government Superannuation to Employees of Associations

Section 7 enables a local authority, on terms and conditions to be approved by the Minister to admit to their superannuation scheme employees of an association of local authorities or of officers of local authorities which satisfies the description set out in subsection (1). [4630]

I am, Sir, etc.

* * * * *

The Clerk of the Authority.

Circular 125/48

To all Local Authorities

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1
3rd July, 1948

SIR,

THE SUPERANNUATION (POLICY AND LOCAL GOVERNMENT SCHEMES) INTERCHANGE RULES, 1948

(*S.I.* 1948 *No.* 1446)

General note.—For the text of the Rules referred to above, see *ante*.

1. I am directed by the Minister of Health to enclose a copy of the above-mentioned rules which have been made under section 2 of the Superannuation (Miscellaneous Provisions) Act, 1948. Reference was made in paragraph 4 of Circular 86/48 to the fact that they were in prospect.

2. They enable local authorities to preserve the superannuation rights of employees entering their service from employment subject to the Federated Superannuation System for Universities, the Federated Superannuation Scheme for Nurses and Hospital Officers or any other pension scheme providing benefits from contracts arranged with Assurance Companies which the Minister may approve after consultation with the appropriate associations of local authorities. The Minister has so approved the Pension Scheme for District Nurses run by the Equitable Life Assurance Society.

3. The rules also enable a local authority to pay in respect of a contributory employee or local Act contributor who ceases to be employed and takes up employment subject to any such scheme a sum not exceeding the amount of transfer value which might have become payable under the Local Government Superannuation Act, 1937, to be invested in the scheme by way of a deferred annuity for the employee's benefit.

4. The general effect is to give the local authorities powers similar to those of the Minister in Regulations 24 and 46 of the National Health Service (Superannuation) Regulations, 1947, in relation to employees in the central health service.

5. There are essential differences between the Federated Superannuation System for Universities and the Federated Scheme for Nurses and Hospital

Officers. In the case of the latter local authorities wishing to grant the option conferred by Article 3 of the Regulations will be able to become participating institutions in that scheme. They will enter into an agreement with the scheme and will be responsible for making the appropriate contributions and payments in respect of administration expenses. Provided the numbers participating warrant it, there will also be a right to representation on the Council of the scheme. Local authorities wishing to exercise this discretion in respect of employees entering their service should make formal application to the General Manager and Secretary, Federated Superannuation Scheme for Nurses and Hospital Officers, Rose Hill, Park Road, Banstead, Surrey.

6. In the case of the Federated Superannuation System for Universities it is not possible to make similar arrangements; the rights of the policies are vested in the holders and local authorities will not be accepted as participants in the scheme. If the authority appoint a person who was subject to the Federated System in his previous employment he may, if the authority agree remain subject to his policies in their employment on the following arrangements. The late F.S.S.U. policies will be held by the authority subject to a trust the details of which are still under discussion. The Life Offices Association representing the Insurance Companies on the panel of the Federated System will issue incremental policies on Federated Superannuation System terms in the same way as they will issue them in respect of employees in similar circumstances in the central health service. Fuller details of the arrangements including the form of trust deed will be sent in due course. If, in the meantime the authority wish to accept an application by a newly appointed employee to remain subject to a F.S.S.U. policy you should get in touch with this office.

7. In the case of a nurse subject to the Pension Scheme for District Nurses run by the Equitable Life Assurance Society the arrangements should be made direct with the Secretary of the Society at 19 Coleman Street, London, E.C.2.

8. With regard to the payment of transfer values to enable former contributory employees or local Act contributors to be set up in policy schemes, it will, of course, be necessary for local authorities to make *ad hoc* arrangements with the schemes as and when applications are received from former employees under the provisions of Article 5 of the Rules.

9. A copy of this circular is enclosed for the information of the Chief Financial Officer. [4631]

I am, Sir, etc.

* * * * *

The Clerk to the Authority.

CASES

Local Government—Superannuation of officers—Right to annual superannuation allowance on ceasing to be employed—Question to be decided by Minister—Claim after cessation of employment—"Employee"—Local Government Superannuation Act, 1937 (*c.* 68), *s.* 35.

Practice—Appearance—Unconditional appearance—Defendant's right to plead that plaintiff has no cause of action—R. S. C., Ord. 25, *r.* 2.

W., who was employed by a local authority and was entitled, as an employee, to participate in the benefits of a superannuation fund, resigned

his post on December 17, 1945, but on March 27, 1946, the local authority purported to dismiss him and decided that he was not entitled to an annual superannuation allowance under the Local Government Superannuation Act, 1937, s. 8 (1) (*a*).

In an action by W., begun on July 31, 1946, claiming a declaration that he was so entitled, unconditional appearance to the writ was entered by the local authority, but it was pleaded by para. 6 of the defence that W. had no cause of action because, under s. 35 of the Act (which provides that any question concerning the rights of an employee of a local authority under the Act shall be decided, in the first instance, by the authority concerned, and, if the employee is dissatisfied with the authority's decision, by the Minister whose decision shall be final), the question whether or not he was entitled to an allowance was to be determined only by the Minister of Health. The master ordered that the issue raised by para. 6 of the defence should be disposed of before the trial under R. S. C., Ord. 25, r. 2. At the hearing W. contended (i) that, since the authority had entered an unconditional appearance, the plea in para. 6 of the defence was bad since it denied the jurisdiction of the court; (ii) that s. 35 of the Act of 1937 did not apply to his claim because, at the material time (*i.e.* when the question of his rights was raised), he had ceased to be an " employee " :—

Held: (i) the court had jurisdiction to decide whether or not it could deal with the matter; by entering an unconditional appearance the defendants had submitted to that jurisdiction; but they were not thereby precluded from challenging the jurisdiction of the court to deal with the claim.

Pasmore v. *Oswaldtwistle Urban Council*, [1898] A. C. 387, *applied.*

(ii) although W. had ceased to be employed by the local authority before the question of his rights was raised, s. 35 of the Act of 1937 applied to him and he had no cause of action.

Decision of MORRIS, J., [1947] 2 All E. R. 24, *affirmed.*—WILKINSON *v.* BARKING CORPN., [1948] 1 K. B. 721; [1948] 1 All E. R. 564; [1948] L. J. R. 1164; 112 J. P. 215; 64 T. L. R. 230; 92 Sol. Jo. 205; 46 L. G. R. 169, C. A. [4632]

Local Government—Superannuation—Amount of allowance—Area public assistance officer acting also as interim superintendent registrar of births and deaths—Inclusion of fees as registrar in calculation of average remuneration—Calculation to be based on gross fees—Local Government Superannuation Act, 1937 (*c.* 68), *ss.* 8 (5) (*c*), 40 (1), (3).

Statutes—Construction—Right conferred by main enacting sections of Act —Effect of provision in interpretation section.

The Local Government Superannuation Act, 1937, s. 8, provides: " (1) Subject to the provisions of this Act, a contributory employee of an employing authority shall be entitled, on ceasing to be employed by them, to receive an annual superannuation allowance if he . . . (*b*) has attained the age of sixty years and completed forty years' service. . . . (2) The superannuation allowance to be made to a contributory employee under this part of this Act shall be on the following scale, that is to say :—(*a*) in respect of every completed year of contributing service, one sixtieth of his average remuneration. . . . (5) For the purposes of this section, the average remuneration of a contributory employee means the annual average of the remuneration received by him in respect of service rendered during the five years immediately preceding the day on which he ceases to hold his employment, or the day on which he attains the age of sixty-five years, whichever

is the earlier: Provided that—. . . (*c*) if a contributory employee in the whole-time employment of a single local authority becomes a contributory employee in the part-time employment of each of two or more authorities, then, if his remuneration in his whole-time employment becomes material for the purpose of calculating the superannuation allowance payable to him on his ceasing to hold one of his part-time employments, that remuneration shall for the purposes of the calculation be treated as attributable to those part-time employments and shall be apportioned between them."

By s. 40, the interpretation section, sub-s. (1) provides: " ' remuneration ' means all salary, wages, fees, poundage and other payments paid or made to an employee as such for his own use, and includes the money value of any apartments, rations or other allowances in kind appertaining to his employment, but does not include payments for overtime, or any allowance paid to him to cover cost of office accommodation or clerks' assistance, or any travelling or subsistence allowance or other moneys to be spent, or to cover expenses incurred by him, for the purposes of his employment . . . ' service ' means service rendered to any local authority . . . but does not include service in any employment if the person in question has already become entitled in respect of that service in that employment to a superannuation allowance under this or any other Act." By s. 40 (3): " Where an employee holds under a local authority two or more separate employments of such a nature that he can cease to hold one without ceasing to hold the other or others, the provisions of this Act shall, unless the context otherwise requires, apply as respects him in relation to each of those separate employments as if the other or others were an employment or employments held by him under another authority."

From April 30, 1938, to June 30, 1940, an area public assistance officer of a county council was also an interim superintendent registrar of births and deaths. He was a " contributory employee," within the meaning of the Local Government Superannuation Act, 1937, as defined in s. 3 of the Act, in respect of his post as an area officer, and as such was bound to contribute to, and entitled to participate in, the council's superannuation fund, and it was accepted that he was also a contributory employee of the council in respect of his office as interim superintendent registrar. On November 2, 1943, he retired from the post of area officer and became entitled to a superannuation allowance, under s. 8 (1) (*b*) of the Act. He claimed that for the purpose of computing his average remuneration during the five years immediately preceding his retirement in 1943, on which computation the amount of the superannuation allowance depended, his remuneration in respect of his office as interim superintendent registrar should be taken into account. The council contended that, by reason of ss. 8 (5) (*c*) and 40 (3), of the Act, the officer's remuneration as interim superintendent registrar should not be included in the computation of the allowance to which he became entitled on ceasing to be employed as area officer:—

Held: (i) on the true construction of the Act of 1937, the officer was entitled to have his remuneration as superintendent registrar of births and deaths taken into account in ascertaining his average remuneration under s. 8 (5).

(ii) on the true construction of the definition of " remuneration " in s. 40 (1) of the Act, the gross fees received by the officer as superintendent registrar were to be taken into account in calculating the superannuation allowance payable to him, and not those fees less expenditure incurred by him in the performance of his duties.

(iii) a definition section ought not to be construed as cutting down or modifying the main enacting sections of an Act unless it contains clear language to that effect.

Principle in Lysons v. *Knowles (Andrew) & Sons, Ltd.*, [1901] A. C. 79, *applied.*

Decision of the Divisional Court, [1947] 2 All E. R. 748, *reversed.*—JOBBINS *v.* MIDDLESEX COUNTY COUNCIL, [1948] 2 All E. R. 610; 112 J. P. 401; 64 T. L. R. 507; 92 Sol. Jo. 455; 46 L. G. R. 422, C. A. [4633]

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ORDERS, CIRCULARS AND MEMORANDA

CENTRAL LAND BOARD REGULATIONS, 1947

S. R. & O., 1947, *No.* 2294

October 28, 1947

The Minister of Town and Country Planning and the Secretary of State for Scotland in exercise of the powers conferred on them by Section 2 of the Town and Country Planning Act, 1947, and of all other powers enabling them in that behalf, hereby make the following regulations :—

Citation, Commencement and Interpretation

1.—(1) These regulations may be cited as the Central Land Board Regulations, 1947, and shall come into force on the date hereof.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [4634]

Appointment and Tenure of Office

2.—(1) The appointment of a member of the Central Land Board (in these regulations referred to as " the Board ") shall, subject to the provisions of these regulations, be for such term as may be determined by the Minister of Town and Country Planning and the Secretary of State for Scotland (in these regulations referred to as " the Ministers ") before the appointment of such member and upon such conditions as may be determined by the Ministers either before the appointment of such member or, with his consent at any time thereafter.

(2) A member of the Board who ceases to hold office shall, subject as aforesaid, be eligible for re-appointment to the Board. [4635]

Disqualification for Office

3. A person shall be disqualified for being appointed to or being a member of the Board so long as he is a member of the Commons House of Parliament. [4636]

Vacation of Office

4.—(1) If a member of the Board

(*a*) is absent from meetings of the Board for more than six consecutive meetings except for some reason approved by the Ministers, or

(*b*) is adjudged bankrupt or makes a composition or arrangement with his creditors, or, in the opinion of the Ministers, is incapacitated by infirmity of mind or body from discharging the duties of his office or otherwise unsuited to continue to discharge those duties,

the Ministers may declare the office of such member to be vacant, and it shall become vacant on the date mentioned in such declaration.

(2) Any member of the Board may resign his office by not less than one month's notice in writing under his hand given to the Ministers. [4637]

Disclosure of certain information

5.—(1) Every member of the Board who is in any way, whether directly or indirectly, interested in any land which is the subject of a claim or application made to the Board shall disclose to the Board the nature of his interest and the disclosure shall be recorded in the minutes of the Board and such member shall not take part in any deliberation or decision of the Board with respect to that claim or application.

(2) A general notice given to the Board by a member thereof to the effect that he is interested in the land specified in the notice, describing it with sufficient particularity to enable it to be identified, shall, for the purposes of this regulation, be deemed to be a sufficient disclosure in relation to any subsequent claim or application concerning any such land. [4638]

Execution and proof of documents

6.—(1) Any contract or other instrument which if entered into or executed by a person not being a body corporate would not require to be executed under seal may be entered into or executed on behalf of the Board by any person generally or specially authorised by them for the purpose.

(2) Every document purporting to be made or issued by the Board and to be signed by the Secretary to the Board or any person authorised to act in that behalf shall be received in evidence, and shall, until the contrary is proved, be deemed to be an instrument made or issued by the Board; and prima facie evidence of any such instrument may, in any legal proceedings (including arbitrations), be given by the production of a document purporting to be certified to be a true copy of the instrument by or on behalf of the Secretary. [4639]

* * * * *

EXPLANATORY NOTE

(This Note is not part of these Regulations, but is intended to indicate their general purport.)

These Regulations deal with the terms of appointment and tenure of office of members of the Central Land Board, with their obligations as to disclosure of interest, and with execution and proof of the Board's documents.

TOWN AND COUNTRY PLANNING (AUTHORISATION OF DELEGATION) REGULATIONS, 1947

S. R. & O., 1947, *No.* 2499

November 21, 1947

The Minister of Town and Country Planning (hereinafter called "the Minister") in exercise of the powers conferred on him by Section 34 of the Town and Country Planning Act, 1947 (hereinafter called "the Act"), and of all other powers enabling him in that behalf hereby makes the following regulations:—

Citation, Commencement and Interpretation

1. These Regulations may be cited as the Town and Country Planning (Authorisation of Delegation) Regulations, 1947, and shall come into force on the appointed day. [4640]

2.—(1) In these Regulations "the appointed day" means the appointed day for the purposes of the Act.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [4641]

Powers of Delegation

3. A local planning authority (other than the Council of a County Borough) may with the consent of the Minister enter into an agreement with the Council of any County District in their area to delegate to the Council of the said County District any of their functions under Part III of

the Act upon such terms and subject to such conditions restrictions and reservations as are set out in the said agreement and approved by the Minister, including provisions—

(i) for the transfer to such Council of any liability of the local planning authority to pay compensation under Part III or Part VIII of the Act in respect of anything done by that Council in the exercise of such functions,

(ii) for the transfer and compensation of any officers of the local planning authority or the Council. [4642]

4. It shall be a term of any such delegation—

(1) that the delegation may be terminated or any of its terms conditions restrictions or reservations varied by agreement between the parties with the consent of the Minister, and shall in any event terminate, upon the withdrawal by the Minister of his consent to such delegation;

(2) that any document by which any functions delegated under these regulations are exercised shall state that such functions are exercised on behalf of the local planning authority, but no such document shall be invalid by reason only that the requirements of these regulations have not been complied with and no person acting in pursuance of any such document shall be concerned to see that such requirements have been observed. [4643]

5. Where the local planning authority is a joint planning board Regulation 3 of these Regulations shall have effect as if the reference therein to the Council of a County District in their area included a reference to the Council of a County or of a County Borough therein. [4644]

6. Any Council to whom functions are delegated in accordance with these Regulations shall perform those functions on behalf of the local planning authority. [4645]

* * * * *

TOWN AND COUNTRY PLANNING (GENERAL INTERIM DEVELOPMENT) VARYING ORDER NO. 2, 1947

S. R. & O., 1947, *No.* 2708

December 18, 1947

The Minister of Town and Country Planning in exercise of the powers conferred upon him by Section 10 of the Town and Country Planning Act, 1932, as amended by the Town and Country Planning (Interim Development) Act, 1943, the Town and Country Planning Act, 1944 and of all other powers enabling him in that behalf, hereby orders as follows:—

1.—(1) This Order shall apply to all land in England and Wales in respect of which a resolution is for the time being in force:

Provided that in the event of a Special Interim Development Order being made in relation to any such land, this Order shall apply thereto to the extent only and subject to such modifications as may be specified in the special order.

(2) This Order may be cited as the Town and Country Planning (General Interim Development) Varying Order No. 2, 1947.

(3) Where, subject to the provisions thereof, a Special Interim Development Order in force at the date of the coming into force of this Order, applies the Town and Country Planning (General Interim Development) Order, 1946, as varied by the Provisional Town and Country Planning (General Interim Development) Varying Order dated 3rd June, 1947 (which order

as so varied is hereinafter called " the principal order ") to any area of land, the principal order so applied shall be read as if it had been varied by this Order. [4646]

2.—(1) This Order shall be read as one with the principal order, and unless the context otherwise requires, expressions in this order shall have the meanings assigned to them by the principal order.

(2) The Interpretation Act, 1889, shall apply to the interpretation of this order as it applies to the interpretation of an Act of Parliament. [4647]

3. The words " until the appointed day referred to in Section 120 of the Town and Country Planning Act, 1947 " shall be substituted for the words " during a period of two years from the 1st day of January, nineteen hundred and forty-six " and the words " the 1st day of January nineteen hundred and forty-six " shall be substituted for the words " that date " in sub-paragraph (*c*) of paragraph 5 of Part I of the Schedule to the Principal Order. [4648]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

Section 10 of the Town and Country Planning Act, 1932, provides that an order made under the Section controlling the interim development of land may itself permit the development unconditionally or subject to any conditions specified in the order. The Town and Country Planning (General Interim Development) Order, 1946, permitted (Article 4 (I) and paragraph (c) of the Schedule) until 30th June, 1947, development by the winning and working of minerals by surface working to be carried out on land which adjoined land being similarly developed on 1st January, 1946, provided that the development of both lands formed a continuous operation. The Provisional Town and Country Planning (General Interim Development) Varying Order, dated 3rd June, 1947, extended this period until 31st December, 1947. The provisions of Section 10 of the 1932 Act will be replaced by the provisions of the Town and Country Planning Act, 1947, as from an appointed day, and the purpose of this Order is to extend the period until such date.

TOWN AND COUNTRY PLANNING ACT, 1947 (APPOINTED DAY) ORDER, 1948

S.I. 1948 *No.* 213

February 9, 1948

The Minister of Town and Country Planning, in exercise of the powers conferred on him by Section 119 of the Town and Country Planning Act, 1947, and of all other powers enabling him in that behalf hereby makes the following Order :—

1. The Town and Country Planning Act, 1947, shall come into force on the first day of July, 1948. [4649]

2.—(1) This Order shall come into operation on the first day of July 1948 : and may be cited as the Town and Country Planning Act, 1947 (Appointed Day) Order, 1948.

(2) The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament. [4650]

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TOWN AND COUNTRY PLANNING (CHURCHES, PLACES OF RELIGIOUS WORSHIP AND BURIAL GROUNDS) REGULATIONS, 1948

S.I. 1948 *No.* 401

February 28, 1948

The Minister of Town and Country Planning in exercise of the powers conferred upon him by Section 28 of the Town and Country Planning Act, 1944, and of all other powers enabling him in that behalf hereby makes the following Regulations :—

1. These Regulations may be cited as the Town and Country Planning (Churches, Places of Religious Worship and Burial Grounds) Regulations, 1948, and shall come into force on the 15th day of March, 1948. [4651]

2.—(1) In these Regulations unless the context otherwise requires—

" the Act " means the Town and Country Planning Act, 1944 ;

" the Minister " means the Minister of Town and Country Planning ;

" the Bishop " means the Bishop of the Diocese in which the land is situate ;

" the Appropriate Denominational Authority " means, in the case of consecrated land, the Bishop, and in the case of any other land, such person or persons as shall be designated for the purpose by the controlling body of the religious denomination for whose purposes the land has been or is being used ;

" land " means any land which has been acquired or appropriated for the purposes of Part I of the Act, and which at the time of acquisition or appropriation was consecrated land, or included any church or other building used or formerly used for religious worship, or the site thereof, or consisted of a burial ground or part of a burial ground ;

" acquiring or appropriating authority " includes any person deriving title from or under that Authority.

(2) The Interpretation Act, 1889, shall apply to these Regulations as it applies to the interpretation of an Act of Parliament. [4652]

3.—(1) No consecrated land shall be used by the acquiring or appropriating authority so long as any church or other building used or formerly used for religious worship, or any part thereof, remains on such land, without the consent of the Bishop having been obtained.

(2) The use of any land by the acquiring or appropriating authority so long as any church or other building used or formerly used for religious worship, or any part thereof, remains on such land, shall in the case of consecrated land, be subject to the like control as imposed by law in the case of a similar use authorised by an enactment other than the Act or by a Measure, and in the case of any other land, be for such religious, charitable, educational, municipal or other purposes, as are not inconsistent with the last use of the land by the religious denomination at or before the date of acquisition or appropriation.

Provided that in the case of land other than consecrated land, the Minister may, on presentation by the acquiring or appropriating authority of a certificate from the appropriate denominational authority that no objection is raised by that authority to any particular use of the land, authorise such use. [4653]

4. The fixtures and furnishings of any church or other building used for religious worship situate on the land shall be at the disposal of the appropriate denominational authority as that authority may think fit, and where

any such fixtures and furnishings are not disposed of by that authority within three months of the date of acquisition or appropriation, the acquiring or appropriating authority shall, before disposal, cause to be defaced such ornamentation, symbols and inscriptions as the appropriate denominational authority may require. [4654]

5. When a church or other building used for religious worship has ceased to be used as such by reason of the land forming the site thereof having been acquired or appropriated under the Act, the appropriate denominational authority shall forward or cause to be forwarded the current volumes of the marriage registers kept for such church or building to the Registrar-General, in order that they may be formally closed. [4655]

6.—(1) The person in whom the land is vested shall, before removing and reinterring any human remains or before disposing of any tombstones, monuments or other memorials, publish a notice of intention so to do at least once during each of two successive weeks, with an interval between each publication of at least six days, in a local newspaper.

(2) Any notice required by the last preceding paragraph to be published shall contain—

(*a*) the address at which these may be inspected, the names and dates of death, where known, of the deceased persons whose remains it is proposed to reinter, and descriptions of the tombstones, monuments, and other memorials of which it is proposed to dispose,

(*b*) a statement as to the right of the personal representatives or relatives of any deceased person themselves to undertake the removal and reinterment of the remains of the deceased, and the disposal of any tombstone, monument or other memorial commemorating the deceased, within the time specified in these Regulations,

(*c*) a statement of any requirements imposed, in the case of consecrated land by the Bishop with respect to the manner of removal, and the place and manner of reinterment of human remains, and the disposal of tombstones, monuments and other memorials, and in any case, of any directions that have been given by the Secretary of State with respect to the removal and reinterment of human remains; and

(*d*) a statement as to the extent to which the person in whom the land is vested is required by these Regulations to defray the expenses of such removal, reinterment and disposal. [4656]

7.—(1) The personal representatives or relatives of any deceased person whose remains are interred in the land may, on giving to the person in whom the land is vested notice within such time as is hereinafter prescribed, themselves remove any such remains, and may dispose of any tombstone, monument or other memorial commemorating the deceased, and the person in whom the land is vested shall defray the cost of such removal, reinterment or disposal, as respects the remains removed from any one grave, up to the sum of fifteen pounds; as respects any tombstone or memorial, up to the sum of fifteen pounds; and as respects any other memorial, up to the sum of fifteen pounds.

(2) A notice under the preceding paragraph may be given at any time within one month of the last publication of the notice prescribed by Regulation 6 of these Regulations, and if the removal, reinterment or disposal, as the case may be, has not been carried out by the personal representatives or relatives in accordance with the provisions of these Regulations within two months from the date of the notice given under the preceding paragraph, the person in whom the land is vested may carry out the removal, reinterment and disposal as if such notice had not been given. [4657]

8. Any human remains interred in the land which have not been removed and reinterred by the personal representatives or relatives of the deceased person within the time prescribed by these Regulations shall, on removal by the person in whom the land is vested, be reinterred in such land as may be indicated as being reasonably available for the purpose by the appropriate denominational authority, and failing any such land being so indicated, shall be reinterred in any cemetery or burial ground, and the person in whom the land is vested shall in carrying out the reinterment, have due regard to the setting apart of any portion of such cemetery or burial ground for burial in connection with any particular religious denomination. [4658]

9. Any tombstone, monument or other memorial not disposed of by the personal representatives or relatives of a deceased person shall be offered by the person in whom the land is vested to the appropriate denominational authority for disposal as that authority thinks fit, and if not accepted by that authority, shall be broken and defaced before being disposed of otherwise. [4659]

10. Before disposing of any tombstone, monument or other memorial the person in whom the land is vested shall, if so required by the Minister, submit particulars of such tombstone, monument or memorial to the Royal Fine Art Commission for a report, and shall forward a copy of such report to the Minister, and where the Minister has so required such submission, the person in whom the land is vested shall not dispose of the tombstone, monument or memorial except in accordance with such directions as may be given by the Minister. [4660]

11. Notwithstanding anything contained in Regulations 7 and 8 of these Regulations—

(*a*) In the case of consecrated land the manner of removal and reinterment of any human remains and the disposal of any tombstones, monuments or other memorials removed from the lands shall be subject to such reasonable conditions as may be imposed by the Bishop, either generally or in any particular case.

(*b*) In the case of any land, the removal and reinterment of any human remains shall be subject to such directions as may be given by the Secretary of State, either generally or in any particular case. [4661]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of these Regulations, but is intended to indicate their general purport.*)

These Regulations, which are made under Section 28 *of the Town and Country Planning Act,* 1944, *prescribe the terms and conditions governing the use of land, consecrated or otherwise, acquired or appropriated for the purposes of the Act, and occupied or formerly occupied as churches, places of religious worship or burial grounds, including conditions governing the removal and reinterment, the treatment and removal of memorials of any kind, and the expenses incidental thereto.*

TOWN AND COUNTRY PLANNING (MAKING OF APPLICATIONS) REGULATIONS, 1948

S.I. 1948 *No.* 711

April 8, 1948

The Minister of Town and Country Planning in exercise of the powers conferred on him by Section 102 (1) and Section 73 (1) of the Town and Country Planning Act, 1947, and all other powers enabling him in that behalf hereby makes the following Regulations :—

1. Interpretation.—(1) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

(2) In these Regulations—

(*a*) " the Act " means the Town and Country Planning Act, 1947 ;

(*b*) " the Board " means the Central Land Board ;

(*c*) the expression " determination of development charge " means a determination of the Board whether any and, if so, what development charge is to be paid under the provisions of Part VII of the Act in respect of the carrying out of any operations or in respect of any use of land to which that Part of the Act applies. [4662]

2. Planning permission.—(1) An application to a local planning authority for planning permission under Part III of the Act shall be made on a form issued by the local planning authority and obtainable from that authority or from the Council with whom the application is to be lodged, and shall include such particulars and shall be accompanied by such plans and drawings, together with such additional number of copies (not exceeding three) of the form and plans and drawings, as may be required by the directions of the local planning authority printed on the form :

Provided that it shall not be necessary to furnish plans and drawings other than a plan sufficient to identify the land to which the application relates, in any case where the proposed development is, for the purposes of the local planning authority, sufficiently described by the particulars together with that plan.

(2) The application shall be lodged—

(i) Where the land in respect of which the application is made is in the administrative County of London—

(*a*) in the case of land in the City of London, with the Common Council of that City ;

(*b*) in the case of any other land in the said County, with the London County Council.

(ii) Where the land is not in the administrative County of London, with the County Borough Council or the County District Council for the area in which the land is situate,

and the authority with whom the application is lodged shall, where necessary, transmit it to the local planning authority to whom it is made. [4663]

3. Development charge.—(1) An application to the Board to determine whether any and, if so, what development charge is to be paid in respect of any operations or use of land shall be made on a form issued by the Board for the purpose and obtainable either from the Board or from any authority with whom an application for planning permission may be lodged under the preceding Regulation.

(2) Such application to the Board shall contain such particulars and

shall be accompanied by such plans, drawings and other documents as may be required by any directions of the Board to enable them to determine whether any and, if so, what development charge is to be paid :

Provided that it shall not be necessary to furnish plans and drawings other than a plan sufficient to identify the land to which the application relates, in any case where the proposed development is, for the purposes of the Board, sufficiently described by the particulars together with that plan.

(3) Such application to the Board shall (save as hereinafter provided) be sent to the Board at such address as is indicated in any directions of the Board, or, in the absence of any such indication, to any office of the Board :

Provided that where application for planning permission is required under Part III of the Act, application to the Board may be sent to the authority with whom the application for planning permission is to be lodged under Regulation 2 of these Regulations accompanied by the application for planning permission. [4664]

4. Confirmation of development charge.—An application to the Board for the confirmation of a determination of development charge shall be made by letter addressed to the Board at the office from which the determination of development charge was issued giving particulars of the determination in respect of which the application is made and of the circumstances in which confirmation of the determination is required. [4665]

5. Variation of development charge.—An application made to the Board to vary the determination of a development charge shall be made on a form issued by the Board for the purpose and obtainable from any office of the Board and shall include full particulars in relation to the following matters :—

(*a*) The development charge in respect of which the application is made.

(*b*) The grounds on which the application is made.

(*c*) Where the application is made by the person entitled to an interest in land to which a determination of development charge relates on the ground that a change of circumstance has taken place since the determination, particulars of such change of circumstance.

(*d*) Where an application is made on the ground that, after the determination of the amount of the development charge and before that amount has been fully discharged :—

(i) planning permission for the carrying out of the operations, or for the institution or continuance of the use, to which the determination relates, has been modified by an order made under Section 21 of the Act, particulars of such order ;

(ii) an order has been made under Section 26 of the Act requiring the alteration of any buildings or works erected or constructed in the carrying out of those operations, or imposing conditions on the continuance of that use, particulars of such order ;

(iii) any part of the land to which the determination relates has been compulsorily acquired under the Act or any other enactment, particulars of such compulsory acquisition.

(*e*) The manner in which the applicant desires that the determination to which the application relates should be varied.

(*f*) The manner in which the applicant desires any covenants or charges made or given in respect of the determination should be amended, discharged or released.

(*g*) Such other material particulars as are requisite for considering the application. [4666]

6. Power to call for information and production of evidence.—A local planning authority or the Board may by a direction in writing addressed to the applicant require such further information, in addition to that given in the application made to them, as may be requisite to enable them to determine the matter in respect of which the application is made to be given to them or such evidence as they may reasonably call for to verify any particulars of information given to them to be produced to an officer of the authority or Board as the case may be. [4667]

7. Citation and commencement.—These Regulations may be cited as the Town and Country Planning (Making of Applications) Regulations, 1948, and shall come into operation on the appointed day. [4668]

* * * * *

EXPLANATORY NOTE

(This Note is not part of these Regulations, but is intended to indicate their general purport.)

These Regulations, which are made under Sections 73 and 102 of the Town and Country Planning Act, 1947, prescribe the manner in which application may be made—

(a) to a local planning authority for permission to develop land;
(b) to the Central Land Board to determine, confirm or vary a development charge.

CLAIMS FOR DEPRECIATION OF LAND VALUES REGULATIONS, 1948

S.I. 1948 *No.* 902

April 29, 1948

General note.—These regulations are amended as from January 1, 1949, by the Claims for Depreciation of Land Values (Period for Making Claims) Regulations, 1948 (S.I. 1948 No. 2822) which extend the period for making claims (reg. 2, *infra*) to June 30, 1949, and in consequence revoked the Central Land Board's power to grant an extension up to that date (reg. 11, *post*).

The Minister of Town and Country Planning in exercise of the powers conferred on him by Section 60, subsection (2) of Section 64, and Section 111 of the Town and Country Planning Act, 1947, and of all other powers enabling him in that behalf hereby makes the following Regulations :—

Citation and Commencement

1. These Regulations may be cited as the Claims for Depreciation of Land Values Regulations, 1948, and shall come into operation on the appointed day.* [4669]

Interpretation

2.—(1) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

(2) In these Regulations :—

(i) The expression " the Act " means the Town and Country Planning Act, 1947;

(ii) The expression " the Acts relating to previous planning control " means the Town and Country Planning Act, 1932, any enactment repealed by that Act or repealed by any enactment which

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* *See* S.I. 1948 No. 213.

that Act repeals, the Town and Country Planning (Interim Development) Act, 1943, the Town and Country Planning Act, 1944, the Restriction of Ribbon Development Acts, 1935 and 1943, the Building Restrictions (War-Time Contraventions) Act, 1946, or all or any one or more of the foregoing enactments ;

(iii) The expression " the Board " means the Central Land Board ;

(iv) The expression " Section 58 scheme " means a scheme to be made by the Treasury under Section 58 of the Act ;

(v) The expression " claim " means a claim made to the Board in accordance with the provisions of subsection (1) of Section 60 of the Act for a payment under a Section 58 scheme ;

(vi) The expression " said interest in land " means the interest in fee simple in land or the leasehold interest in land in respect of which a claim is made ;

(vii) The expression " said land " means the land in respect of an interest in which a claim is made and includes, where the context so admits, any part or parts thereof ;

(viii) The expression " rentcharge " means a rentcharge (including a fee farm rent) subsisting at law or capable of subsisting at law, and not being an interest or charge arising under a settlement within the meaning of the Settled Land Act, 1925, and means, where an apportionment of a rentcharge binding on the owner thereof has been made, each of the apportioned parts and not the entire rentcharge ;

(ix) The expression " claimant " means the person by whom a claim in respect of the said interest in land has been duly made or other the person to whom, to the knowledge of the Board, the right to receive a payment under a Section 58 scheme in respect of the same interest in land has been transmitted by assignment or by operation of law or, in a case where any such person as aforesaid is unable to act, the person who, to the knowledge of the Board, is duly authorised to act on his behalf ;

(x) The expressions " unrestricted value " " restricted value " and " development value " of an interest in land have the meanings respectively assigned to them by subsections (2) and (1) of Section 61 of the Act. [4670]

Making of Claims and Furnishing of Information

3. A claim shall be made on a form to be issued by the Board and such form may require all information which in the opinion of the Board is material for the purposes of ascertaining the development value of the said interest in land and of preparing a Section 58 scheme to be given in relation to all or any of the following matters :—

(i) particulars of the said interest in land and of the said land, together with such a description or with such a plan of suitable size as may be requisite to identify the said land, and land, other than the said land, to which the provisions of sub-head (xiv) of this Regulation apply, and all easements subject to or with the benefit of which the said land or the said interest in land is held ;

(ii) the particular interest in the said land of the person by whom the claim is made, and his title to such interest ;

(iii) the identity of the person by whom the claim is made ;

(iv) all easements privileges rights liberties and advantages appertain-

ing to or held or enjoyed in connection with the said land or the said interest in land ;

(v) all easements profits restrictions and other matters of a like nature, including (in the case of registered land) all overriding interests within the meaning of the Land Registration Act, 1925, subject to which the said land or the said interest in land is held, and any limitation as to the purposes for which the said interest in land can be enjoyed ;

(vi) the mineral interests subject to or with the benefit of which the said land or the said interest in land is held ;

(vii) all mortgages affecting the said interest in land ;

(viii) particulars of any land tax, tithe redemption annuity and other outgoings (if any) charged on or payable in respect of the said land ;

(ix) all rentcharges charged on the said land ;

(x) if the said land was formerly copyhold land within the meaning of the Law of Property Act, 1922, the rights (if any) preserved to the Lord of the Manor upon the enfranchisement thereof ;

(xi) all interests, other than those of the person by whom the claim is made, subsisting in the said land ;

(xii) all contracts for sale or exchange or notices to treat affecting the said interest in land ;

(xiii) all interests which the person by whom the claim is made has in other land in the vicinity of the said land and in respect of which a separate claim is made ;

(xiv) particulars of any other land held with the said land which may affect the unrestricted value of the said interest in land pursuant to subsection (6) of Section 61 of the Act ;

(xv) all uses to which the said land is being or has been put which may be relevant for the purpose of ascertaining the operation of Section 12 of the Act, and the Third Schedule thereto, in relation to the said land ;

(xvi) all improvements and developments relating to the said land either in course of execution or carried out with a view to the further development of the said land ;

(xvii) any application made under the Acts relating to previous planning control in respect of the said land, and the results thereof ;

(xviii) any planning permission which has been granted, or which by virtue of Section 78 of the Act is deemed to be granted, in respect of the said land ;

(xix) any work on the said land in respect of which any compensation has been paid under subsection (2) of Section 7 of the Town and and Country Planning (Interim Development) Act, 1943 ;

(xx) any contribution paid under subsection (4) of Section 4 of the Town and Country Planning (Interim Development) Act, 1943, to the owner (within the meaning of that expression in Section 64 of the Act) of the said interest in land or his predecessor in title ;

(xxi) any enforcement notice which has been served by virtue of Section 75 of the Act in relation to the said land ;

(xxii) if the said land is requisitioned land :—

(*a*) the date of the beginning of the period of requisition ;

(*b*) any buildings or works erected or constructed on the said land during the period of requisition, in respect of the value of which a payment has been or is required to be made to a Minister by any person interested in the said land in pursuance of an agreement made between them, or which were

otherwise erected or constructed wholly or partly at the expense of any such person, together with full particulars thereof;

(*c*) any development of the said land carried out during the period of requisition, being development in respect of which compensation is payable under the Compensation (Defence) Act, 1939, or under regulations made under the Emergency Powers (Defence) Act, 1939, together with full particulars thereof;

(xxiii) the amounts claimed as representing the unrestricted value restricted value and development value respectively of the said interest in land together with such particulars thereof as in the opinion of the Board are requisite to enable them to determine that development value;

(xxiv) such other particulars relating to the said land or to the said interest in land as may be required by the Board for the purpose of determining the development value of the said interest in land;

(xxv) such other particulars as are required for the purposes of the preparation of a Section 58 scheme. [4671]

4. A claim shall be made to the Board within the period commencing on the date on which these Regulations come into operation and ending on the 31*st day of March* [30th day of June] 1949. [4672]

General note.—As from January 1, 1949, the date in square brackets is substituted for "31st day of March," italicised *supra*, by S.I. 1948 No. 2822.

5. If the Board shall require further information in addition to that which is required to be furnished by a form issued pursuant to Regulation 3 of these Regulations or which could have been required so to be furnished, or if the information furnished on such form shall be insufficient for the requirements of the Board, the claimant shall furnish to the Board such further information with respect to the matters specified in that Regulation as the Board may by notice in writing require within such period (not being less than 30 days) as the Board may specify in the notice. [4673]

6. A claim and any information given to the Board in relation thereto shall be related to the said interest in land as it subsisted on the 1st day of July 1948, or

(*a*) in the case of an interest in land to which the provisions of subsection (1) of Section 91 of the Act apply, to the said interest in land as it would have subsisted if the purchase to which that subsection applies or is made to apply by subsection (4) of that Section had been completed immediately before the 1st day of July 1948, or

(*b*) in the case of an interest in land to which the provisions of subsection (2) of Section 91 of the Act apply, to the said interest in land as it subsisted immediately before the date of the notice to treat to which that subsection refers or of the making of the contract to which that subsection as applied by subsection (4) of that Section refers, as the case may be, with all incidents to which it was then subject, or

(*c*) in the case of an interest in land with respect to which the provisions of Section 61 of the Act are modified by any other provisions of the Act (other than the provisions of Section 91 of the Act) or of any regulations made thereunder, to the said interest in land as it subsisted on such date as may be appropriate having regard to the provision by which such modification is effected. [4674]

7. Any assignment of the right to receive a payment under a Section 58 scheme or a part of such a payment shall be of no effect for the purposes

of a Section 58 scheme unless notice in writing of such assignment, containing such information as to enable the Board to identify the land and the interest therein to which the notice relates, is transmitted to the Board within the period commencing on the date on which these Regulations come into operation or the date on which such assignment takes effect whichever is the later and ending on the 31st day of December, 1952. [4675]

8.—(1) Where, after a claim has been duly made and before the 1st day of January, 1953 :—

(*a*) an enforcement notice is served by virtue of Section 75 of the Act in relation to the said land, or

(*b*) a notice to treat affecting the said interest in land is served on the claimant, or the claimant enters into a contract for the acquisition of the said interest in land by any authority or person who have power or could be authorised to acquire that interest compulsorily under any enactment,

the claimant shall, within thirty days after the date of the service of any such enforcement notice or notice to treat, or of entering into any such contract, as the case may be, notify the Board thereof in writing.

(2) In this Regulation, a reference to service of a notice to treat shall not be construed as including a reference to the constructive service of such a notice which, by virtue of the Sixth Schedule to the Town and Country Planning Act, 1944, or of any other enactment, is to be deemed to be served. [4676]

9. The Board may require any information given to them under these Regulations to be verified by a statutory declaration. [4677]

10. The right to receive a payment under a Section 58 scheme shall be conditional upon due and punctual compliance with the provisions of Regulations 3, 4 and 5 of these Regulations within the limits of the time specified in these Regulations, *so however that if pursuant to Regulation* 11 *of these Regulations the Board extend the period for the making of a claim the provisions of the relevant Regulation shall be deemed to have been duly and punctually complied with if the claim is made within such extended period.* [4678]

General note.—The words in italics, *supra*, are deleted as from January 1, 1949, by S.I. 1948 No. 2822.

11. *The Board may extend the period for the making of a claim specified in Regulation* 4 *of these Regulations on application being made to them in that behalf and notwithstanding that the period has expired in any case in which the Board are satisfied that the making of such claim was not reasonably possible within that period Provided that any extension so granted shall in no case be for a period expiring after the* 30*th day of June* 1949. [4679]

General note.—This regulation, *supra*, is revoked as from January 1, 1949, by S.I. 1948 No. 2822.

Determination of Development Value

12.—(1) The Board shall be the authority which shall determine the development values of interests in land in respect of which any claim is made.

(2) After a claim has been duly made the Board shall consider the claim, make such enquiries and inspections and take such steps as they may think requisite, and shall as soon as practicable thereafter prepare a statement of the amount (if any) which they propose to determine as the development value of the said interest in land, and (except in a case where the Board propose to determine that there is no development value in the said interest in land) such statement shall state the amounts of the unrestricted value

and restricted value by reference to which the Board propose to determine the development value.

(3) When the Board have prepared the said statement, they shall serve notice in writing upon the claimant of the amount specified therein as the proposed development value and (except as aforesaid) of the amounts of the unrestricted value and restricted value to which the said statement refers.

(4) Within 60 days after service upon him of the notice pursuant to paragraph (3) of this Regulation, the claimant may give notice in writing to the Board that he objects to any amount specified in the statement and shall state the grounds of his objection and the amount or amounts which he desires to be specified in lieu thereof and in the event of any such notice being given the Board shall consider the grounds of such objection.

(5) As soon as may be after giving effect to the preceding provisions of this Regulation, the Board shall determine the amount (if any) of the development value of the said interest in land and shall serve notice in writing thereof upon the claimant, and (except in a case where the Board determine that there is no development value in the said interest in land) such notice shall state the amounts of the unrestricted value and restricted value by reference to which the Board so determine the development value. Subject to the provisions of Regulations 13 and 14 and of paragraph (1) of Regulation 15 of these Regulations, the development value when so determined and notified by the Board shall be treated as conclusive for the purposes of a Section 58 scheme. [4680]

Arbitration

13.—(1) If the claimant disputes the development value as determined by the Board under paragraph (5) of Regulation 12 of these Regulations and shall not before the date of such determination have notified to the Board in writing his agreement of the development value at a sum equal to or less than the development value as so determined, he may within 30 days after notice has been served upon him by the Board pursuant to that paragraph give notice in writing to the Board of such dispute and of the grounds thereof and, in particular, of the amounts of the unrestricted value and restricted value by reference to which he asserts that the development value should be determined and thereupon, subject to the provisions of paragraph (7) of this Regulation, the dispute shall be referred to and settled by an arbitrator appointed in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919.

(2) The claimant shall immediately after giving notice to the Board pursuant to paragraph (1) of this Regulation send to the Reference Committee for England and Wales constituted under the Acquisition of Land (Assessment of Compensation) Act, 1919 a copy thereof and an application for the selection of an arbitrator and shall thereupon send a copy of that application to the Board.

(3) The provisions of the Acquisition of Land (Assessment of Compensation) Rules, 1919 and the Acquisition of Land (Assessment of Compensation) Fees Rules, 1931 and of any other Rules for the time being in force made under the Acquisition of Land (Assessment of Compensation) Act, 1919 shall apply to an arbitration pursuant to paragraph (1) of this Regulation so far as the same are not modified by or inconsistent with the Act or these Regulations and subject to the following modifications :—

(*a*) references therein to a question of disputed compensation shall be construed as references to the dispute between the claimant and the Board and the expression " question " shall be construed accordingly ;

(*b*) references therein to the acquiring authority shall be construed as references to the Board ;

(*c*) references therein to land to be acquired shall be construed as references to the said land ;

(*d*) references therein to a claim shall be construed as references to a dispute of which notice has been given pursuant to paragraph (1) of this Regulation ;

(*e*) references in Rule 3 of the Acquisition of Land (Assessment of Compensation) Fees Rules, 1931 to the amount awarded to the claimant shall be construed as references to the development value specified in the award ;

(*f*) references therein to compensation shall be construed as references to development value ;

(*g*) paragraphs (1) and (2) of Rule 3 of the Acquisition of Land (Assessment of Compensation) Rules, 1919 shall not apply ; and

(*h*) the following paragraph shall apply in substitution for paragraph (1) of Rule 7 of the Acquisition of Land (Assessment of Compensation) Rules, 1919 :—

> " Where notices of dispute have been given in the case of any two or more interests in the same land the Board may, subject as hereinafter provided, at any time after an application for the selection of an arbitrator to hear the disputes has been made make an application to the Reference Committee to have the same person selected as the arbitrator to hear and determine all the disputes to which the application relates.
>
> Provided that no such application shall be made as respects a dispute if an arbitrator has already entered on the consideration of the dispute ".

(4) The arbitrator shall by his award either confirm the development value as determined by the Board under paragraph (5) of Regulation 12 of these Regulations or direct the Board to alter the development value as so determined by them to such an amount as he thinks proper having regard to all the circumstances of the case, and such direction shall state the amounts of the unrestricted value and restricted value by reference to which the arbitrator has ascertained the altered development value.

(5) If by his award the arbitrator confirms the development value as determined by the Board such development value shall as from the date of the award, and subject to any directions of the High Court in proceedings arising out of the arbitration, be treated as conclusive for the purposes of a Section 58 scheme.

(6) If by his award the arbitrator so directs, the Board shall alter the development value so as to give effect to such direction and shall give notice in writing to the claimant of the development value as so altered, and thereupon the development value as so altered shall (subject to any directions of the High Court in proceedings arising out of the arbitration) be treated as conclusive for the purposes of a Section 58 scheme.

(7) If, at any time after the claimant shall have given notice of dispute under paragraph (1) of this Regulation and before the arbitrator has made his award or before the decision of the High Court has been made upon any case stated by the arbitrator, the Board and the claimant shall in writing agree such development value, then the Board shall determine the development value in accordance with such agreement and the same shall as from the date of such determination be treated as conclusive for the purposes of a Section 58 scheme. [4681]

General

14. If, at any time after a determination of development value by virtue of any provision in any preceding Regulation of these Regulations and before the 1st day of January, 1953, there shall come to the knowledge of the Board any matter :—

(*a*) which, pursuant to the provisions of Section 75 of the Act, involves a modification of the assumptions required to be made for the purpose of calculating the development value of the said interest in land, or

(*b*) by virtue of which an adjustment is required by sub-section (3) of Section 91 of the Act to be made of any calculation previously made of the restricted value or the unrestricted value of the said interest in land,

then and in any such case the said determination shall be of no effect, and the provisions of Regulations 12 and 13 of these Regulations shall again come into effect. [4682]

15.—(1) If a claimant desires to question the regularity of any determination of development value on the ground that any requirements of the Act or of these Regulations (other than requirements in connection with the settlement of any dispute by reference to arbitration pursuant to Regulation 13 of these Regulations) have not been complied with in relation to that determination, he may within six weeks of such determination make an application for that purpose to the High Court and the Court, if satisfied upon the hearing of the application that the interests of the claimant have been substantially prejudiced by any such requirement as aforesaid not having been complied with, may quash the determination of the development value and give such directions as appear to the Court to be requisite for remedying the default.

(2) Subject as aforesaid and to any alteration of development value effected in conformity with paragraph (6) of Regulation 13 of these Regulations, the development value of every interest in land as determined by the Board shall be deemed to have been regularly made for the purposes of a Section 58 scheme, and the right to make satisfaction of payment in accordance with a Section 58 scheme on the basis of such determination shall not after the expiration of the said period of six weeks be questioned by prohibition or certiorari or in any other legal proceedings whatever. [4683]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of the Regulations, but is intended to indicate their general purport.*)

These Regulations prescribe the manner and the period in which claims for payments under a scheme made under Section 58 of the Town and Country Planning Act, 1947, in respect of interests in land which are depreciated in value by virtue of the provisions of that Act, shall be made to the Central Land Board, the particulars which are to accompany such claims and the evidence by which they shall be verified.

They also provide for the ascertainment of the development values of interests in land in respect of which such claims are made and for the ascertainment of such other particulars as may be required for the purposes of the scheme.

The Regulations further provide that the Central Land Board shall be the authority which shall determine the development values and prescribe the manner in which they shall be determined.

Disputes arising in relation to such determinations are by these Regulations

to be settled by an arbitrator appointed in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919.

The Regulations prescribe the practice and procedure to be followed in connection with the making of determinations and the settlement of disputes arising in relation thereto and the time and manner in which proceedings may be taken in connection with alleged irregularities.

The right to a payment is by the Regulations made conditional upon compliance with the provisions thereof with respect to the making of claims.

The Regulations also prescribe the manner and period in which notice of any assignment of a right to receive a payment under the scheme shall be given to the Central Land Board in order to be effective.

TOWN AND COUNTRY PLANNING (USE CLASSES) ORDER, 1948

S.I. 1948 *No.* 954

May 5, 1948

The Minister of Town and Country Planning in exercise of the powers conferred on him by Section 12 of the Town and Country Planning Act, 1947, and of all other powers enabling him in that behalf hereby makes the following Order :—

Citation and Commencement

1. This Order may be cited as the Town and Country Planning (Use Classes) Order, 1948, and shall come into force on the appointed day. [4684]

Interpretation

2.—(1) The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

(2) In this Order, unless the context otherwise requires, the following expressions have the meanings respectively assigned to them, namely :—

" the Act " means the Town and Country Planning Act, 1947 ;

" the appointed day " means the day appointed for the coming into force of the Act* ;

" shop " means a building used for the carrying on of any retail trade or retail business wherein the primary purpose is the selling of goods (excluding refreshments other than light refreshments) by retail, and without prejudice to the generality of the foregoing includes a building used for the purposes of a hairdresser, undertaker, ticket agency or receiving office for goods to be washed, cleaned or repaired, or for other purposes appropriate to a shopping area, but does not include a building used as an amusement arcade, pin-table saloon, funfair, garage, petrol filling station, hotel or premises licensed for the sale of intoxicating liquors for consumption on the premises ;

" light refreshments " means eatables not cooked on the premises, and beverages ;

" building " includes part of a building ;

" office " includes a bank ;

" industrial building " means a building (other than a building in or adjacent to and belonging to a quarry or mine and other than a shop) used for the carrying on of any process for or incidental to any of the following purposes, namely,—

(*a*) the making of any article or of part of any article, or

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* *See* S.I. 1948 No. 218.

(*b*) the altering, repairing, ornamenting, finishing, cleaning, washing, packing or canning, or adapting for sale, or breaking up or demolition of any article, or

(*c*) without prejudice to the foregoing paragraphs, the getting, dressing or treatment of minerals,

being a process carried on in the course of trade or business other than agriculture, and for the purposes of this definition the expression "article" means an article of any description, including a ship or vessel;

"light industrial building" means an industrial building (not being a special industrial building) in which the processes carried on or the machinery installed are such as could be carried on or installed in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit;

"general industrial building" means an industrial building other than a light industrial building or a special industrial building;

"special industrial building" means an industrial building used for one or more of the purposes specified in Classes V, VI, VII, VIII and IX referred to in the Schedule to this Order;

"wholesale warehouse" means a building where business, principally of a wholesale nature, is transacted and goods are stored or displayed, but only incidentally to the transaction of that business;

"repository" means a building (excluding any land occupied therewith) where storage is the principal use and where no business is transacted other than incidentally to such storage;

and references to a building may, except where otherwise provided, include references to land occupied therewith and used for the same purposes. [4685]

Use Classes

3.—(1) Where a building or other land is used for a purpose of any class specified in the Schedule to this Order, the use of such building or other land for any other purpose of the same class shall not be deemed for the purposes of the Act to involve development of the land.

(2) Where a group of contiguous or adjacent buildings used as parts of a single undertaking includes industrial buildings used for purposes falling within two or more of the classes specified in the Schedule to this Order as Classes III to IX inclusive, those particular two or more classes may, in relation to that group of buildings, and so long as the area occupied in that group by either general or special industrial buildings is not substantially increased thereby, be treated as a single class for the purposes of this Order.

(3) A use which is ordinarily incidental to and included in any use specified in the Schedule to this Order is not excluded from that use as an incident thereto merely by reason of its specification in the said Schedule as a separate use. [4686]

SCHEDULE

Class I.—Use as a shop for any purpose except as :—

(i) a fried fish shop;
(ii) a tripe shop;
(iii) a shop for the sale of pet animals or birds;
(iv) a cats-meat shop.

Class II.—Use as an office for any purpose.

Class III.—Use as a light industrial building for any purpose.

Class IV.—Use as a general industrial building for any purpose.

Class V.—Use for any work which is registrable under the Alkali, etc. Works Regulation Act, 1906, as extended by the Alkali, etc. Works Orders, 1928 to

1939, except a process ancillary to the getting, dressing or treatment of minerals, carried on in or adjacent to a quarry or mine.

Use for any of the following processes, except as aforesaid, so far as not registerable under the above Act :—

(i) smelting, calcining, sintering or other reduction of ores or minerals ;
(ii) converting, re-heating, annealing, hardening or carburising, forging or casting, of iron or other metals ;
(iii) galvanising ;
(iv) recovering of metal from scrap ;
(v) pickling or treatment of metal in acid ;
(vi) chromium plating.

(Special Industrial Group A)

Class VI.—Use for any of the following processes so far as not included in Class V and except a process ancillary to the getting, dressing or treatment of minerals, carried on in or adjacent to a quarry or mine :—

(i) burning of building bricks ;
(ii) lime and dolomite burning ;
(iii) carbonisation of coal in coke ovens ;
(iv) production of calcium carbide, lampblack or zinc oxide ;
(v) crushing or screening of stone or slag.

(Special Industrial Group B)

Class VII.—Use for any of the following purposes so far as not included in Class V :—

The production or employment of

(i) cyanogen or its compounds ;
(ii) liquid or gaseous sulphur dioxide ;
(iii) sulphur chlorides.

Salt glazing.

Sintering of sulphur bearing materials.

The manufacture of glass, where the sodium sulphate used exceeds 1·5 per cent. of the total weight of the melt.

The production of ultramarine or zinc chloride.

(Special Industrial Group C)

Class VIII.—Use for any of the following purposes, so far as not included in Class V :—

The distilling, refining or blending of oils, the production or employment of cellulose lacquers (except their employment in garages in connection with minor repairs), hot pitch or bitumen, or pyridine ; the stoving of enamelled ware ; the production of amyl acetate, aromatic esters, butyric acid, caramel, hexamine, iodoform, B-naphthol, resin products (except synthetic resins, plastic moulding or extrusion compositions and plastic sheets, rods, tubes, filaments, fibres or optical components produced by casting, calendering, moulding, shaping or extrusion), salicylic acid, or sulphonated organic compounds ; paint and varnish manufacture (excluding mixing, milling and grinding) ; the production of rubber from scrap ; or the manufacture of acetylene from calcium carbide, for sale or for use in a further chemical process.

(Special Industrial Group D)

Class IX.—Use for carrying on any of the following industries, businesses or trades so far as not included in Class V :—

Animal charcoal manufacturer.
Blood albumen maker.
Blood boiler.
Bone boiler or steamer.
Bone burner.
Bone grinder.
Breeder of maggots from putrescible animal matter.
Candle maker.

Catgut manufacturer.
Chitterling or nettlings boiler.
Dealer in rags or bones (including receiving, storing, sorting or manipulating rags in or likely to become in an offensive condition, or any bones, rabbit-skins, fat or putrescible animal products of a like nature).
Fat melter or fat extractor.
Fellmonger.
Fish curer.
Fish oil manufacturer.
Fish skin dresser or scraper.
Glue maker.
Gut scraper or gut cleaner.
Leather dresser.
Maker of meal for feeding poultry, dogs, cattle, or other animals from any fish, blood, bone, fat or animal offal, either in an offensive condition or subjected to any process causing noxious or injurious effluvia.
Manufacturer of manure from bones, fish, fish offal, blood, spent hops, beans or other putrescible animal or vegetable matter.
Parchment maker.
Size maker.
Skin drier.
Soap boiler.
Tallow melter or refiner.
Tanner.
Tripe boiler or cleaner.

(Special Industrial Group E)

Class X.—Use as a wholesale warehouse for any purpose except storage of offensive or dangerous goods.

Class XI.—Use as a repository for any purpose except storage of offensive or dangerous goods.

Class XII.—Use as a building for public worship or religious instruction or for the social or recreational activities of the religious body using the building.

Class XIII.—Use as a residential or boarding school, a residential college, an orphanage or a home or institution providing for the boarding, care and maintenance of children (other than a hospital, home, hostel, or institution included in Class XVII or Class XVIII).

Class XIV.—Use as a boarding or guest house, a residential club, a hostel or a hotel providing sleeping accommodation.

Class XV.—Use (other than for persons of unsound mind, mental defectives or epileptic persons) as a convalescent home, a nursing home, a sanatorium or a hospital.

Class XVI.—Use (other than residentially) as a health centre, a school treatment centre, a clinic, a creche, a day nursery or a dispensary, or use as a consulting room or surgery unattached to the residence of the consultant or practitioner.

Class XVII.—Use as a hospital, home or institution for persons of unsound mind, mental defectives, or epileptic persons.

Class XVIII.—Use as a home, hostel or institution in which persons may be detained by order of a court or which is approved by one of His Majesty's Principal Secretaries of State for persons required to reside there as a condition of a probation or a supervision order.

Class XIX.—Use as a theatre, a cinema or a music hall.

Class XX.—Use as an art gallery (other than for business purposes), a museum, a public library or a public reading room.

Class XXI.—Use as a dance hall, a skating rink, a swimming bath, a turkish or other vapour or foam bath or a gymnasium, or for indoor games.

Class XXII.—Use as a public hall, a concert hall, an exhibition hall, a social centre, a community centre or a non-residential club. [4687]

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EXPLANATORY NOTE

(This Note is not part of this Order, but is intended to indicate its general purport.)

Section 12 of the Town and Country Planning Act, 1947, provides (inter alia) that the making of any material change in the use of any buildings or other land shall be "development" for the purposes of that Act: but that in the case of buildings or other land which are used for a purpose of any class specified in an order made under the section, the use thereof for any other purpose of the same class shall not be deemed to involve development. This Order specifies the classes accordingly.

TOWN AND COUNTRY PLANNING (USE CLASSES FOR THIRD SCHEDULE PURPOSES) ORDER, 1948

S.I. 1948 *No.* 955

May 5, 1948

The Minister of Town and Country Planning in exercise of the powers conferred on him by paragraph 6 of the Third Schedule to the Town and Country Planning Act, 1947, and of all other powers enabling him in that behalf hereby makes the following Order :—

Citation

1. This Order may be cited as the Town and Country Planning (Use Classes for Third Schedule Purposes) Order, 1948. [4688]

Interpretation

2.—(1) The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

(2) In this Order, unless the context otherwise requires, the following expressions have the meanings respectively assigned to them, namely :—

"the Act" means the Town and Country Planning Act, 1947 ;

"shop" means a building used for the carrying on of any retail trade or retail business wherein the primary purpose is the selling of goods (excluding refreshments other than light refreshments) by retail, and without prejudice to the generality of the foregoing includes a building used for the purposes of a hairdresser, undertaker, ticket agency or receiving office for goods to be washed, cleaned or repaired, or for other purposes appropriate to a shopping area, but does not include a building used as an amusement arcade, pin-table saloon, funfair, garage, petrol filling station, hotel or premises licensed for the sale of intoxicating liquors for consumption on the premises ;

"light refreshments" means eatables not cooked on the premises, and beverages ;

"building" includes part of a building ;

"office" includes a bank ;

"industrial building" means a building (other than a building in or adjacent to and belonging to a quarry or mine and other than a shop) used for the carrying on of any process for or incidental to any of the following purposes, namely,—

(*a*) the making of any article or of part of any article, or

(*b*) the altering, repairing, ornamenting, finishing, cleaning, washing, packing or canning, or adapting for sale, or breaking up or demolition of any article, or

(*c*) without prejudice to the foregoing paragraphs, the getting, dressing or treatment of minerals,

being a process carried on in the course of trade or business other than agriculture, and for the purposes of this definition the expression "article" means an article of any description, including a ship or vessel;

"light industrial building" means an industrial building (not being a special industrial building) in which the processes carried on or the machinery installed are such as could be carried on or installed in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit;

"general industrial building" means an industrial building other than a light industrial building or a special industrial building;

"special industrial building" means an industrial building used for one or more of the purposes specified in Classes V, VI, VII, VIII and IX referred to in the Schedule to this Order;

"wholesale warehouse" means a building where business, principally of a wholesale nature, is transacted and goods are stored or displayed, but only incidentally to the transaction of that business;

"repository" means a building (excluding any land occupied therewith) where storage is the principal use and where no business is transacted other than incidentally to such storage;

and references to a building may, except where otherwise provided, include references to land occupied therewith and used for the same purposes. [4689]

Use Classes

3.—(1) The classes specified in the Schedule to this Order, shall be the general classes for the purposes of paragraph 6 of the Third Schedule to the Act.

(2) Where a group of contiguous or adjacent buildings used as parts of a single undertaking includes industrial buildings used for purposes falling within two or more of the classes specified in the Schedule to this Order as Classes III to IX inclusive, those particular two or more classes may, in relation to that group of buildings, and so long as the area occupied in that group by either general or special industrial buildings is not substantially increased thereby be treated as a single class for the purposes of this Order.

(3) A use which is ordinarily incidental to and included in any use specified in the Schedule to this Order is not excluded from that use as an incident thereto merely by reason of its specification in the said Schedule as a separate use. [4690]

SCHEDULE

Class I.—Use as a shop for any purpose except as :—

(i) a fried fish shop;
(ii) a tripe shop;
(iii) a shop for the sale of pet animals or birds;
(iv) a cats-meat shop.

Class II.—Use as an office for any purpose.

Class III.—Use as a light industrial building for any purpose.

Class IV.—Use as a general industrial building for any purpose.

Class V.—Use for any work which is registerable under the Alkali, etc. Works Regulation Act, 1906, as extended by the Alkali, etc. Works Orders, 1928 to 1939, except a process ancillary to the getting, dressing or treatment of minerals, carried on in or adjacent to a quarry or mine.

Use for any of the following processes, except as aforesaid, so far as not registerable under the above Act :—

(i) smelting, calcining, sintering or other reduction of ores or minerals;

(ii) converting, re-heating, annealing, hardening or carburising, forging or casting, of iron or other metals ;
(iii) galvanising ;
(iv) recovering of metal from scrap ;
(v) pickling or treatment of metal in acid ;
(vi) chromium plating.

(Special Industrial Group A)

Class VI.—Use for any of the following processes so far as not included in Class V and except a process ancillary to the getting, dressing or treatment of minerals, carried on in or adjacent to a quarry or mine :—

(i) burning of building bricks ;
(ii) lime and dolomite burning ;
(iii) carbonisation of coal in coke ovens ;
(iv) production of calcium carbide, lampblack or zinc oxide ;
(v) crushing or screening of stone or slag.

(Special Industrial Group B)

Class VII.—Use for any of the following purposes so far as not included in Class V :—

The production or employment of

(i) cyanogen or its compounds ;
(ii) liquid or gaseous sulphur dioxide ;
(iii) sulphur chlorides.

Salt glazing.

Sintering of sulphur bearing materials.

The manufacture of glass, where the sodium sulphate used exceeds 1·5 per cent. of the total weight of the melt.

The production of ultramarine or zinc chloride.

(Special Industrial Group C)

Class VIII.—Use for any of the following purposes, so far as not included in Class V :—

The distilling, refining or blending of oils, the production or employment of cellulose lacquers (except their employment in garages in connection with minor repairs), hot pitch or bitumen, or pyridine ; the stoving of enamelled ware ; the production of amyl acetate, aromatic esters, butyric acid, caramel, hexamine, iodoform, B-naphthol, resin products (except synthetic resins, plastic moulding or extrusion compositions and plastic sheets, rods, tubes, filaments, fibres or optical components produced by casting, calendering, moulding, shaping or extrusion), salicylic acid, or sulphonated organic compounds ; paint and varnish manufacture (excluding mixing, milling and grinding) ; the production of rubber from scrap ; or the manufacture of acetylene from calcium carbide, for sale or for use in a further chemical process.

(Special Industrial Group D)

Class IX.—Use for carrying on any of the following industries, businesses or trades so far as not included in Class V :—

Animal charcoal manufacturer.
Blood albumen maker.
Blood boiler.
Bone boiler or steamer.
Bone burner.
Bone grinder.
Breeder of maggots from putrescible animal matter.
Candle maker.
Catgut manufacturer.
Chitterling or nettlings boiler.
Dealer in rags or bones (including receiving, storing, sorting or manipulating rags in or likely to become in an offensive condition, or any bones, rabbit-skins, fat or putrescible animal products of a like nature).
Fat melter or fat extractor.

Fellmonger.
Fish curer.
Fish oil manufacturer.
Fish skin dresser or scraper.
Glue maker.
Gut scraper or gut cleaner.
Leather dresser.
Maker of meal for feeding poultry, dogs, cattle, or other animals from any fish, blood, bone, fat or animal offal, either in an offensive condition or subjected to any process causing noxious or injurious effluvia.
Manufacturer of manure from bones, fish, fish offal, blood, spent hops, beans or other putrescible animal or vegetable matter.
Parchment maker.
Size maker.
Skin drier.
Soap boiler.
Tallow melter or refiner.
Tanner.
Tripe boiler or cleaner.

(Special Industrial Group E)

Class X.—Use as a wholesale warehouse for any purpose, except storage of offensive or dangerous goods.

Class XI.—Use as a respository for any purpose except storage of offensive or dangerous goods.

Class XII.—Use as a building for public worship or religious instruction or for the social or recreational activities of the religious body using the building.

Class XIII.—Use as a residential or boarding school, a residential college, an orphanage or a home or institution providing for the boarding, care and maintenance of children (other than a hospital, home, hostel, or institution included in Class XVII or Class XVIII).

Class XIV.—Use as a boarding or guest house, a residential club, a hostel or a hotel providing sleeping accommodation.

Class XV.—Use (other than for persons of unsound mind, mental defectives or epileptic persons) as a convalescent home, a nursing home, a sanatorium or a hospital.

Class XVI.—Use (other than residentially) as a health centre, a school treatment centre, a clinic, a creche, a day nursery or a dispensary, or use as a consulting room or surgery unattached to the residence of the consultant or practitioner.

Class XVII.—Use as a hospital, home or institution for persons of unsound mind, mental defectives, or epileptic persons.

Class XVIII.—Use as a home, hostel or institution in which persons may be detained by order of a court or which is approved by one of His Majesty's Principal Secretaries of State for persons required to reside there as a condition of a probation or a supervision order.

Class XIX.—Use as a theatre, a cinema or a music hall.

Class XX.—Use as an art gallery (other than for business purposes), a museum, a public library or a public reading room.

Class XXI.—Use as a dance hall, a skating rink, a swimming bath, a turkish or other vapour or foam bath or a gymnasium, or for indor games.

Class XXII.—Use as a public hall, a concert hall, an exhibition hall, a social centre, a community centre or a non-residential club. [4691]

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EXPLANATORY NOTE

(*This Note is not part of this Order, but is intended to indicate its general purport.*)

The Third Schedule to the Town and Country Planning Act, 1947, *sets out certain classes of development which an owner of land is assumed to have permission to undertake, when assessments of compensation or development charge*

are being made under the Act. Paragraph 6 of that Schedule provides that one of such classes shall be, in the case of a building or other land which was used on the appointed day (1st July, 1948—see S.I. 1948 No. 213) or, if unoccupied on that day, was last used since 7th January, 1937, for a purpose within any general class specified in a ministerial Order, the use of that building or land for any other purpose falling within the same general class. This Order specifies the general classes accordingly.

An Order of the same date (S.I. 1948 No. 954) made under section 12 of the Act and specifying identical classes, provides that changes of use within these classes shall not involve development. That Order, however, may at any time be amended or revoked, while, in the case of this Order, the Act provides that it shall not be amended or revoked at any time after the appointed day (see *section* 111 (4)).

TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT) ORDER, 1948

S.I. 1948 *No.* 958

May 5, 1948

General note.—As to development by local planning authorities, see S.I. 1948 No. 2302, made on October 14, 1948, and coming into operation on November 1, 1948, and also Ministry of Town and Country Planning Circular No. 61, dealing with the position arising thereon.

This order has been amended, while this volume was passing through the press, by the Town and Country Planning (General Development) Amendment Order, 1949 (S.I. 1949 No. 195).

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The Minister of Town and Country Planning, in exercise of the powers conferred on him by Sections 13, 14, 16 and 114 of the Town and Country Planning Act, 1947, and of all other powers enabling him in that behalf, hereby orders as follows :—

Application, citation and commencement

1.—(1) This Order shall apply to all land in England and Wales :

Provided that if a special development order is made as to any such land this order shall apply thereto to such extent only and subject to such modifications as may be specified in the special order.

(2) This Order may be cited as the Town and Country Planning (General Development) Order, 1948, and shall come into force on the appointed day.* [4692]

Interpretation

2.—(1) In this Order, unless the context otherwise requires, the following expressions have the meanings respectively assigned to them, namely :—

" the Act " means the Town and Country Planning Act, 1947 ;

" the appointed day " means the day appointed for the coming into force of the Act ;

" aqueduct " does not include an underground conduit ;

" building " does not include plant or machinery or a structure or erection of the nature of plant or machinery but includes any other structure or erction and any part of a building as so defined ;

" classified road ", " road " and " trunk road " have the meanings respectively assigned to these expressions by the Trunk Roads Acts, 1936 and 1946 ; and in relation to a trunk road the reference to a proposed road in the definition of road shall include a reference to the site of a proposed road shown in a development plan as likely to be the subject of an order under Section 1 of the Trunk Roads Act, 1946 ;

" contravention of previous planning control ", in relation to any development, has the same meaning as for the purposes of Section 75 of the Act ;

" development affecting trunk roads " means

(*a*) the formation, laying out or alteration of any means of access to a trunk road ; and

(*b*) any other development of land within 220 feet from the middle of a trunk road or such lesser or greater distance as may be specified in relation to trunk roads generally or to a particular trunk road by directions given under paragraph (3) of Article 9 of this Order ;

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* *See* S.I. 1948 No. 213.

" development plan " means a development plan as approved or made by the Minister or as for the time being amended, under Part II of the Act ;

" Educational Authority " means a Local Education Authority for the purposes of the Education Act, 1944, or the Governors or Managers of a Voluntary School under that Act ;

" educational land " and " educational buildings " mean respectively land and buildings held prior to 1st October, 1945, for a purpose within the scope of the Education Act, 1944 ;

" emergency accommodation " means school accommodation needed in connection with the raising of the compulsory school leaving age under the Education Act, 1944 ;

" industrial process " meas any process for or incidental to any of the following purposes, namely :—

(*a*) the making of any article or of part of any article, or

(*b*) the altering, repairing, ornamenting, finishing, cleaning, washing, packing or canning, or adapting for sale, or breaking up or demolition, of any article, or

(*c*) without prejudice to the foregoing paragraphs, the getting, dressing or treatment of minerals,

being a process carried on in the course of trade or business, and for the purposes of this definition the expression " article " means an article of any description, including a ship or vessel ;

" industrial undertakers " means undertakers by whom an industrial process is carried on, and " industrial undertaking " shall be construed accordingly ;

" local highway authority " in relation to a road, means the local authority responsible (otherwise than as agents) for the maintenance of the road ;

" mine " includes any site on which mining operations are carried on ;

" mineral undertakers " means undertakers engaged in mining operations and includes undertakers licensed under the Petroleum Production Act, 1934, to search and bore for and get petroleum ; and for the purposes of this Order any land in respect of which a licence is in force under the said Act authorising any undertakers to search and bore for and get petroleum shall be deemed to be comprised in their undertaking ;

" mining operations " means the winning and working of minerals in, on or under land, whether by surface or underground working ;

" the Minister " means the Minister of Town and Country Planning ;

" private way " means a road or footpath which is not a highway repairable by the inhabitants at large ;

" public vehicle " means a public service vehicle, tramcar or trolley vehicle within the meaning of those expressions in the Road Traffic Act, 1930 ;

" shop " means a building used for the carrying on of any retail trade or retail business wherein the primary purpose is the selling of goods (excluding refreshments other than light refreshments) by retail, and without prejudice to the generality of the foregoing includes a building used for the purposes of a hairdresser, undertaker, ticket agency or receiving office for goods to be washed, cleaned or repaired, or for other purposes appropriate to a shopping area, but does not include a building used as an amusement arcade, pin-table saloon, funfair, garage, petrol filling station, hotel or premises licensed for the sale of intoxicating liquors for consumption on the premises, and for the purposes of this

definition the expression "light refreshments" means eatables not cooked on the premises, and beverages;

"unadopted street" means a street as defined by the Public Health Acts and not being a highway repairable by the inhabitants at large;

"unclassified road" means a road other than a trunk or classified road.

(2) The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament. [4693]

Permitted development

3.—(1) Subject to the subsequent provisions of this Order, development of any class specified in the First Schedule to this Order is permitted by this Order and may be undertaken upon land to which this Order applies, without the permission of the local planning authority or the Minister:

Provided that the permission granted by this Order in respect of any such class of development shall be subject to any condition or limitation imposed in the said First Schedule in relation to that class, and neither such permission nor any permission granted on an application made in pursuance of any such condition or limitation shall authorise any development (other than development of Class XII) which:—

(*a*) consists of the formation, laying out or alteration of a means of access to any road used by vehicular traffic, other than

(i) the formation, laying out or alteration of a means of access for pedestrians only to an unclassified road; or

(ii) the alteration for agricultural purposes of a means of access, used for those purposes, to a road which is neither a trunk road nor a road classified in Class I or Class II by the Minister of Transport under the Ministry of Transport Act, 1919; or

(*b*) obstructs the view of persons using any road used by vehicular traffic at or near any bend, corner, junction or intersection so as to be likely to cause danger to such persons.

(2) Nothing in this Article or in the First Schedule to this Order shall operate so as to permit any development contrary to a condition imposed by any permission granted or deemed to be granted under Part III of the Act on an application.

(3) Any development of Class XII authorised by an Act or order subject to the grant of any consent or approval shall not be deemed for the purposes of this Order to be so authorised unless and until that consent or approval is obtained; and in relation to any development of Class XII authorised by any Act passed or order made after the appointed day, the foregoing provisions of this Article shall have effect subject to any provision to the contrary contained in the Act or order. [4694]

Directions restricting permitted development

4.—(1) If either the Minister or the local planning authority is satisfied that it is expedient that development of any of the classes specified in the First Schedule to this Order should not be undertaken in any particular area, or that any particular development of any of those classes should not be undertaken, unless permission is granted on an application in that behalf, the Minister or the local planning authority may direct that the permission granted by Article 3 of this Order shall not apply to:—

(*a*) all or any development of all or any of those classes in any particular area specified in the direction, or

(*b*) any particular development, specified in the direction, falling within any of those classes:

Provided that in the case of development of Class XII no such direction shall have effect in relation to development authorised by any Act passed after the commencement of this Order or by any Order requiring the approval of both Houses of Parliament approved after that date.

(2) A direction by a local planning authority under this Article shall require the approval of the Minister and the Minister may approve the direction with or without modifications.

(3) Notice of any direction specifying any particular area given or approved by the Minister under head (*a*) of paragraph (1) of this Article shall be published by the local planning authority in at least one newspaper circulating in the locality in which the area is situate and, unless the Minister otherwise directs, on the same or a subsequent date in the London Gazette, and such notice shall contain a concise statement of the effect of the direction and name a place or places where a copy thereof and of a map defining the area to which it relates may be seen at all reasonable hours : and any such direction shall come into force on the date on which notice thereof is first published.

(4) Notice of any direction specifying any particular development given or approved by the Minister under head (*b*) of paragraph (1) of this Article shall be served by the local planning authority on the owner and occupier of the land affected, and any such direction shall come into force on the date on which notice thereof is served on the occupier, or if there is no occupier, on the owner.

(5) Any direction in force immediately before the coming into force of this Order under Article 5 or Article 6 of the Town and Country Planning (General Interim Development) Order, 1946, shall, in so far as it relates to development permitted by this Order, continue in force and have effect as if it were a direction given under this Article, of which notice had been duly published or served, as the case may be.

(6) No direction given or having effect under this Article shall have effect in relation to the carrying out in case of emergency of any development specified in the First Schedule to this Order, or, unless such direction specifically so provides, to the carrying out by statutory undertakers of any of the following operations :—

(*a*) maintenance of bridges, buildings and railway stations ;

(*b*) alteration and maintenance of railway track, and provision and maintenance of track equipment, including signal boxes, signalling apparatus and other appliances and works required in connection with the movement of traffic by rail ;

(*c*) maintenance of docks, harbours, quays, wharves, canals and towing paths ;

(*d*) provision and maintenance of mechanical apparatus or appliances (including signalling equipment) required for the purposes of shipping or in connection with the embarking, loading, discharging or transport of passengers, livestock or goods at a dock, quay, harbour, bank, wharf or basin ;

(*e*) any development required in connection with the improvement, maintenance or repair of watercourses or drainage works. [4695]

Applications for permission

5.—(1) Applications for permission for development made to a local planning authority shall be made in accordance with any regulations under Section 102 of the Act for the time being in force.*

(2) On receipt of any such application the local planning authority shall

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* *See* S.I. 1948 No. 711.

send to the applicant an acknowledgement thereof in the terms (or substantially in the terms) set out in Part I of the Second Schedule hereto.

(3) The period within which the local planning authority shall give notice to the applicant of their decision or of the reference of the application to the Minister shall be the following period from the date of receipt of the application, namely :—

(*a*) in the case of an application referred to in paragraph 1 of Class XIX of the First Schedule hereto, eighteen months ;

(*b*) in the case of an application for permission for development affecting trunk roads, three months ; and

(*c*) in any other case, two months,

or such extended period as may be agreed upon in writing between the applicant and the local planning authority.

(4) Every such notice shall be in writing, and where the local planning authority decide to grant permission subject to conditions or to refuse permission, they shall state their reasons in writing, and send with the decision a notification in the terms (or substantially in the terms) set out in Part II of the Second Schedule hereto.

(5) Where a local planning authority grant permission for any development either unconditionally or subject to conditions, that authority shall, if an application to the Central Land Board for the making of a determination of development charge was attached to the application for such permission, forthwith furnish to the Central Land Board a copy of the application for such permission, and of the plans or other documents submitted therewith, a copy of such permission, and copies or extracts from any correspondence explaining or qualifying the application or the permission.

(6) A local planning authority shall also furnish to the Minister and to such other persons as may be prescribed by directions given by the Minister under this Order, such information as may be so prescribed with respect to applications for permission made to them, including information as to the manner in which any such application has been dealt with. [4696]

Directions restricting the grant of permission

6.—(1) The Minister may give directions restricting the grant of permission by a local planning authority during such period as may be specified in the directions, in respect of any such development or in respect of development of any such class, as may be so specified.

(2) A local planning authority to which a direction has been given under this Article shall, during the period specified in the direction, deal with applications for permission for development to which such direction relates in such manner as to give effect to the terms of the direction. [4697]

Special provisions as to permission for development affecting trunk roads

7.—(1) Before granting permission for development affecting trunk roads, whether unconditionally or subject to conditions, a local planning authority shall consult with the Minister of Transport, to whom they shall notify receipt of the application on such form as may be issued for the purpose by the Minister of Transport.

(2) On receipt of any application for permission for development affecting trunk roads, the local planning authority shall, in addition to sending to the applicant an acknowledgment in accordance with paragraph (2) of Article 5, notify the applicant that the application cannot be dealt with except after consultation with the Minister of Transport.

(3) The Minister of Transport may give directions restricting the grant of such permission by the local planning authority, and the local planning

authority shall deal with the application in such manner as to give effect to the terms of the direction. [4698]

Development not according with the development plan

8. A local planning authority may in such cases and subject to such conditions as may be prescribed by directions given by the Minister under this Order grant permission for development which does not accord with the provisions of the development plan. [4699]

Consultation as to applications for permission

9.—(1) Before granting permission for development in any of the following cases, whether unconditionally or subject to conditions, a local planning authority shall consult with the following authorities or persons, namely :—

(*a*) where it appears to the local planning authority that the development is likely to affect land in the area of any neighbouring local planning authority, with that authority;

(*b*) where it appears to the local planning authority that the development is likely to create or attract traffic which will result in a material increase in the volume of traffic entering or leaving a trunk road or using a level crossing over a railway, with the Minister of Transport ;

(*c*) where the development involves the formation, laying out or alteration of any means of access to a road (other than a trunk road) for which the local planning authority are not also the local highway authority, with the local highway authority concerned ;

(*d*) where the development consists of the erection of a building (other than an alteration, extension or re-erection of an existing building or the erection of a building of a temporary character) in an area of proposed coal working notified by the National Coal Board to the local planning authority, with the National Coal Board ;

(*e*) where the development is of land which is situate within 2 miles from Windsor Castle, Windsor Great Park, or Windsor Home Park, or which is within half a mile from any other Royal Palace or Park, and might affect the amenities of that Palace or Park, with the Minister of Works ;

(*f*) in relation to land in a Metropolitan Borough, where the development

(i) would, whether in accordance with the development plan or not, conflict materially with existing development in the locality in which the land is situate, or

(ii) would conflict with proposals to construct or widen streets notified to the local planning authority by that Borough,

with the Council of that Borough.

(2) Before refusing permission or imposing any conditions upon the grant of permission for any development of land for the purposes of agriculture, a local planning authority shall consult with the County Agricultural Executive Committee constituted under the Agriculture Act, 1947, for the area in which the land is situate.

(3) The Minister may give directions to a local planning authority requiring that authority to consult with the authorities, persons or bodies named in such directions in any case or class of case which may be specified in such directions and before determining any application for permission in any such case or class of case, the local planning authority shall enter into consultation accordingly.

(4) Where under this Article a local planning authority are required to consult with any authority, person or body as to any application, they shall

give not less than 14 days' notice to such authority, person or body that such application is to be taken into consideration, shall not determine the application until after the expiration of the period of such notice, and shall, in determining the application, take into account any representations received from such authority, person or body. [4700]

Reference of applications to the Minister

10. On referring to the Minister any application for permission to develop land pursuant to a direction given by the Minister under Section 15 of the Act, a local planning authority shall serve on the applicant notice of the terms of the direction and of any reasons given by the Minister for issuing the direction, and such notice shall inform the applicant that the application has been referred to the Minister, and shall contain a statement that the Minister will, if the applicant so desires, afford to the applicant an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose, and the decision of the Minister on the application will be final. [4701]

Appeals

11.—(1) Any person who desires to appeal

(*a*) against a decision of a local planning authority refusing permission to develop land or granting permission subject to conditions, or

(*b*) on the failure of a local planning authority to give notice of their decision or of the reference of the application to the Minister

shall give notice of appeal to the Minister within one month of receipt of notice of the decision or of the expiry of the appropriate period specified in paragraph (3) of Article 5 of this Order, as the case may be, or such longer period as the Minister may allow, and shall notify the local planning authority that an appeal has been made.

(2) Such person shall also furnish to the Minister a copy of the following documents, or where the appeal is against a refusal of permission and an application for determination of development charge has been made to the Central Land Board in respect of the same development, two copies thereof :—

(i) the application made to the local planning authority ;
(ii) all relevant plans, drawings and particulars submitted to them ;
(iii) the notice of the decision, if any ;
(iv) all other relevant correspondence with the local planning authority. [4702]

Register of applications

12.—(1) Every local planning authority shall keep a register containing the following information, in respect of all land within their area, namely :—

(*a*) particulars of any application for permission for development made to them in respect of any such land, including the name and address of the applicant, the date of the application, and brief particulars of the development forming the subject of the application ;

(*b*) particulars of any direction given under the Act or this Order in respect of the application ;

(*c*) the decision (if any) of the local planning authority in respect of the application and the date of such decision ;

(*d*) the date and effect of any decision of the Minister in respect of the application, whether on appeal or on a reference under Section 15 of the Act.

(2) Such register shall include an index, which shall be in the form of a map unless the Minister approves some other form, for enabling a person to trace any entry in the register.

(3) Such register may be kept either at the office of the local planning authority or, in relation to the City of London or any county district within the area of the local planning authority, at a convenient place within the the said City or the county district affected, as the case may be. [4703]

Directions and notices

13.—(1) Any power conferred by this Order to give a direction shall be construed as including power to cancel or vary the direction by a subsequent direction.

(2) Any notice to be served or given under this Order may be served or given in the manner prescribed by Section 105 of the Act and by any regulations made under that Section. [4704]

Saving

14. Nothing in this Order shall apply to any permission which is deemed to be granted under Section 32 or Section 35 of the Act. [4705]

SCHEDULES

Article 3

FIRST SCHEDULE

PERMITTED DEVELOPMENT

Class I. Development within the curtilage of a dwelling-house

The erection or construction and the maintenance, improvement or other alteration, within the curtilage of any dwelling-house, of :—

(i) any building or work (other than a dwelling or a garage) ancillary to, but not forming part of, or permanently attached to, a dwelling-house, and required for any purpose incidental to the enjoyment of the dwelling-house as such ; and

(ii) shelters for keeping poultry, livestock, bees, pet animals or birds for the domestic needs or personal enjoyment of the occupants of the dwelling-house :

Provided that the height of any such building or shelter does not exceed 10 feet, and that its cubic capacity does not exceed 1,000 cubic feet.

Class II. Gates and fences, etc.

The erection or construction of gates, fences, walls, or other means of enclosure, not exceeding seven feet in height and not affording access to or abutting on a highway, and the maintenance and repair of any gates, fences, walls or other means of enclosure.

Class III. Changes of use

Development consisting of a change of use to :—

(*a*) use as a light industrial building as defined by the Town and Country Planning (Use Classes) Order, 1948, from use as a general industrial building as so defined ;

(*b*) use as any type of shop from use as

(i) a fried fish shop ;
(ii) a tripe shop ;
(iii) a shop for the sale of pet animals or birds ; or
(iv) a cats-meat shop.

Class IV. Temporary uses

The use of land unoccupied by buildings for any purpose for a period or periods not exceeding 28 days in total in any calendar year, and the erection or placing of moveable structures on the land for the purposes of that use.

Class V. Uses by members of recreational organisations

The use of land, unoccupied by buildings and not within the curtilage of a dwelling-house for the purposes of recreation or instruction by members of an organisation which holds a certificate of exemption granted by the Minister of Health under Section 269 of the Public Health Act, 1936, and the erection or placing of tents or caravans on the land for the purposes of that use.

Class VI. Agricultural buildings, works and uses

1. The erection or construction on land used for the purpose of agriculture of :—

(i) separate buildings for such purposes permanently affixed to the ground and having a superficial area of not more than 300 square feet and a maximum height (measured to the ridge thereof, if any) of 13 feet, being not more than 150 feet from the group of principal farm buildings occupied with such land and not for human habitation ;

(ii) buildings for such purposes not permanently affixed to the ground (including shelters for livestock, but not buildings for human habitation) ;

(iii) silos not exceeding 14 feet in height ;

(iv) wells, and reservoirs, or water tanks not exceeding 14 feet in height nor 20,000 gallons in capacity ;

(v) straw pulping plants, hop-pole tarring plants, sheep dipping accommodation, and lambing pens ;

(vi) structures mainly or wholly of poles, straw, bracken, hurdles, or like material ;

and the formation, alteration and maintenance of private ways on such land.

2. The erection or construction and the maintenance, improvement or other alteration of roadside stands for milk churns, except where they would abut on any trunk or classified road.

3. The winning and working, on land held or occupied with land used for the purposes of agriculture, of any minerals reasonably required for the purposes of that use, including the fertilisation of the land so used and the maintenance, improvement or alteration of buildings or works thereon which are occupied or used for the purposes aforesaid.

Class VII. Forestry buildings and works

The erection or construction and the maintenance, improvement or other alteration on land used for the purposes of forestry (including afforestation) of buildings (not constructed of stone, concrete or brick) having a superficial area of not more than 300 square feet and a maximum height (measured to the ridge thereof, if any) of 13 feet, to be used as offices, tool or store sheds, workshops, or shelters, in connection with forestry, and not for human habitation ; and the formation, alteration and maintenance of private ways on such land.

Class VIII. Development for industrial purposes

1. Development of the following descriptions, carried out by an industrial undertaker on land used (otherwise than (i) in contravention of previous planning control or (ii) without planning permission granted or deemed to be granted under Part III of the Act) for the carrying out of any industrial process, and for the purposes of such process, or on land used (otherwise than as aforesaid) as a dock, harbour or quay for the purposes of an industrial undertaking :—

(i) the provision, rearrangement or replacement of private ways or private railways, sidings or conveyors ;

(ii) the provision or rearrangement of sewers, mains, pipes, cables or other apparatus ;

(iii) the installation or erection, by way of addition or replacement, of plant or machinery, or structures or erections of the nature of plant or machinery, not exceeding 50 feet in height or the height of the plant, machinery, structure or erection so replaced, whichever is the greater, provided that such plant, machinery, structure or erection does not substantially affect the external appearance of the premises of the undertaking.

2. The deposit by an industrial undertaker of waste material or refuse resulting from an industrial process on an land comprised in a site which was used for such deposit, otherwise than in contravention of previous planning control, on the appointed day, whether or not the superficial area or the height of the deposit is thereby extended.

Class IX. Repairs to unadopted streets and private ways

The carrying out of works required for the maintenance or improvement of an unadopted street or private way, being works carried out on land within the boundaries of the street or way.

Class X. Repairs to services

The carrying out of any works for the purpose of inspecting, repairing or renewing sewers, mains, pipes, cables or other apparatus, including the breaking open of any land for that purpose.

Class XI. War damaged buildings, works and plant

The rebuilding, restoration or replacement of buildings, works or plant which have sustained war damage so long as the cubic content immediately before the occurrence of such damage is not increased and such operations do not involve a material alteration from the external appearance immediately before the occurrence of such damage.

Class XII. Development under local and private Acts, or Orders

Development authorised by any local or private Act of Parliament or by any Order approved by both Houses of Parliament, being an Act or Order which designates specifically both the nature of the development thereby authorised and the land upon which it may be carried out :

Provided that permission shall be required in respect of the erection, construction, alteration or extension of any building, including any bridge, aqueduct, pier or dam but not including any other structure or erection, or the formation, laying out or alteration of a means of access to any road used by vehicular traffic, but the local planning authority shall not refuse permission and shall not impose conditions upon the grant thereof, unless they are satisfied that it is expedient so to do on the ground that :—

(*a*) the design or external appearance of such building, bridge, aqueduct, pier or dam would injure the amenity of the neighbourhood and is reasonably capable of modification so as to conform with such amenity ; or

(*b*) in the case of a building, bridge, aqueduct, pier or means of access, the erection, construction, formation, laying out, alteration or extension, ought to be, and could reasonably be, carried out elsewhere on the land.

Class XIII. Development by Local Authorities

1. The erection, construction, maintenance, improvement or other alteration by a Local Authority of :—

(i) such small ancillary buildings, works and equipment as may be required for the purposes of any allotments, cemeteries, parking places, open spaces, playing fields, parks, recreation grounds, gardens, or public walks and pleasure grounds belonging to or maintained by them ;

(ii) information kiosks, passenger shelters, public shelters and seats, telephone boxes, fire alarms, public drinking fountains, horse troughs, refuse bins or baskets, barriers for the control of persons waiting to enter public vehicles, and such other similar structures or works as may be required in connection with the operation of any public service administered by them.

2. The deposit by a Local Authority of waste material or refuse on any land comprised in a site which was used for that purpose, otherwise than in contravention of previous planning control, on the appointed day, whether or not the superficial area or the height of the deposit is thereby extended.

Class XIV. Development by Local Highway or Improvement Authorities

The erection, construction, maintenance, improvement or other alteration by a Local Highway Authority or an Improvement Authority of buildings or works reasonably required in connection with the use, safety or enjoyment of roads.

Class XV. Development by Drainage Authorities

Any development by a Drainage Authority within the meaning of the Land Drainage Act, 1930, in, on or under any watercourse or drainage works, in connection with the improvement or maintenance of such watercourse or drainage works.

Class XVI. Development by Sewerage Authorities

Any development by a Sewerage Authority within the meaning of Part II of the Public Health Act, 1936, or by the Common Council of the City of London, being development below the surface of the ground required in connection with the provision, improvement or maintenance of sewers.

Class XVII. Development by Educational Authorities

The erection on educational land by an Educational Authority with the approval of the Minister of Education of temporary buildings, supplied by the Minister of Works, for emergency accommodation : and the alteration, with similar approval, of existing educational buildings for emergency accommodation.

Class XVIII. Development by Statutory Undertakers

A. Railway or Light Railway Undertakings

Development required in connection with the movement of traffic by rail and carried out by the undertakers or their lessees in, on, over or under the operational land of the undertaking *except* the construction of railways and the construction or erection, or the reconstruction or alteration so as materially to affect the design or external appearance thereof, of any railway station or bridge, or of any residential building, office, or building to be used for manufacturing or repairing work, which is not situate wholly within the interior of a railway station.

B. Dock, Harbour, Water Transport, Canal or Inland Navigation Undertakings

1. Development required for the purposes of shipping or in connection with the embarking, disembarking, loading, discharging or transport of passengers livestock or goods at a dock or harbour, or the movement of traffic by canal or inland navigation, or by any railway forming part of the undertaking, and carried out by the undertakers or by their lessees in, on, over or under the operational land of the undertaking *except* the construction or erection, or the reconstruction or alteration so as materially to affect the design or external appearance thereof, of bridges or other buildings (not being structures or erections required in connection with the handling of traffic).

2. The use of any land for the spreading of dredgings.

C. Water or Hydraulic Power Undertakings

Development required for the purposes of the undertaking of any of the following descriptions, that is to say :—

(i) the laying underground of mains, pipes, or other apparatus ;

(ii) the improvement, maintenance or repair of watercourses or land drainage works ;

(iii) any other development carried out in, on, over or under the operational land of the undertaking *except* :—

(*a*) the erection, or the reconstruction or alteration so as materially to affect the design or external appearance thereof, of buildings,

(*b*) the installation or erection, by way of addition or replacement, of any plant or machinery, or structures or erections of the nature of plant or machinery, exceeding 50 feet in height or the height of the plant, machinery, structure, or erection so replaced, whichever is the greater.

D. Gas Undertakings

Development required for the purposes of the undertaking of any of the following descriptions, that is to say :—

(i) the laying underground of mains, pipes, or other apparatus ;

(ii) the installation in a gas distribution system of gas valve governor houses not exceeding (except when constructed underground elsewhere than under a road) 600 cubic feet in capacity ;

(iii) any other development carried out in, on, over or under operational land of the undertaking *except* :—

(*a*) the erection, or the reconstruction or alteration so as materially to affect the design or external appearance thereof, of buildings ;

(*b*) the installation of any plant or machinery, or structures or erections of the nature of plant or machinery, exceeding 50 feet in height, or capable, without addition, of being extended to a height exceeding 50 feet ;

(*c*) the replacement of any plant or machinery, or structures or erections of the nature of plant or machinery, to a height exceeding 50 feet or the height of the plant, machinery, structure or erection so replaced, whichever is the greater.

E. Electricity Undertakings

Development required for the purposes of the undertaking of any of the following descriptions, that is to say :—

(i) the laying underground of pipes, cables, or other apparatus ;

(ii) the installation in an electrical transmission line of feeder pillars, or transforming or switching kiosks or chambers not exceeding (except when constructed underground elsewhere than under a road) 600 cubic feet in capacity ;

(iii) the installation of service lines from an electrical transmission line ;

(iv) any other development carried out on, in, over or under the operational land of the undertaking *except* :—

(*a*) the erection, or the reconstruction so as materially to affect the design or external appearance thereof, of buildings ; or

(*b*) the installation or erection, by way of addition or replacement, of any plant or machinery, or structures or erections of the nature of plant or machinery, exceeding 50 feet in height or the height of the plant, machinery, structure or erection so replaced, whichever is the greater.

F. Tramway or Road Transport Undertakings

Development required for the purposes of the undertaking of any of the following descriptions, that is to say :—

(i) the installation of posts, overhead wires or transformer boxes not exceeding 600 cubic feet in capacity in, on, over or adjacent to a road for the purpose of supplying current to public vehicles ;

(ii) the installation of tramway tracks, conduits and drains and pipes in connection therewith for the working of tramways ;

(iii) the installation of telephone cables and apparatus used for the operation of public vehicles ;

(iv) the erection or construction, and the maintenance, improvement or other alteration of passenger shelters and barriers for the control of persons waiting to enter public vehicles ;

(v) any other development carried out in, on, over or under the operational land of the undertaking, *except* :—

(*a*) the erection, or the reconstruction or alteration so as materially to affect the design or external appearance thereof, of buildings ;

(*b*) the installation or erection, by way of addition or replacement, of any plant or machinery, or structures or erections of the nature of plant or machinery, exceeding 50 feet in height, or the height of the plant, machinery, structure or erection so replaced, whichever is the greater.

G. Lighthouse Undertakings

Development required for the purposes of the exercise of the functions of a General Lighthouse Authority under the Merchant Shipping Act, 1894.

Class XIX. Development by Mineral Undertakers

1. Where mining operations have been carried out in any land at any time on or after the 1st day of January, 1946, and before the appointed day

(*a*) in conformity with the provisions of a planning scheme or of permission granted thereunder or in accordance with permission granted at any time before the 22nd day of July, 1943, by or under an interim development order and in force immediately before the appointed day ; or

(*b*) under Article 4 of the Town and Country Planning (General Interim Development) Order, 1946,

the continuation of such mining operations in adjoining land (where they form a continuous operation in relation to the land first mentioned) for a period of four months from the appointed day (or for such longer period not exceeding six months from the appointed day as may be allowed in writing in any particular case by the local planning authority) ; and if during that period an application under Part III of the Act for permission to carry out those operations is made, or by virtue of paragraph 1 of the Tenth Schedule is treated as having been made, the continuation of such operations until the application (or any appeal in respect thereof) has been dealt with.

2. The erection, alteration or extension by mineral undertakers on land in or adjacent to and belonging to a quarry or mine comprised in their undertaking of any building, plant or machinery, or structure or erection in the nature of plant or machinery, which is required in connection with the winning or working of minerals other than coal in pursuance of permission granted or deemed to be granted under Part III of the Act, or which is required in connection with the treatment or disposal of such minerals :

Provided that permission shall be required for the erection, alteration or extension of a building but the local planning authority shall not refuse permission and shall not impose conditions upon the grant thereof, unless they are satisfied that it is expedient so to do on the ground that

(*a*) the erection, alteration or extension of such building would injure the amenity of the neighbourhood and modifications can reasonably be made or conditions can reasonably be imposed in order to avoid or reduce the injury ; or

(*b*) the proposed building or extension ought to be, and can reasonably be, sited elsewhere.

Class XX. Development by the National Coal Board

Development of the following descriptions carried out by the National Coal Board, or their lessees or licencees :—

(1) The winning and working underground, in a mine commenced before the appointed day, of coal or other minerals mentioned in paragraph 1 of the First Schedule to the Coal Industry Nationalisation Act, 1946, and any underground development incidental thereto.

(2) Any development required in connection with coal industry activities as defined in Section 63 of the Coal Industry Nationalisation Act, 1946, and carried out in the immediate vicinity of a pithead ;

Provided that permission shall be required in respect of the erection, alteration or extension of a building, but the local planning authority shall not refuse permission and shall not impose conditions on the grant thereof unless they are satisfied that it is expedient so to do on the ground that :—

(*a*) the erection, alteration or extension of such building would injure the amenity of the neighbourhood and modifications can reasonably be made or conditions can reasonably be imposed in order to avoid or reduce the injury ; or

(*b*) that the proposed building or extension ought to be, and can reasonably be, sited elsewhere.

(3) The deposit of waste materials or refuse resulting from colliery production activities as defined by paragraph 2 of the First Schedule to the Coal Industry Nationalisation Act, 1946, on land comprised in a site used (otherwise than in contravention of previous planning control) for the deposit of waste materials or refuse on the appointed day, whether or not the superficial area or the height of the deposit is thereby extended.

Class XXI. Development previously sanctioned by a Government Department

1. Development by a local authority or by statutory undertakers which was sanctioned by any government department before the 1st day of May, 1945, and on which work had been commenced and was proceeding on the appointed day.

2. The erection of any overhead line for the supply of electricity authorised by the Minister of Fuel and Power before the appointed day. [4706]

Article 5 SECOND SCHEDULE

PART I

Notification to be sent to Applicant on receipt of his Application

Your application for planning permission dated (insert date) has been received and if on (insert date of expiry of the appropriate period under Article 5 (3)) you have not been given notice by the local planning authority of their decision, you are entitled, unless the application has already been referred by the authority to the Minister of Town and Country Planning, to appeal to the Minister in accordance with Section 16 of the Town and Country Planning Act, 1947, by notice served within one month from that date. You may, however, by agreement in writing with the local planning authority, extend the period within which the decision of the authority is to be given. [4707]

PART II

Notification to be sent to Applicant on refusal of planning permission or on the grant of permission subject to conditions (To be endorsed on notices of decision.)

(1) If the Applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions, he may by notice served within one month of receipt of this notice, appeal to the Minister of Town and Country Planning in accordance with Section 16 of the Town and Country Planning Act, 1947. The Minister is not, however, required to entertain such an appeal if it appears to him that permission for the proposed development could not have been granted by the local planning authority, or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the provisions of Section 14 of the Act and of the Development Order and to any directions given under the Order.

(2) If permission to develop land is refused, or granted subject to conditions, whether by the local planning authority or by the Minister of Town and Country Planning, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on [the Council of the county borough or county district in which the land is situated]* a purchase notice requiring that Council to purchase his interest in the land in accordance with Section 19 of the Town and Country Planning Act, 1947.

(3) In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused, or granted subject to conditions by the Minister on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in sections 20 and 79 of the Town and Country Planning Act, 1947. [4708]

* * * * * *

Note.—In relation to land in the Administrative County of London, the words in brackets should be modified to suit the particular case. See Section 114 (2) of the Act.

EXPLANATORY NOTE

(This Note is not part of this Order, but is intended to indicate its general purport.)

This Order is the general order, applicable to all land in England and Wales, providing for the grant of permission for the development of land under Part III of the Town and Country Planning Act, 1947. *Article* 3 *of the Order and the First Schedule deal with development which is permitted by the Order itself and Article* 4 *provides procedure for the withdrawal of such permission in particular circumstances. Articles* 5 *to* 12 *and the Second Schedule concern applications for permission made to local planning authorities. Special provision is made in relation to development near trunk roads by Articles* 7 *and* 9 *read with the definition of " development affecting trunk roads " in Article* 2 ; *and by Article* 8 *in relation to development not according with the development plan approved under Part II of the Act. Article* 9 *requires consultation in respect of certain types of application with persons and bodies likely to be affected. Article* 10 *deals with the procedure on reference of an application to the Minister of Town and Country Planning under Section* 15 *of the Act, and Article* 11 *with that on an appeal to him under Section* 16. *Provision is made by Article* 12 *for the keeping of a register of planning applications, which will be available for inspection by the public. (Section* 14 (5) *of the Act.)*

TOWN AND COUNTRY PLANNING (ENFORCEMENT OF RESTRICTION OF RIBBON DEVELOPMENT ACTS) ADDITIONAL REGULATIONS, 1948

S.I. 1948 *No.* 1126

May 27, 1948

The Minister of Town and Country Planning in exercise of the powers conferred on him by subsection (6) of Section 76 of the Town and Country Planning Act, 1947, and of all other powers enabling him in that behalf hereby makes the following Regulations :—

1. These Regulations shall come into force on the appointed day,* and may be cited as the Town and Country Planning (Enforcement of Restriction of Ribbon Development Acts) Additional Regulations, 1948. [4709]

2.—(1) In these Regulations, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say :—

" the Act " means the Town and Country Planning Act, 1947 ;

" the appointed day " means the day appointed for the coming into force of the Act.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [4710]

3. Where any works on land existing at the appointed day were carried out or any use to which land is put on that day was begun in accordance with permission granted subject to conditions under Section 1 or Section 2 of the Restriction of Ribbon Development Act, 1935, the provisions of subsection (1) of Section 76 of the Act shall have effect with respect to those works or that use as though references therein to a planning scheme included references to the said Section 1 or Section 2, and the provisions of subsections (2) to (5) of the said Section 76 shall have effect accordingly, subject to the provisions of the next two succeeding Regulations. [4711]

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* *See* S.I. 1948 No. 213.

4. Subsection (5) of Section 76 of the Act shall have effect as though the reference therein to planning control within the meaning of the Building Restrictions (War-time Contraventions) Act, 1946, included a reference to the provisions of Section 1 or Section 2 of the Restriction of Ribbon Development Act, 1935. [4712]

5. For the purposes of Regulation 3 of these Regulations, any works or use in respect of which a notice has been served under subsection (1) of Section 1 of the Restriction of Ribbon Development (Temporary Development) Act, 1943, or is deemed by virtue of subsection (4) of that Section to have been so served, shall be treated as carried out or begun in accordance with permission granted subject to a condition restricting the period for which the works or use may be continued on the land. [4713]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of these Regulations, but is intended to indicate their general purport.*)

Section 76 of the Town and Country Planning Act, 1947, *provides that conditions imposed in planning permissions granted under the Town and Country Planning Acts of* 1932 *and* 1943 *shall be enforceable as if they had been imposed under the* 1947 *Act. These Regulations apply the provisions of the Section to conditions imposed in permissions granted under Section* 1 *or Section* 2 *of the Restriction of Ribbon Development Act*, 1935, *which Sections are repealed by the* 1947 *Act. Regulation* 5 *provides that temporary development which, by virtue of the Restriction of Ribbon Development (Temporary Development) Act*, 1943, *was exempted, during the war period as defined by that Act, from enforcement action under the* 1935 *Act, shall be treated as if it were the subject of a planning permission granted for a limited period.*

These Regulations are additional to those concerning the enforcement of the Restriction of Ribbon Development Acts made under subsection (8) *of Section* 75 *of the Town and Country Planning Act*, 1947, *which require approval by resolution of each House of Parliament.*

TOWN AND COUNTRY PLANNING (DEVELOPMENT CHARGE EXEMPTIONS) REGULATIONS, 1948 *

S.I. 1948 *No.* 1188

April 29, 1948

The Minister of Town and Country Planning (hereinafter called "the Minister") in exercise of the powers conferred on him by proviso (*b*) of subsection (2) of section 69 of the Town and Country Planning Act, 1947 (hereinafter called "the Act") and all other powers enabling him in that behalf hereby with the consent of the Treasury makes the following Regulations.

Citation, Commencement and Interpretation

1. These Regulations may be cited as the Town and Country Planning (Development Charge Exemptions) Regulations, 1948, and shall come into operation on the appointed day.† [4714]

* These Regulations were approved by Resolution of the House of Commons, May 26th, 1948, and the House of Lords, June 3rd, 1948, in accordance with Section 69 (5) of the Town and Country Planning Act, 1947.

† *See* S.I. 1948 No. 213.

2.—(1) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

(2) In these Regulations, unless the context otherwise requires, the following expressions have the meanings respectively assigned to them, namely :—

" the appointed day " means the day appointed for the coming into force of the Act ;

" shop " means a building used for the carrying on of any retail trade or retail business wherein the primary purpose is the selling of goods (excluding refreshments other than light refreshments) by retail, and without prejudice to the generality of the foregoing includes a building used for the purposes of a hairdresser, undertaker, ticket agency or receiving office for goods to be washed, cleaned or repaired, or for other purposes appropriate to a shopping area but does not include a building used as an amusement arcade, pin-table saloon, funfair, garage, petrol filling station, hotel or premises licensed for the sale of intoxicating liquors for consumption on the premises and for the purposes of this definition the expression " light refreshments " means eatables not cooked on the premises, and beverages ;

" industrial process " means any process for or incidental to any of the following purposes, namely—

(*a*) the making of any article or part of any article, or

(*b*) the altering, repairing, ornamenting, finishing, cleaning, washing, packing or canning, or adapting for sale, or breaking up or demolition, of any article, or

(*c*) without prejudice to the foregoing paragraphs, the getting, dressing or treatment of minerals,

being a process carried on in the course of trade or business, and for the purposes of this definition the expiration " article " means an article of any description, including a ship or vessel ;

" industrial undertaking " means an undertaking (other than a statutory undertaker or the National Coal Board) by which an industrial process is carried on ;

" industrial building " means a building (other than a building in or adjacent to and belonging to a quarry or mine and other than a shop) used for the carrying on of any industrial process ;

" private way " means a road or footpath which is not a highway. [4715]

Exemptions from Development Charge

3. Operations and uses of any description specified in the Schedule to these Regulations shall be exempted from the provisions of Part VII of the Act. [4716]

SCHEDULE

Class 1.—Rebuilding and Enlargement, Improvement or other Alteration of a Building erected after the Appointed Day :—

The rebuilding and the enlargement, improvement or other alteration as often as occasion may require of any building erected after the Appointed Day so long as the cubic content of the original building (as ascertained by external measurement) is not exceeded, in the case of a dwelling-house, by more than one tenth or 1,750 cubic feet, whichever is the greater, and in any other cases by more than one tenth. Provided that the erection on land within the curtilage of any such building of an additional building to be used in connection with the original building shall be treated as the enlargement of the original building ; and where any two or more original buildings comprised in the same curtilage are used as one unit for the purposes of any institution or undertaking the reference in this

paragraph to the cubic content shall be construed in relation to enlargement as a reference to the aggregate cubic content of those buildings.

In the preceding paragraph the expression " any building erected after the Appointed Day " includes a building in the course of erection on that day but does not include a building which has been rebuilt in accordance with the provisions of paragraph 1 of the Third Schedule to the Act.

Class 2.—Land used for agriculture and forestry :—

1. The carrying out on land used for any agricultural purpose of any building or other operations (other than the erection enlargement improvement or alteration of dwelling-houses) requisite for the farming of the land for that purpose.

2. The carrying out on land which has been brought into use for the purposes of forestry after the appointed day of any building or other operations (other than the erection enlargement improvement or alteration of dwelling-houses or of buildings used for the purposes of timber-yards or for other purposes not connected with the cultivation or felling of trees) required for the purposes of that use.

Class 3.—Changes of Use in a Building used for more than one purpose :—

1. In the case of any building or other land which is in the occupation of a person by whom it is used in accordance with a planning permission granted or deemed to have been granted under Part III of the Act as to part only for a particular purpose, the use for that purpose of any additional part of the building or land not exceeding one tenth of the cubic content of the part of the building used as aforesaid for that purpose, or as the case may be, one-tenth of the area of the land so used.

2. In the case of any industrial building which is in the occupation of a person by whom it is used as to part for one of the purposes included in Classes III to IX of the Town and Country Planning (Use Classes for Third Schedule Purposes) Order, 1948 and as to part for any other of those purposes the use of any additional part of the building for any of the purposes for which the building is so used.

Class 4.—Deposit of Waste Materials :—

1. The use for the deposit of waste materials or refuse of any land comprised in a site which was at the appointed day used for the purpose of such deposit.

2. The use of any land for the spreading of dredgings.

Class 5.—Buildings within the curtilage of a dwelling-house :—

The erection, construction or placing and the maintenance, improvement or other alteration within the curtilage of a dwelling-house of any building, shelter or enclosure (other than a dwelling, garage, stable, loose-box or coach-house) required for a purpose incidental to the enjoyment of the dwelling-house as such or for keeping poultry, bees, pet animals, birds or other livestock for the domestic needs or personal enjoyment only of the occupants of the dwelling-house.

Class 6.—Fences, walls, etc. :—

The erection or construction and the maintenance improvement or other alteration of any fences, walls, gates, posts or other similar structures.

Class 7.—Changes of use of certain buildings :—

(The Classes herein referred to are the Classes set out in the Schedule to the Town and Country Planning (Use Classes for Third Schedule Purposes) Order, 1948.)

1. The use of any type of shop as a shop of any other type.

2. In the case of a building which is used as a general industrial building within Class IV the use of that building as a light industrial building within Class III.

3. In the case of a building which is used as a wholesale warehouse for any purpose included in Class X the use of that building as a repository for any purpose included in Class XI.

4. In the case of a building which is used for any of the purposes included in Classes XIII, XV, XVII and XVIII the use of that building for any other of those purposes.

Class 8.—Temporary uses of land :—

1. The temporary use of land for any purpose for not more than 28 days in total in any calendar year and the erection or placing of moveable structures on the land for the purposes of that use.

2. The temporary use of land as parking ground for moveable dwellings and other vehicles used for the purposes of a travelling circus, roundabout or amusement fair.

Class 9.—Camping :—

The use of any land for camping purposes by the placing thereon of any caravan or tent.

Class 10.—Roadside milk churn stands.

The erection or construction and the maintenance improvement or other alteration of roadside milk churn stands, whether on land used for the purpose of agriculture or not.

Class 11.—Industrial undertakings :—

Where land is used by an industrial undertaking for the carrying out of any industrial process the carrying out on that land of any of the following operations required for the purpose of that process—

(*a*) the rearrangement or replacement of private ways or private railways, sidings or conveyors ;

(*b*) the rearrangement of sewers, mains, pipes, cables or other apparatus ;

(*c*) the installation or erection, by way of replacement, of plant or machinery.

Class 12.—Unadopted streets and private ways :—

The carrying out of any works required for the maintenance or improvement of an unadopted street or private way.

Class 13.—Repairs to pipes, cables and other apparatus :—

The carrying out of any works for the purpose of inspecting repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any street or other land for that purpose.

Class 14.—Development by local authorities and statutory undertakers :—

The erection construction or installation and the maintenance improvement or other alteration by local authorities or statutory undertakers of :—

(*a*) such small ancillary buildings, works or equipment as may be required for the purposes of any allotments, cemeteries, parking places, open spaces, playing fields, parks, recreation grounds, gardens, public walks or pleasure grounds belonging to or maintained by them ;

(*b*) information kiosks, passenger shelters, public shelters and seats, public lavatories, telephone boxes, fire alarms, public drinking fountains, horse troughs, refuse bins or baskets, or such other similar structures or works as may be required in connection with the operation of any public service administered by them ;

(*c*) watercourses or land drainage works ;

(*d*) sewers, pipes, mains, cables or other apparatus (including gas valve governor houses in a gas distribution system and pumping stations on the line of sewers) in, under or over any land ;

(*e*) electrical transmission lines, including feeder pillars, transformer kiosks or service lines ;

(*f*) sea or river defence works.

Class 15.—Development by local highway or improvement authorities :—

1. The erection or construction and the maintenance improvement or other alteration by a local highway or improvement authority of buildings or works required in connection with the use, safety or enjoyment of roads.

2. The carrying out of any operations by a local highway or improvement authority for the purpose of searching for, digging, getting and carrying away

gravel, sand, stone or other materials without payment under Section 51 of the Highway Act, 1835.

Class 16.—Advertisements :—

The use of any site for the display of advertisements.

Class 17.—Operations carried out under Licence under the Petroleum (Production) Act, 1934 :—

The carrying out of any operations necessary for the searching and boring for and getting petroleum and natural gas and for the recovering of casinghead spirit licensed by the Minister of Fuel and Power under the Petroleum (Production) Act, 1934 and the Petroleum (Production) Regulations, 1935, whether by Prospecting Licence or Mining Licence and the erection or construction and the maintenance improvement or other alteration of any buildings (including plant and equipment) certified by the Minister and the Minister of Fuel and Power to fall within a class necessary for the purposes of the said operations.

Class 18.—Peat :—

The winning and working of peat by any person for the domestic requirements of that person. [4717]

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EXPLANATORY NOTE

(*This Note is not part of these Regulations, but is intended to indicate their general purport.*)

These Regulations, which are made under Section 69 (2) (*b*) *of the Town and Country Planning Act*, 1947, *specify the operations and uses of land which are exempt from development charge.*

TOWN AND COUNTRY PLANNING (DEVELOPMENT CHARGE) REGULATIONS, 1948 *

S.I. 1948 *No.* 1189

April 23, 1948

Whereas the Central Land Board (hereinafter called " the Board ") in determining whether any, and if so what, development charge is to be paid in respect of any operations or any use of land, are under a statutory duty by virtue of subsection (2) of Section 70 of the Town and Country Planning Act, 1947 (hereinafter called " the Act "), to have regard to the amount by which the value of the land with the benefit of planning permission for those operations or that use, calculated as provided in that sub-section, exceeds the value which it would have without the benefit of such permission and are also under a statutory duty not to give any undue or unreasonable preference or advantage to one applicant over another.

And Whereas by subsection (3) of Section 70 of the Act it is provided that subject to these statutory duties regulations made under the Act with the consent of the Treasury may prescribe general principles to be followed by the Board in determining under Part VII of the Act whether any and if so what development charge is to be paid thereunder in respect of any operations or use of land and such regulations may in particular provide for securing that the amount of the said charge shall be determined on different principles in relation to operations or uses of different classes or to operations or uses carried out or begun at different periods.

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* These Regulations were approved by Resolution of the House of Commons, May 26th, 1948, and the House of Lords, June 3rd, 1948, in accordance with Section 70 (5) of the Town and Country Planning Act, 1947.

And Whereas by Section 111 of the Act, the Minister of Town and Country Planning (hereinafter called " the Minister ") may make regulations under the Act for any purpose for which regulations are authorised to be made under the Act and in particular for prescribing anything which by the Act is authorised to be prescribed by regulations.

Now, therefore, the Minister by virtue of the hereinbefore recited powers hereby makes, with the consent of the Treasury, the following regulations :—

PART I

Interpretation

1.—(1) The Interpretation Act, 1889, shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

(2) These regulations may be cited as the Town and Country Planning (Development Charge) Regulations, 1948. [4718]

PART II

General

2. Subject to the provisions of the Act and of any regulations made thereunder and for the time being in force, the General Principles set out in the Schedule to these regulations shall be followed by the Board in determining under Part VII of the Act whether any, and if so what, development charge is to be paid thereunder in respect of any operations or use of land. [4719]

SCHEDULE

1. Development charge shall be determined so as to secure, so far as is practicable, that land can be freely and readily bought and sold or otherwise disposed of in the open market at a price neither greater nor less than its value for its existing use. This object is the Governing Principle by which the Board are to be guided in determining development charge.

2. Development charge shall not be more than the amount which, to the satisfaction of the Board, represents the additional value, measured by normal processes of valuation, of the land due to planning permission for a particular development.

3. Development charge shall not be less than the amount referred to in paragraph 2 of this Schedule, unless in the opinion of the Board the charge ought properly to be less in order to comply with the Governing Principle.

4. Where in the special case of any land of a class referred to in Part VIII of the Act (which provides for the application of the Act to special cases) the application of the foregoing principles would, in the opinion of the Board, be inappropriate, the Board shall apply the Governing Principle subject to such modification as is in their opinion appropriate to that special case. [4720]

* * * * *

EXPLANATORY NOTE

(This Note is not part of these Regulations, but is intended to indicate their general purport.)

Under subsection (3) of Section 70 of the Town and Country Planning Act, 1947, regulations made under the Act may prescribe general principles to be followed by the Central Land Board in determining whether any and if so what development charge is to be paid in respect of any operations or use of land. These regulations provide that the development charge shall represent the full additional value resulting from planning permission subject to the governing consideration that land can be freely and readily bought and sold at existing use value. In special cases, where the application of the foregoing principles would be inappropriate, the Central Land Board are to apply the governing principle subject to such modification as they consider appropriate to the case.

TOWN AND COUNTRY PLANNING ACTS, 1944 AND 1947 (REGISTRATION OF ORDERS AND LISTS OF BUILDINGS) RULES, 1948

S.I. 1948 *No.* 1213/*L.*9

June 9, 1948

I, William Allen Viscount Jowitt, Lord High Chancellor of Great Britain, by virtue and in pursuance of section 15 of the Land Charges Act, 1925, section 17 of the Town and Country Planning Act, 1944, and sections 30 and 39 of the Town and Country Planning Act, 1947, do hereby make the following Rules.

1. These Rules may be cited as the Town and Country Planning Acts, 1944 and 1947 (Registration of Orders and Lists of Buildings) Rules, 1948, and shall come into operation on the first day of July, 1948. [4721]

2. Interpretation.—(1) In these Rules, except as otherwise expressly provided and save where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

(*a*) "the Act of 1925" means the Land Charges Act, 1925;

(*b*) "the Act of 1944" means the Town and Country Planning Act, 1944;

(*c*) "the Act of 1947" means the Town and Country Planning Act, 1947;

(*d*) "compulsory purchase order" means an order made under Part I of the Act of 1944 authorising a compulsory purchase of land;

(*e*) "compulsory purchase order containing a direction" means a compulsory purchase order containing a direction made under section 39 of the Act of 1947, that the provisions of the Sixth Schedule to the Act of 1944 shall apply to the order;

(*f*) "declaratory order" means an order made under section 1 of the Act of 1944;

(*g*) "list of buildings of special architectural or historic interest" means a list compiled or approved by the Minister of Town and Country Planning under section 42 of the Act of 1944 or section 30 of the Act of 1947, or so much of the list as is required to be registered under the said section 30, or under that section by virtue of sub-paragraph (*b*) of paragraph 9 of the Tenth Schedule to the Act of 1947;

(*h*) "parcel of land" means a piece of land or a building or a part of a building in separate occupation or separately rated at the time of the requisition for search;

For the purpose of this definition any land or building or part of a building which is neither in occupation nor rated shall be deemed to be occupied by the person who is the owner thereof within the meaning of the Public Health Act, 1936.

(*i*) "purchasing authority" means any local authority, Minister of the Crown, the Central Land Board, or other person or body purchasing under the Act of 1944 or the Act of 1947;

(*j*) "the Register" means the register of local land charges required to be kept in pursuance of the Act of 1925;

(*k*) "the registrar" means the proper officer of the local authority required to register the compulsory purchase order, compulsory purchase order containing a direction, declaratory order or list of buildings of special architectural or historic interest, as the case may be, in the Register in pursuance of the Acts of 1944 or 1947.

(2) The Interpretation Act, 1889, applies to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

(3) In these Rules unless the context otherwise requires, references to any enactment shall be construed as references to that enactment as amended by or under any other enactment. [4722]

3. Revocation of existing Rules.—The Town and Country Planning Act, 1944 (Registration of Orders) Rules, 1945, are hereby revoked as from the date on which these Rules come into operation, without prejudice, however, to anything done thereunder or to any right, obligation, or liability acquired, accrued or incurred under those Rules. [4723]

4. Part VI of the Register.—Compulsory purchase orders and declaratory orders which are registrable by virtue of section 17 of the Act of 1944 and compulsory purchase orders containing a direction which are registrable by virtue of section 39 of the Act of 1947 shall be registered in Part VI of the Register. [4724]

5. Addition to the Register.—Lists of buildings of special architectural or historic interest which are registrable by virtue of section 30 of the Act of 1947 shall be registered in a new part of the Register, to be known as Part X. [4725]

6. Entries in Parts VI and X.—(1) Every entry in Part VI of the Register shall contain :—

(*a*) a reference to the title of the compulsory purchase order, compulsory purchase order containing a direction or declaratory order ;

(*b*) the name of the purchasing authority authorised by the compulsory purchase order or compulsory purchase order containing a direction, or, as the case may be, of the authority on whose application the declaratory order was made ;

(*c*) a sufficient description, by reference to a map or plan, of the land which is or will be affected by the order ;

(*d*) in the case of a compulsory purchase order, a reference to any declaratory order which, at the date of registration of the first named order, may have been made affecting the land included in such compulsory purchase order ;

(*e*) notice of the place at which inspection may be made of a copy of the order certified by or on behalf of the Minister by whom it was made or confirmed, in exercise of the powers conferred by Part I of the Act of 1944, or section 39 of the Act of 1947, as the case may be, and of any map or plan referred to in or illustrating the order ;

(*f*) the date on which the order was made or confirmed by the Minister as aforesaid ;

(*g*) the date of registration of the order.

(2) Every entry in Part X of the Register shall contain :—

(*a*) a copy of the list of buildings of special architectural or historic interest ;

(*b*) notice of the place at which inspection may be made of the list certified by or on behalf of the Minister of Town and Country Planning and any map or plan referred to in or illustrating the list ;

(*c*) the date on which the copy of the list was certified by or on behalf of the Minister of Town and Country Planning ;

(*d*) the date of registration of the list.

(3) The index to the Register shall include entries in respect of Parts VI and X of the Register for the purpose of enabling a person to trace any entry in those Parts.

(4) It shall be the duty of the registrar to enter in the Register particulars of the variation or revocation of any of the aforementioned orders or lists as soon as may be after notification of the variation or revocation has been given to him in writing. [4726]

7. Dates on which applications, etc., deemed to be made or given.—(1) Applications for registration of compulsory purchase orders, compulsory purchase orders containing a direction, declaratory orders and lists of buildings of special architectural or historic interest and notifications of variation or revocation of entries in respect thereof delivered by post or under cover during the hours in which the office of the registrar is open for registration shall be treated as having been made or given immediately before the closing of the office for that day.

(2) Applications for registration of compulsory purchase orders, compulsory purchase orders containing a direction, declaratory orders and lists of buildings of special architectural or historic interest and notifications of variation or revocation of entries in respect thereof delivered (whether by post or otherwise) between the hours of closing and of the next opening of the office for registration shall be treated as having been made or given immediately after such opening. [4727]

8. Personal searches.—(1) Any person may search in Parts VI and X of the Register and in the Index to the Register upon paying the appropriate fee prescribed by the Second Schedule to these Rules.

(2) Any person desiring to make a personal search in Parts VI or X of the Register shall, if so required by the registrar, furnish his name and address and indicate by reference to a plan or otherwise the parcel or parcels of land in respect of which he proposes to search. [4728]

9. Official certificates of search.—(1) The provisions of sub-sections (1), (2), (7), (8) and (9) of section 17 of the Act of 1925 (which relate to official certificates of search) shall apply in respect of Parts VI and X of the Register.

(2) Every requisition for search made under the said provisions as applied by this Rule shall be in writing signed by the person making the same or by the solicitor acting for the person requiring the search to be made, and shall define the land in respect of which the search is to be made by means of a plan drawn to scale and (except where the applicant does not require a plan to be returned) furnished in duplicate, or by any other means sufficient to enable the land to be identified.

(3) A requisition for search in all or any of the Parts of the Register may include a requisition for search in Parts VI and X, and any form prescribed by Rules made under the Act of 1925 for the purpose of requisitions for search and official certificates of search in the Register may be used accordingly:

Provided that the schedules to an official certificate of the result of a search in Parts VI and X of the Register shall be in the form set out in the First Schedule hereto.

(4) An official certificate of the result of search in Parts VI and X of the Register shall extend to registrations effected during the day of the date of the certificate, and shall be issued only after the registry is closed for registration on that date.

(5) Separate requisitions for search in Parts VI and X of the Register shall be made in respect of each parcel of land in respect of which search is requested, except where a certificate is required in respect of two or more contiguous parcels of land for the purpose of the same transaction. [4729]

10. Fees.—The fees payable for the registration, variation or revocation of entries and for searches and official certificates of search, in respect of Parts VI and X of the Register, shall be those specified in the Second Schedule hereto. [4730]

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SCHEDULES

FIRST SCHEDULE-

(*a*) PART VI.—REGISTER OF COMPULSORY PURCHASE ORDERS, COMPULSORY PURCHASE ORDERS CONTAINING A DIRECTION AND DECLARATORY ORDERS UNDER THE TOWN AND COUNTRY PLANNING ACTS, 1944 AND 1947

Particulars of any declaratory order made under Section 1 of the Act of 1944, and for the time being in operation	Particulars of any compulsory purchase order made under Part I of the Act of 1944 and of any compulsory purchase order containing a direction under Section 39 of the Act of 1947 and for the time being in operation	Reference to any declaratory order which relates to land included in an order mentioned in column 2	Name and address of authority who promoted the order mentioned in columns 1 or 2	Place at which inspection may be made of any of the orders referred to in columns 1 and 2 and any map or plan referred to in or illustrating such orders	Date of confirmation, or making of order	Date of registration of order
1.	2.	3.	4.	5.	6.	7.

(*b*) PART X.—REGISTER OF LISTS OF BUILDINGS OF SPECIAL ARCHITECTURAL OR HISTORIC INTEREST REGISTRABLE UNDER SECTION 30 OF THE TOWN AND COUNTRY PLANNING ACT, 1947

Particulars of any list of buildings of special architectural or historic interest compiled or approved by the Minister of Town and Country Planning under Section 42 of the Act of 1944 or Section 30 of the Act of 1947 1.	Place at which inspection may be made of copies of lists referred to in column 1 and any map or plan referred to in or illustrating such list 2.	Date of certification of list by or on behalf of the Minister of Town and Country Planning 3.	Date of registration 4.

[4731]

SECOND SCHEDULE

FEES

1. On registration of a compulsory purchase order, compulsory purchase order containing a direction, declaratory order or list of buildings of special architectural or historic interest, where the order is registrable by the Registrar of an authority other than the purchasing authority or, as the case may be, the authority on whose application the declaratory order was made or the authority compiling the list :—

	s.	d.
(i) in the case of a compulsory purchase order or compulsory purchase order containing a direction, per entry	2	6
(ii) in the case of a declaratory order, per entry	10	0
(iii) in the case of a list of buildings of special architectural or historic interest	5	0

2. On variation or revocation of any entry in Parts VI and X of the Register (where the entry was made in the circumstances mentioned in Fee No. 1) 1 6

3. On personal search in Parts VI or X of the Register (except where such search is made in respect of the whole of the Register and payment has been made in respect thereof) 2 0

In addition (but subject to a maximum additional charge of fourteen shillings) in respect of each parcel of land above one, where the search extends to several parcels of land 1 0

4. For an official search (including issue of certificate) in Parts VI or X of the Register (except where such search is made in respect of the whole of the Register and payment has been made in respect thereof) .. 2 0

	s.	d.
In addition (but subject to a maximum additional charge of twenty-one shillings) in respect of each parcel of land above one, where several parcels are, in accordance with the provisions of paragraph (5) of Rule 9, included in the same requisition, where such requisition is for search in Parts VI or X of the Register and does not form part of a requisition for search in the whole or any other part of the Register in respect of which such additional payment has been made	1	6
5. For an office copy of any entry in Parts VI and X of the Register (not including a copy or extract of any plan or document filed in the Registry)	2	6
6. For an office copy of any plan or other document filed in the Registry, in respect of Parts VI and X of the Register, such reasonable fee as may be fixed by the local Registrar according to the time and labour involved.		

Unless the context otherwise requires, " entry " for the purpose of this Schedule includes all entries made or required to be made in Parts VI and X of the Register in respect of the relevant order or list.

All fees shall be prepaid. [4732]

EXPLANATORY NOTE

(This Note is not part of the Rules, but is intended to indicate their general purport.)

These Rules supersede the Town and Country Planning Act, 1944 (*Registration of Orders*) *Rules*, 1945. *They provide for the registration in Local Land Charges Registers of* (*a*) *compulsory purchase orders*, (*b*) *compulsory orders containing a direction that the procedure for expedited completion shall apply*, (*c*) *declaratory orders, and* (*d*) *lists of buildings of special architectural or historic interest, all of which are registrable under the Town and Country Planning Acts*, 1944 *or* 1947. *The lists of buildings of special architectural or historic interest are to be registered in a new Part of the Register to be known as Part X. Provision is made for searching the Register and for the issue of official certificates of search on payment of the fees prescribed in the Second Schedule to the Rules.*

TOWN AND COUNTRY PLANNING (TRANSFER OF PROPERTY AND OFFICERS AND COMPENSATION TO OFFICERS) REGULATIONS, 1948

S.I. 1948 *No.* 1236

June 11, 1948

The Minister of Town and Country Planning in exercise of the powers conferred upon him by Section 101 of the Town and Country Planning Act, 1947, and of all other powers enabling him in that behalf hereby makes the following regulations :—

PART I

GENERAL

Citation and Commencement

1. These regulations may be cited as the Town and Country Planning (Transfer of Property and Officers and Compensation to Officers) Regulations, 1948, and shall come into force on the appointed day.* [4733]

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* *See* S.I. 1948 No. 213.

Interpretation

2.—(1) The Interpretation Act 1889 shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

(2) In these regulations the following expressions have the meanings respectively assigned to them namely :—

" the Act " means the Town and Country Planning Act 1947 ;

" the appointed day " means the day appointed for the coming into force of the Act ;

" county district " does not include the City of London ;

" Joint Planning Committee " means a joint committee appointed or constituted under the Town and Country Planning Act 1932 or under any previous enactment relating to town planning ;

" the Minister " means the Minister of Town and Country Planning ;

" Officer " includes a servant ;

" old planning functions " means functions exercised under the Town and Country Planning Acts 1932 and 1943 or the Town and Country Planning Act 1944, corresponding with the functions of local planning authorities under the Act ;

" Whole time employment " in relation to an officer means employment to which the officer devotes the whole or substantially the whole of his time. [4734]

PART II

TRANSFER OF PROPERTY AND OFFICERS

Transfer of Property and Liabilities

3. Save as is mentioned in regulation 5 of these regulations, the property and liabilities of the council of a county district being property and liabilities held or incurred for the purposes of old planning functions shall on the appointed day be transferred to and vest in the local planning authority for the area in which such district is situated :

Provided that the council and the local planning authority may agree that in lieu of a transfer of a loan borrowed for such purposes the local planning authority shall from time to time repay to the council all sums required to meet interest or redemption charges in respect of the loan or of any sinking fund in connection therewith and in the event of any such agreement being made the loan and any such sinking fund as aforesaid shall not be transferred to the local planning authority. [4735]

4. Save as aforesaid, the property and liabilities of a joint planning committee shall on the appointed day be transferred to and vest in the local planning authority for the area in which the districts or counties of the constituent authorities of such committee are situate, or if they are situated in the areas of two or more local planning authorities, in those authorities jointly in proportion as the districts, counties or county boroughs in each area contributed immediately before the appointed day to the expenses of such committee :

Provided that any maps, plans, documents or records, the whole or substantially the whole of which relate to the area of one local planning authority, shall be transferred to and vest solely in that authority and not jointly as aforesaid. [4736]

5. Any liability of the council of a county district or of a joint planning committee to pay, in respect of any officer transferred to a local planning authority under the next succeeding provisions of these regulations, any sum by way of an equal annual charge to a superannuation fund maintained

under the Local Government Superannuation Act, 1937, shall not be transferred to and vest in the local planning authority, but shall remain a liability of the council of the county district, or in the case of a joint planning committee be transferred to and apportioned between the constituent authorities of that committee in such proportions as they may agree, or in default of agreement as the Minister may determine. [4737]

Transfer of Officers

6. Any officer who immediately before the appointed day was in the whole-time employment of the council of a county district, being an officer so employed solely or mainly for the purpose of old planning functions, shall on the appointed day be transferred to, and become an officer of, the local planning authority for the area in which such district is situated. [4738]

7. Any officer who immediately before the appointed day was in the whole-time employment of a joint planning committee shall on the appointed day be transferred to, and become an officer of, the local planning authority for the area in which before the appointed day such committee were exercising their functions, or if such functions were so exercised in the areas of two or more local planning authorities, such of those authorities as may be agreed between them and the officer, or in default of agreement as the Minister may determine. [4739]

Provisions consequential on transfer

8. No proceedings, legal or other, pending on the appointed day with respect to any property or liabilities transferred by virtue of these regulations shall be prejudicially affected by the Act or by these regulations, and any such proceedings may be amended in such a manner as may appear necessary or proper to enable it to be carried on by or against the local planning authority or authorities to whom the transfer was made. [4740]

9. Any cause of action by or against any council or joint planning committee in existence on the appointed day in relation to any old planning functions or any property or liabilities transferred by virtue of these regulations shall not be prejudicially affected by the Act or these regulations but may be prosecuted and enforced by or against the local planning authority or authorities to whom the transfer was made as successor of the said council or joint planning committee. [4741]

10. All contracts, deeds, agreements, notices and other instruments affecting any old planning functions or any property or liabilities transferred by virtue of these regulations and subsisting at the appointed day shall be of as full force and effect against or in favour of the local planning authority or authorities to whom the transfer was made and may be enforced as fully and effectually as if, instead of the council or joint planning committee named in the instrument, the authority or authorities to whom the transfer was made had been a party thereto. [4742]

11. Where any property or liabilities have been transferred by virtue of these regulations, the local planning authorities, the constituent authorities of joint planning committees and the councils of county districts or, in default of agreement between them the Minister, may, without prejudice to the rights of other parties under these regulations, provide for the making of such adjustments in relation to the property and liabilities transferred as appear to be desirable, including the making of payments by any such authority or council. [4743]

12. The council of a county district shall, at the request of the local planning authority for the area in which that district is situated, make

available to that authority any information, records, maps, plans, surveys or other material in their possession relating to the exercise of old planning functions. [4744]

13. Any question arising under this Part of these regulations shall be determined by the Minister. [4745]

PART III

COMPENSATION TO OFFICERS

14. For the purposes of this Part and of the schedule to these regulations :—

" accrued pension ", in relation to a pensionable officer who has suffered loss of employment, means—

(*a*) if the pension scheme to which the officer was last subject before losing his employment consisted of arrangements for the provision of superannuation benefits in which he had no right to participate but had reasonable expectations of participating, such proportion of the pension of which he had reasonable expectations as the compensating authority considers equitable, having regard to his age, the length of his employment at the date of loss and all the other circumstances of the case ; and

(*b*) in any other case the pension to which he would have become entitled in respect of his pensionable service according to the method of calculation, as modified by paragraph 18 of the schedule to these regulations, prescribed by the pension scheme to which he was last subject before losing his employment, if at the date on which he ceased to be subject thereto he had attained normal retiring age and complied with any requirement of the said scheme as to a minimum period of qualifying service or contribution,

and includes the annual value as ascertained by an actuary of any contingent right under the scheme in respect of widow's pension or any other benefit which might have become payable to his widow or to his legal personal representatives on his death had he not lost his employment, but does not include any part of such pension as aforesaid which is attributable to any remuneration enjoyed, whether before or after the appointed day, in consequence of an increase between the 7th day of January, 1947, and the appointed day in the remuneration of any employment, if it can be shown that the increased remuneration was not granted in the ordinary course of that employment or in consideration of the person's assumption of increased responsibilities or new duties in connection with the discharge of the existing functions of the body employing him ;

" accrued incapacity pension " has the same meaning as " accrued pension " except that the reference to a person's having attained normal retiring age shall be construed as a reference to his having become incapable of discharging efficiently the duties of his employment by reason of permanent ill-health or infirmity of mind or body ;

" accrued retiring allowance ", in relation to a pensionable officer who has suffered loss of employment, means any lump sum payment to which he would have become entitled in respect of his pensionable service according to the method of calculation, as modified by paragraph 18 of the schedule to these regulations, prescribed by the pension scheme to which he was last subject before losing his employment, if at the date on which he ceased to be subject thereto he had attained

normal retiring age and complied with any requirement of the said scheme as to a minimum period of qualifying service ;

" compensating authority " means, in relation to an existing officer, the local planning authority to whom he has been transferred under the provisions of these regulations, or, if he is not so transferred, in the case of an officer who immediately before the appointed day was employed by a joint planning committee, the local planning authority for the area in which such committee exercised their functions or, if there is more than one such authority, the local planning authority for the largest part of such area, and in any other case, such local planning authority or other local authority or authorities as the Minister may determine ;

" emoluments " mean all salary, wages, fees and other payments paid or made to an officer as such for his own use and includes the money value of any apartments, rations or other allowances in kind appertaining to his employment but does not include payments for overtime or any allowance payable to him to cover the cost of providing office accommodation, or clerical or other assistance or any travelling or subsistence allowances or other moneys to be spent, or to cover expenses incurred by him, for the purpose of his employment and also does not include any remuneration enjoyed, whether before or after the appointed day, in consequence of an increase between the 7th day of January, 1947, and the appointed day in the remuneration of any employment, if it can be shown that the increased remuneration was not granted in the ordinary course of that employment or in consideration of the person's assumption of increased responsibilities or new duties in connection with the discharge of the existing functions of the body employing him ;

" existing officer " means a person who immediately before the appointed day—

(*a*) devoted the whole of his time to any of the following employments or to any combination of such employments, namely employment by any local authority or any other body for the purposes of the local government service, by an officer of any such authority or body for the purposes of the functions of such authority or body, or by the Crown ; and

(*b*) was employed for at least part of his time by a local planning authority, the council of a county district, the Common Council of the City of London, or a joint planning committee ;

and who had devoted the whole of his time for a period of not less than eight years before the appointed day after attaining the age of eighteen years without a break of more than twelve months at any one time to any such employments as aforesaid or to any combination of the said employments or to war service undertaken on ceasing to follow any of the said employments or any combination thereof ;

" net emoluments ", in relation to an officer who suffers loss of employment or diminution of emoluments, means the annual rate of his emoluments immediately before such loss or diminution, after deducting therefrom the like percentage thereof as the percentage of his emoluments which he was then liable to contribute under any pension scheme associated with his employment :

Provided that—

(*a*) if, for the purposes of the foregoing definition, account is required to be taken of any fees payable to a person as part of his emoluments, the amount thereof shall be taken to be the annual average of the fees paid to him during the three years

transported to a senior school some miles away. Often, too, there are not enough children left, under 11, to justify a junior school, so these little ones have also to go elsewhere, and the village school is closed. It is generally agreed that the education and training

amongst the younger school teachers to live, not in the small villages in which they teach, but in nearby towns or larger villages from which they can travel daily to their work and return, at its close, to some sort of companionship in the evenings. Thus, they

immediately preceding the loss of employment or diminution of emoluments, or, if the fees were payable in respect of a shorter period, such shorter period; and

(*b*) any amount by which the annual rate of his emoluments exceeds £4,000 shall be disregarded; and

(*c*) if the officer was not a pensionable officer, no deductions shall be made on account of pension contributions;

"normal retiring age" means, in relation to an officer in whose case an age of compulsory retirement applied by virtue of any pension scheme associated with the employment he has lost or the emoluments of which have been diminished or by virtue of the condition of that employment, that age, and, in any other case, the age of sixty-five years if the officer is a male, or sixty years if the officer is a female;

"pensionable officer", in relation to an officer who has suffered loss of employment, means an officer who immediately before the appointed day was subject to a pension scheme;

"pension scheme" means a scheme of arrangements for the payment of superannuation benefits to a person as part of the terms and conditions of any employment held by him, and includes arrangements for the provision of superannuation benefits in which, by virtue of any employment held by him, a person had reasonable expectations of participating immediately before the appointed day;

"service" in relation to a person means any period of whole-time or part-time employment in Great Britain, after attaining the age of eighteen years, under the Crown, or under any local authority or any other body for the purposes of the local government service, or under an officer of any such authority or body for the purposes of the functions of that authority or body; and includes any period of war service undertaken on the person's ceasing to hold any such employment as aforesaid, but does not include employment of which account has been taken, or is required to be taken, in calculating the amount of any superannuation benefits to which the person has become entitled;

"tribunal" means such referee or board of referees appointed by the Minister of Labour and National Service, after consultation with the Lord Chancellor, as has jurisdiction in respect of the district in which a claimant for compensation is or was last employed;

"war service" means service in any of His Majesty's Forces and any other war service within the meaning of the Local Government Staffs (War Service) Act, 1939 or employment for war purposes within the meaning of the Superannuation Schemes (War Service) Superannuation Act, 1940. [4746]

15. Subject to the provisions of the next succeeding regulation every person who was an existing officer and who suffers loss of employment or diminution of emoluments which is attributable to the provisions of the Act or of these regulations shall be entitled to have his case considered for the receipt of compensation under these regulations, such compensation to be determined in accordance with the provisions of the schedule hereto. [4747]

16. Nothing in the last preceding regulation shall entitle a person to have his case considered for compensation unless

(*a*) the cause of the claim to compensation arises not later than 10 years after the appointed day and the claim is made not later than 2 years after the date on which the cause of claim arises, and

(*b*) one or more of the following conditions are satisfied in relation to the officer

(i) he is not offered by the local planning authority to which he is transferred on the appointed day an office or situation

reasonably comparable to the office or situation which he held immediately before the appointed day ; or

(ii) his office is abolished and he is not transferred to a local planning authority ; or

(iii) his appointment is determined because his services are not required or because his duties are diminished (no misconduct being established) ; or

(iv) his emoluments are diminished.

Provided that an office or situation which an officer is offered shall not, for the purposes of this regulation, be deemed to be not reasonably comparable to that which he held immediately before the appointed day by reason only that it involves duties in connection with functions under the Act not corresponding with old planning functions or a transfer of his employment from one place to another place within England and Wales. [4748]

17. If a person who has claimed compensation under these regulations is aggrieved by the refusal of the compensating authority to accept his claim or by their failure to come to a decision on his claim within three months after the date on which it was received by them, or by a decision that no compensation should be paid to him or by the amount of compensation awarded, he may, within three months after the refusal or failure or after the date on which he received notice of the decision, as the case may be, refer the matter to a tribunal, and the tribunal shall consider any matter so referred in accordance with the provisions of these regulations and determine accordingly whether any, and if so what, compensation ought to be awarded to the claimant, and the compensating authority shall give effect to the decision of the tribunal. [4749]

18.—(1) Any compensation to which an officer becomes entitled under these regulations shall be paid by the compensating authority and shall be payable to, or in trust for, the person who is entitled to receive it, and shall not be assignable.

(2) Any sum payable as compensation shall be recoverable as a debt due from the compensating authority.

(3) In any case where the compensating authority is such an authority because it is the local planning authority for the largest part of an area in which a joint planning committee formerly exercised its functions, the other local planning authority or authorities for the remainder of such area shall contribute to any compensation payable proportionately according to their areas, or on such other basis as may be agreed between them, and the compensating authority shall be entitled to recover such contributions accordingly. [4750]

Officers on War Service on the Appointed Day

19. Any person (hereinafter referred to as an " officer on war service ") who is engaged in war service immediately before the appointed day and who, if he had continued to be employed until the appointed day in the capacity in which he was employed before becoming engaged in war service, would have been an existing officer, shall be deemed to be an existing officer within the meaning of these regulations, and if at the date on which he ceased to be so employed he was subject to a pension scheme, and his war service or any part thereof would be reckonable for the purposes of that scheme if he again became subject thereto on the termination of his war service, he shall also be deemed to be a pensionable officer within the meaning of these regulations. [4751]

20. Subject to the provisions of the next succeeding regulation, if an officer on war service ceases to be engaged in war service and in consequence of the Act or of these regulations :—

(*a*) is not given or offered re-employment in his former office, or in any reasonably comparable office, or is not employed or offered employment in any office to which, but for his war service, he would have been transferred by these regulations, or any reasonably comparable office ; or

(*b*) is so re-employed or employed with reduced emoluments,

he shall be deemed for the purposes of these regulations, in the former case, to have suffered loss of employment which is attributable to the Act owing to the abolition of his office at the date of the refusal to re-employ him or employ him as aforesaid, and, in the latter case, to have suffered diminution of emoluments which is attributable to the Act. [4752]

21. No person shall, by virtue of the last preceding regulation, be entitled to have his case considered for compensation for any loss suffered by him by reason of his not being re-employed or employed as therein mentioned unless within a period of two months after the date on which he ceased to be engaged in war service he gives notice in writing to his former employer or to the authority to whom he would have been transferred by these regulations, as the case may be, that he is available for employment :

Provided that if the person is prevented from giving notice within the said period by his sickness or other reasonable cause, the notice may be given as soon as reasonably may be after the expiration of that period. [4753]

22. For the purpose of ascertaining the net emoluments of a person to whom regulation 20 applies such person shall be deemed to have continued to follow his former employment until the cause of claim arose and to have been entitled to the emoluments thereof. [4754]

23. In relation to a pensionable officer to whom sub-paragraph (*a*) of regulation 20 applies, the expression " accrued pension " means the pension to which he would have become entitled according to the method of calculation as modified by paragraph 18 of the schedule to these regulations prescribed by the pension scheme to which he was subject before becoming engaged in war service, if at the date on which he ceased to be engaged in war service he had been serving in his civil capacity and had attained normal retiring age, having complied with any requirement of the said pension scheme as to a minimum period of qualifying service. [4755]

SCHEDULE

Determination of Compensation

I. GENERAL

1. A person desiring to make a claim for compensation under these regulations shall deliver his claim to the compensating authority in such form as they may require. The claim shall be accompanied by a statutory declaration as to the truth of the statements contained therein.

2.—(1) A claimant, if so required by the compensating authority, by notice sent through the clerk of the authority, shall attend at a meeting of the authority, or of any committee appointed by the authority for the purpose, and answer all questions asked by any member of the authority or committee touching the matters set forth in his claim, and shall further produce all books, papers and documents in his possession or under his control relating to the claim.

(2) A claimant required to attend at a meeting pursuant to sub-paragraph (1) of this paragraph may further be required to make a statutory declaration as to

the truth of any of the answers given by him to questions asked on the occasion of such attendance touching the matters set forth in his claim.

(3) Such a claimant as aforesaid may be accompanied by a representative who shall be entitled to address the authority, committee or person before whom the claimant is required to attend touching the matters set forth in his claim.

II. Compensation for Loss of Employment

3. On receipt of a claim for compensation in respect of loss of employment, the compensating authority shall consider forthwith whether the claimant satisfies the conditions of eligibility for the payment of compensation set out in regulations 15 and 16 and if they are satisfied that these conditions are not fulfilled, shall reject the claim and advise the claimant in writing accordingly within one month after the receipt of the claim.

A. Interim Payments of Compensation

4. If the compensating authority accept the claim, then, unless they are satisfied that the claimant has substantially made good his loss by virtue of having obtained other employment, they shall forthwith commence to make interim payments of compensation to the claimant subject to and in accordance with the provisions of the next succeeding paragraph, and shall continue to make such payments until, in accordance with paragraph 6 of this schedule, they decide whether any further compensation is payable to him under these regulations.

5.—(1) Interim compensation shall be payable as from the date of claim, and shall be at a rate not exceeding two-thirds of the net emoluments of the employment which the claimant has lost, less two-thirds of any unemployment benefit to which the claimant may be entitled, and less any sum to which the claimant may be entitled by way of compensation under the Re-instatement in Civil Employment Act, 1944.

(2) In determining the amount of interim compensation, the compensating authority shall have regard to any payments to which the claimant becomes entitled in consequence of the loss of his employment under any contract or arrangement with the authority or body by whom he was employed (other than payments by way of a return of contributions under a pension scheme).

(3) The payments shall be made at intervals equivalent to those at which the said emoluments were previously payable, and the payments shall be reduced or terminated if the claimant obtains other employment or the compensating authority are satisfied that he is not actively seeking employment or has unreasonably refused suitable employment which has been offered to him.

(4) If the claimant obtains other employment, he shall immediately notify the compensating authority in writing accordingly.

(5) The compensating authority may require, as a condition of making or continuing to make interim payments, that the claimant should be registered for employment at an Employment Exchange, or the Appointments Department of the Ministry of Labour and National Service, at the option of the claimant.

B. Assessment of Compensation

6. Having determined the amount of the interim payments (if any) to be made under the preceding provisions of this schedule to a claimant whose claim has been accepted, the compensating authority shall, within a period of three months after the date of receipt of the claim, assess the just amount (if any) of the compensation payable under the succeeding provisions of this schedule, and shall forthwith notify the claimant in writing of their decision.

7.—(1) The compensating authority shall, within a period of two years after the date on which any decision is notified to a claimant under paragraph 6 of this schedule, or if the claimant has referred any such decision to the tribunal under regulation 17 within a period of two years after the date of the decision of the tribunal, review their decision or the decision of the tribunal, as the case may be, at intervals of not more than six months, and on any review the compensating authority may, in the light of any material change in the circumstances of the case, award compensation or increase or reduce the amount of any compensation awarded.

(2) If the claimant obtains other employment within the said period of two years, he shall immediately notify the compensating authority in writing accordingly.

(3) A claimant to whom a decision under paragraph 6 of this schedule has been notified may, within the like period as is mentioned in sub-paragraph (1) of this paragraph, require the compensating authority to review their decision or the decision of the tribunal, as the case may be, if he considers that there has been a material change in the circumstances of his case.

(4) The compensating authority shall forthwith notify the claimant in writing of their decision on any review under the preceding provisions of this paragraph, and if the claimant is aggrieved by such decision he may refer the matter to the tribunal within three months after the date on which he receives notice of the decision, and the tribunal shall determine any matter so referred, and the compensating authority shall give effect to the determination of the tribunal.

Compensation payable, subject to earlier cesser in certain cases, until normal retiring age

8. For the purpose of determining whether any compensation, apart from any interim compensation paid under paragraphs 4 and 5 of this schedule, is payable to any person for loss of employment, and if so the amount of the compensation to be paid, subject to the provisions of paragraph 11 of this schedule, until normal retiring age, the compensating authority shall have regard to—

(*a*) the conditions upon which his appointment was made ;
(*b*) the nature of his office ;
(*c*) the extent to which he has sought suitable alternative employment ; and
(*d*) all the other circumstances of the case.

9.—(1) Compensation for loss of employment shall be an annual sum, calculated in accordance with the provisions of sub-paragraph (2) of this paragraph, and shall be payable, subject to the provisions of paragraph 11 of this schedule, until normal retiring age, as from the date of loss, if the claim was made within three months thereafter, and in any other case, as from the date on which the claim was made or from such earlier date, not being more than three months before the date on which the claim was made, as the compensating authority may in their discretion allow.

(2) The said annual sum shall, subject as hereinafter provided, be the aggregate of the following sums, namely—

(*a*) for every completed year of the claimant's service, one-sixtieth of the net emoluments of the employment he has lost ; and
(*b*) in the case of a claimant over the age of forty-five years at the date of loss, a further one-sixtieth of the said net emoluments for every completed year of service since he attained the age of forty-five :

Provided that—

(i) where the claimant has undertaken or obtained other work or employment in place of the employment he has lost or has been offered other suitable employment, the said annual sum shall be calculated by reference only to the amount (if any) by which the annual rate of the emoluments of the employment he has lost exceeds the annual rate of the emoluments of the work or employment undertaken, obtained or offered to him as aforesaid ;

(ii) if the said annual sum is required to be calculated in accordance with proviso (i) to this sub-paragraph, it shall be reduced or increased by such amount (if any) as the compensating authority think fit, having regard to the relative security of tenure of the employment lost and the work or employment undertaken, obtained or offered as aforesaid, so however that the said annual sum shall not by virtue of any such increase as aforesaid be greater than if it were calculated without reference to proviso (i) and this proviso ;

(iii) the said annual sum shall also be reduced by such an amount (if any) as the compensating authority think fit having regard to the matters to which they are required to have regard by the last preceding paragraph and to any compensation payable to the claimant under the

Re-instatement in Civil Employment Act, 1944, or under or in pursuance of any other enactment ; and

(iv) the said annual sum shall in no case exceed two-thirds of the net emoluments of the employment which the claimant has lost.

10. There shall be deducted from any payments made under paragraph 9 of this schedule in respect of any period in respect of which interim payments have been made under paragraphs 4 and 5 the amount of such payments, so far as they do not exceed the payments due under paragraph 9 in respect of that period.

Compensation payable to pensionable officer on his becoming incapacitated or reaching pensionable age

11.—(1) If the claimant was a pensionable officer, and before attaining normal retiring age—

(*a*) he becomes incapacitated in circumstances in which if he had continued in the employment he has lost he would have become entitled to a pension under the pension scheme to which he was last subject before losing his employment ; or

(*b*) he attains an age at which had he continued to serve in the employment he has lost he would have become entitled to retire with a pension on the ground of having attained that age and completed a prescribed period of service,

and compensation is not then payable to him under these regulations, or compensation by way of an annual sum equal to the amount of his accrued incapacity pension or his accrued pension, as the case may be, together with the annual value of his accrued retiring allowance (if any), would be greater than the annual amount of any compensation to which he may then be entitled under these regulations, he shall be entitled, if he so requests at any time thereafter by notice in writing to the compensating authority, as from the date on which the compensating authority receive such notice, in lieu of any compensation to which he would otherwise be entitled under these regulations—

(i) in the case mentioned in head (*a*) of this sub-paragraph, to an annual sum equal to the amount of his accrued incapacity pension, and a lump sum equal to the amount of his accrued retiring allowance (if any) ; and

(ii) in the case mentioned in head (*b*) of this sub-paragraph, to an annual sum equal to the amount of his accrued pension and a lump sum equal to the amount of his accrued retiring allowance (if any) :

Provided that if in calculating the amount of compensation payable to a person who has given such notice as aforesaid, the compensating authority, by virtue of paragraph 20 of this schedule, have credited him with additional years of service or contributions, no account shall be taken for the purpose of the foregoing provision of any number of such additional years beyond the number of years which he could have served, had he not lost his employment, before the date on which such notice as aforesaid was received by the compensating authority.

(2) On receipt of a notice under the last preceding sub-paragraph, the compensating authority shall consider forthwith whether the person giving the notice is a person to whom that sub-paragraph applies, and within three months after the date of the receipt of the notice—

(*a*) if they are satisfied that he is not such a person, they shall notify him in writing accordingly ; and

(*b*) if they accept the notice, they shall assess the amount of compensation payable to the person and notify him in writing accordingly,

and any such notification shall, for the purposes of these regulations, be deemed to be a notification by the authority of a decision on a claim to compensation.

(3) A compensating authority may require any such person as is mentioned in head (*a*) of sub-paragraph (1) of this paragraph, who gives a notice under that sub-paragraph, to submit himself to a medical examination by a registered medical practitioner selected by that authority, and, if they do so, they shall also offer the person an opportunity of submitting a report from his own medical adviser as a result of an examination by him, and the authority shall take that report into consideration, together with the report of the medical practitioner selected by them.

Compensation payable to a pensionable officer on attainment of normal retiring age

12. Subject as hereinafter provided, the compensation payable to a claimant who was a pensionable officer (not being a person to whom paragraph 11 has been applied) on his attaining normal retiring age shall be—

(*a*) an annual sum equal to the amount of his accrued pension ; and
(*b*) a lump sum equal to the amount of his accrued retiring allowance (if any).

Supplementary provisions as to compensation payable to pensionable officer

13.—(1) Where a claimant, after suffering loss of employment, enters employment in which he participates in the benefits of the pension scheme associated with the employment he has lost, or becomes entitled to participate in any other pension scheme, in circumstances in which he is entitled to reckon for the purposes thereof service which falls to be taken into account for the purpose of assessing compensation under paragraph 11 or 12 of this schedule, no compensation under either of those paragraphs shall be payable unless the amount of the annual rate of the emoluments of the employment he has lost exceeds the amount of the annual rate of the emoluments to which he becomes entitled on entering such employment as aforesaid by more than 5 per cent. of the first-mentioned amount, and any compensation payable thereunder shall be calculated by reference only to the amount of the difference.

(2) If a claimant has unreasonably refused a suitable offer of such employment as is mentioned in the preceding sub-paragraph, he shall be deemed for the purposes of that sub-paragraph to have entered the employment so offered to him.

14. The provisions of paragraphs 11 and 12 of this schedule shall not apply to a person who has been participating in a scheme for providing superannuation benefits by means of contracts or policies of insurance, and who, on losing his employment, continued to participate in that scheme, or became entitled to a benefit or prospective benefit thereunder other than a return of contributions.

15.—(1) If the claimant was a person in respect of whose service a widow's pension might have become payable under the pension scheme to which he was last subject before losing his employment, then, if he so desires and informs the compensating authority by notice in writing accordingly when making his claim, he may surrender so much of any annual sum which may become payable to him as compensation under paragraph 11 or 12 of this schedule as represents the annual value of the contingent right in respect of widow's pension, in consideration of the payment by the compensating authority to the person who as his widow might have become entitled to such widow's pension as aforesaid in the event of her surviving him—

(*a*) if he dies before attaining normal retiring age, and without having given a notice pursuant to the provisions of paragraph 11 of this schedule, of an annual sum equal to the amount of the pension to which she would have become entitled had he, immediately before he died, become entitled to a pension under the pension scheme on grounds of ill-health of an amount equal to the amount of his accrued incapacity pension, less the part thereof surrendered under the provisions of this paragraph and any part thereof surrendered under the provisions of paragraph 17 ; and
(*b*) if he dies on or after attaining normal retiring age, or after giving notice pursuant to the provisions of paragraph 11 of this schedule, of an annual sum equal to the amount of the pension to which she would have become entitled in accordance with the method of calculation prescribed by the pension scheme had he, at the date on which he attained normal retiring age, or gave the said notice, become entitled to a pension under the pension scheme of an amount equal to the amount of his accrued pension or accrued incapacity pension, as the case may be, less the part thereof surrendered under the provisions of this paragraph and any part thereof surrendered under the provisions of paragraph 17.

(2) In the calculation of the amount of the annual sum payable to a widow under the preceding sub-paragraph, account shall be taken of any additional years of service or additional contributions credited to the claimant under paragraph 20 of this schedule :

Provided that no account shall be taken of any number of such additional years of service or contributions beyond the number of years which the claimant could have served before his death had he not lost his employment.

(3) Any sum payable to a widow under this paragraph shall cease to be payable or shall be suspended in any circumstances in which a widow's pension under the aforesaid pension scheme would have ceased to be payable or would have been suspended.

16. If under the pension scheme to which he was last subject before losing his employment, the claimant would have been entitled to surrender a proportion of any pension which might have become payable to him in favour of his spouse or any dependent, then, if he so desires and informs the compensating authority in writing accordingly within one month after becoming entitled to compensation under paragraph 11 or 12 of this schedule, he may surrender a proportion of so much of the said compensation as is payable by way of an annual sum on the like terms and conditions and in consideration of the like payments by the compensating authority as if the said annual sum were a pension to which he had become entitled under the said pension scheme.

17.—(1) If the claimant was a person in respect of whose service a death benefit might have become payable to his legal personal representatives under the pension scheme to which he was last subject before losing his employment, then, if he so desires, and informs the compensating authority in writing accordingly when making his claim, he may surrender so much of any annual sum which may become payable to him as compensation under paragraph 11 or 12 of this schedule as represents the annual value of the contingent right in respect of the said benefit, in consideration of the payment by the compensating authority to his legal personal representatives—

(*a*) if he dies before attaining normal retiring age, and without having given a notice pursuant to the provisions of paragraph 11 of this schedule, of a sum equal to the amount of any death benefit which would have become payable in accordance with the method of calculation, as modified by the next succeeding paragraph, prescribed by the pension scheme to which he was last subject before losing his employment, had he died immediately before the date on which he lost his employment and complied with any requirement of the said scheme as to a minimum period of qualifying service ; or

(*b*) if he dies on or after attaining normal retiring age or after giving a notice pursuant to the provisions of paragraph 11 of this schedule, of a sum equal to the amount of any such death benefit as aforesaid, less a sum equal to the aggregate amount of any payments made to him by way of compensation under paragraph 11 or 12 of this schedule.

(2) In the calculation of the amount of the sum payable under the preceding sub-paragraph, account shall be taken of any additional years of service or additional contributions credited to the claimant under paragraph 20 of this schedule :

Provided that no account shall be taken of any number of such additional years of service or contributions beyond the number of years which the claimant could have served before his death had he not lost his employment.

18. For the purposes of these regulations—

(*a*) the amount of any accrued pension or accrued incapacity pension, if the number of years of service by reference to which the pension is to be calculated is less than any minimum number of years of qualifying service prescribed by the pension scheme, shall, notwithstanding any minimum benefit prescribed by the pension scheme, not exceed such proportion of such minimum benefit as the number of years of pensionable service bears to the minimum number of years of qualifying service ; and

(*b*) if the amount of any death benefit falls to be ascertained, by virtue of any pension scheme, wholly or partly by reference to the emoluments or average emoluments of a pensionable officer, and the number of years of his pensionable service is less than any minimum number of years of qualifying service prescribed by the pension scheme for the

receipt of a death benefit, the said amount shall not exceed such proportion of the emoluments or average emoluments of the officer as the number of years of pensionable service bears to the minimum number of years of qualifying service.

19. If under the pension scheme to which the claimant was last subject before suffering loss of employment the amount of any pension to which he might have become entitled might have been increased at the discretion of the authority administering the pension scheme or of any other body or if under the said pension scheme any additional or supplementary payments might have been made to the claimant on his becoming entitled to a pension, the compensating authority may increase the compensation payable under paragraph 11 or 12 of this schedule by an annual sum not exceeding the amount by which his accrued incapacity pension on accrued pension might have been increased or the annual value of the payments which might have been made to him by way of addition to or supplementation of his accrued pension.

20. If the claimant had attained the age of forty years at the date on which he lost his employment, the compensating authority in calculating the amount of the compensation payable to him under paragraph 11 or 12 of this schedule may credit him with additional years of service or additional contributions not exceeding one year of service or one year's contributions for each completed year between the date on which he attained the age of forty years and the date on which he lost his employment, but not in any case exceeding ten years or such number of years as the claimant could have served had he continued in his employment until attaining normal retiring age, whichever is the less.

21. In deciding whether to add any number of years under the last preceding paragraph, the compensating authority shall have regard to the considerations set out in paragraph 8 of this schedule, and also to the claimant's rights under any pension scheme associated with any employment which he may have obtained in place of the employment he has lost.

22.—(1) If the claimant was such an officer as is mentioned in paragraph 14 of this schedule, the compensating authority may make such payments to or in respect of him, whether by way of the payment of premiums or otherwise, as are actuarially equivalent to the compensation which could have become payable to him by virtue of paragraph 19 or 20 of this schedule if he had been a person to whom paragraph 11 or 12 applied.

(2) If the claimant is such an officer as aforesaid, and he becomes entitled to a benefit under such a scheme as is mentioned in paragraph 14 of this schedule before reaching normal retiring age, the compensating authority may reduce any compensation payable to him under paragraph 9 of this schedule accordingly.

23.—(1) Compensation shall not be payable or shall cease to be payable under paragraph 11 or 12 of this schedule to a person who has received any sum by way of a return of contributions under the pension scheme to which he was last subject on his ceasing to be subject thereto, unless forthwith on receiving such sum he pays to the compensating authority an amount equivalent thereto, such amount to be held by the compensating authority subject to the condition that if the pension scheme made no provision for death benefit and he dies before he has received in the aggregate by way of compensation under paragraph 11 or 12 of this schedule a sum equal to the amount so paid as aforesaid to the compensating authority, together with compound interest thereon, calculated at the rate of 2½ per cent. per annum, with half-yearly rests, up to the date of his death, as from the first day of April or the first day of October following the half year in which the amount was paid, there shall be paid to his legal personal representatives the difference between the aggregate amount received by way of compensation and the said sum:

Provided that—

(*a*) if a sum becomes payable to his widow on his death under paragraph 15 of this schedule and on her re-marriage or death the sum ceases to be payable, and the aggregate amount of the payments which were made to her or her husband under these regulations is less than a sum equal to the amount so paid to the compensating authority by her husband as aforesaid on account of contributions, after the addition thereto of

interest thereon as aforesaid, there shall be paid to her or to her legal personal representatives the difference between the aggregate amount of the payments made to her or her husband as aforesaid and the said sum ;

(*b*) this paragraph shall not apply to a person to whom paragraph 13 of this schedule applies, and in the event of a claimant becoming such a person after having made a payment under this paragraph, the amount of the sum so paid shall be returned to him by the compensating authority ; and

(*c*) this paragraph shall not apply to a person who has been an officer on war service to whom regulation 20 applies, and who received a return of contributions before ceasing to be engaged in war service.

(2) A person to whom paragraph 11 or 12 of this schedule may become applicable shall on or before the date on which compensation may become payable to him thereunder be entitled, if he so desires and informs the compensating authority in writing accordingly, to receive from the compensating authority in lieu of any such compensation—

(*a*) if the person has paid any sum to the compensating authority under subparagraph (1) of this paragraph, an amount equivalent thereto, together with interest thereon, calculated in the manner provided by the pension scheme as from the date of payment of the said sum ; and

(*b*) if the person has not received a return of contributions under the pension scheme, and if, being entitled to such a return he has relinquished that right, an amount equivalent to the amount of such contributions together with interest thereon, calculated in manner provided by the pension scheme ;

and any liability of the compensating authority under paragraph 15 or 17 of this schedule shall cease in the event of his giving such notice as aforesaid.

Compensation payable to non-pensionable officer after attainment of normal retiring age

24.—(1) If the claimant was not a pensionable officer, the compensating authority may, on his attaining normal retiring age, if they are satisfied that he would in the normal course have continued in the employment he has lost for a substantial period beyond that age, continue to pay compensation to him for the remainder of his life at half its former rate.

(2) If the claimant was not a pensionable officer and suffers loss of employment on or after attaining normal retiring age, the compensating authority may, if they are satisfied that he would in the normal course have continued in the employment he has lost for a further substantial period, pay compensation to him for the remainder of his life at half the rate to which he would have been entitled under paragraph 9 of this schedule had he not attained normal retiring age at the date on which he lost his employment.

III. COMPENSATION FOR DIMINUTION OF EMOLUMENTS

25. On receipt of a claim for compensation for diminution of the emoluments of any employment the compensating authority shall within a period of three months after the date of receipt of the claim decide whether any compensation is payable and, if so, the amount of that compensation, and shall forthwith notify the claimant in writing of their decision.

26. A decision under the last preceding paragraph shall be subject to review in like manner as a decision under paragraph 6 of this schedule :

Provided that—

(*a*) no review shall take place after the date on which the claimant loses that employment, except a review as at that date ; and

(*b*) while the claimant continues to hold that employment, there shall be no limit to the period within which a review may take place.

27. In determining whether compensation is payable and, if so, the amount of that compensation, the compensating authority shall have regard to the conditions

upon which the claimant's appointment was made, the nature of his office, and all the other circumstances of the case. No compensation shall be payable where the diminution is less than 5 per cent. of the net emoluments of the claimant.

28. Compensation for diminution of emoluments shall be an annual sum payable as from the date of loss, if the claim was made within three months thereafter, and in any other case as from the date on which the claim was made, or from such earlier date, not being more than three months before the date on which the claim was made, as the compensating authority may in their discretion allow.

29. Compensation to a person for diminution of the emoluments of any employment shall be payable for the same period or periods as compensation for loss of employment and shall not during any period exceed a sum bearing the same proportion to the maximum amount of compensation which could have been awarded in respect of that period had he lost his employment as the amount by which his net emoluments are diminished bears to their amount before diminution :

Provided that the compensation shall cease if the person voluntarily relinquishes his employment without the consent of his employer otherwise than on reaching pensionable age.

30. A person entitled to compensation for diminution of emoluments shall have the like rights in relation to such compensation as are conferred by paragraphs 15, 16 and 17 upon a person entitled to compensation for loss of employment.

IV. MISCELLANEOUS

31.—(1) A notification of a decision by a compensating authority to a claimant for compensation under these regulations shall contain a statement directing the attention of the claimant to his right, if he is aggrieved by the decision, to refer the matter to the tribunal, and giving him the address of the office to which the reference should be sent.

(2) The proceedings on any reference under these regulations to the tribunal shall not be deemed to be an arbitration to which anything in the Arbitration Acts, 1889 to 1934, applies.

(3) On any such reference the tribunal may, if it thinks fit, appoint a person having special knowledge or experience in relation to the subject matter of the reference to sit with the tribunal as an assessor.

32. For the purpose of determining the amount of any compensation payable in respect of the loss of a whole-time office or of any two or more offices which in the aggregate involved the whole-time employment of an officer, any previous period of part-time employment shall be treated as though it were whole-time employment for a proportionately reduced period.

33. For the purpose of making any calculation under these regulations in respect of the service of an officer all periods of his service shall be aggregated, and if the aggregated service includes a fraction of a year, that fraction shall, if it equals or exceeds six months, be treated as a year, and in any other case be disregarded.

34. If in determining the amount of any compensation payable to a person under these regulations account is taken of any employment prior to the first world war and that person was temporarily absent from that employment during that war whilst serving in His Majesty's Forces or the Forces of the Allied or Associated Powers, either compulsorily or with the sanction or permission of the authority in whose employment he was immediately before such temporary absence, such period of temporary absence shall be reckoned as a period of service :

Provided that, in the case of a person who after the 11th day of November, 1918, voluntarily extended his term of service in such Forces, no period of absence during any such extension shall be reckoned.

35.—(1) Where a person to whom compensation is payable under these regulations for loss of employment has become or becomes entitled to a pension in respect of the employment he has lost otherwise than on losing such employment or where a person to whom compensation is payable under these regulations for loss of

employment or diminution of emoluments has become or becomes entitled to a pension in respect of any employment the remuneration of which was payable out of public funds and which he had obtained in place of the employment he had lost or in place of or in addition to the employment the emoluments of which were diminished, and in calculating the amount of such pension account is taken of any service which was taken into account in calculating the compensation payable, then, if the compensation does not exceed such part of the pension as is attributable solely to that service, the compensation shall cease to be payable, and if it exceeds such part of the pension as aforesaid, it shall be reduced by an amount equal to that part.

(2) Where a claimant's widow to whom an annual sum is payable under paragraph 15 or 30 of this schedule has become or becomes entitled to a widow's pension in respect of any employment of her husband the remuneration of which was payable out of public funds and which he had obtained in place of the employment he had lost or in place of or in addition to the employment the emoluments of which were diminished, and any part of such widow's pension is attributable to service of her husband of which account was taken in calculating his accrued pension or accrued incapacity pension by reference to which the said annual sum was calculated, then if the said annual sum does not exceed such part of the pension as is attributable solely to that service, the said annual sum shall cease to be payable, and if it exceeds such part of the pension as aforesaid, it shall be reduced by an amount equal to that part.

(3) Where a claimant's legal personal representatives to whom a sum is payable on the claimant's death under paragraph 17 or 30 of this schedule have become entitled to receive a death benefit under a pension scheme associated with any employment of the claimant the remuneration of which was payable out of public funds and which he had obtained in place of the employment he had lost or in place of or in addition to the employment the emoluments of which were diminished, and as one of the factors in the calculation of the amount of such benefit account fell to be taken of any service which fell to be taken into account as one of the factors in the calculation of the said sum, the said sum shall be reduced by an amount equal to such proportion of the amount of the death benefit as the number of years of the said service bears to the total number of years of service of which account fell to be taken as aforesaid in the calculation of the death benefit.

(4) Where any compensation, annual sum or lump sum is reduced in accordance with the foregoing provisions of this paragraph, such compensation, annual sum or lump sum shall be further reduced by an amount equal to such part thereof (if any) as is attributable to any additional years of service or contributions credited in accordance with paragraph 20 of this schedule and by an amount equal to such part thereof (if any) as is attributable to any minimum benefit prescribed by a pension scheme.

(5) This paragraph shall not apply to or in respect of a person in whose case paragraph 13 of this schedule has been applied, except to the extent to which the amount of the pension, widow's pension or death benefit to which the person, his widow or his legal personal representatives have become or become entitled as aforesaid is attributable to annual emoluments of a greater amount than the amount of the annual emoluments to which the person became entitled on entering the employment referred to in that paragraph.

(6) This paragraph shall not apply to or in respect of a person to whom compensation is or was payable for diminution of emoluments and who has become entitled to a pension in respect of employment which he had obtained in place of the employment the emoluments of which were diminished or whose widow has become entitled to a widow's pension or whose legal personal representatives have become entitled to a death benefit in respect of such employment, except to the extent to which the amount of the pension, widow's pension or death benefit is attributable to annual emoluments of a greater amount than the amount of the annual emoluments of the person's former employment after their diminution.

36.—(1) If a person receiving compensation for loss of employment obtains other employment in place of the employment he has lost and the remuneration thereof is payable out of public funds, he shall not, so long as he holds that employment, be entitled to receive any greater sum by way of compensation in respect of such loss than would make up the amount (if any) by which the net emoluments

transported to a senior school some miles away. Often, too, there are not enough children left, under 11, to justify a junior school, so these little ones have also to go elsewhere, and the village school is closed. It is generally agreed that the education and training which both groups thus receive in the bigger schools

amongst the younger school teachers to live, not in the small villages in which they teach, but in nearby towns or larger villages from which they can travel daily to their work and return, at its close, to some sort of companionship in the evenings. Thus, they

of that employment fall short of the net emoluments of the employment he has lost.

(2) If a person receiving compensation for diminution of the emoluments of any employment loses that employment in circumstances in which he does not become entitled to compensation in respect of that loss and thereupon or thereafter he obtains in place of that employment other employment the remuneration of which is payable out of public funds, he shall not, so long as he holds that employment, be entitled to receive any greater sum by way of compensation than would make up the amount (if any) by which the net emoluments of that employment fall short of the net emoluments of the former employment before diminution.

37.—(1) If a person becomes subject to the provisions of either of the two last preceding paragraphs he shall immediately notify the compensating authority in writing accordingly.

(2) A person who has become subject to the provisions of the last preceding paragraph shall also notify the compensating authority in writing of any increase in the remuneration of the employment he has obtained in place of the employment he lost.

38.—(1) Notwithstanding the preceding provisions of this schedule, if the annual sum which has been or might be awarded under those provisions does not exceed twenty-six pounds, the compensating authority may at their discretion discharge their liability in respect thereof by the payment of a lump sum representing the capital value of the annual sum, and if any lump sum has been or might be awarded in addition to such annual sum under the provisions of paragraph 12 of this schedule, the compensating authority may likewise discharge their liability in respect thereof by an immediate lump sum payment.

(2) If the annual sum which has been or might be so awarded exceeds twenty-six pounds and the claimant is not entitled to any lump sum in respect of accrued retiring allowance under these regulations, the compensating authority, if so requested by the claimant, may discharge their liability in respect of one quarter thereof by the payment of a lump sum representing the capital value of one quarter of the annual sum :

Provided that if the remaining three-quarters thereof does not exceed twenty-six pounds the compensating authority may discharge their liability as aforesaid in respect of the whole of the said sum.

(3) Any lump sum payable under the preceding provisions of this paragraph shall be of such amount as shall be certified by an actuary to be appropriate. [4756]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport. Paragraph numbers refer to the Schedule.)

These Regulations provide for the transfer to local planning authorities for the purposes of the Town and Country Planning Act, 1947 *(normally county or county borough councils), of property held and liabilities incurred for planning purposes before the coming into force of the Act by county district councils and joint planning committees which bodies will cease to be local planning authorities on the appointed day* (1st July, 1948). *Officers of these bodies who were in whole-time employment on planning business are also transferred by the regulations to the employment of the new local planning authorities.*

The regulations also provide machinery for compensating persons who lose employment or remuneration as a result of the transfer of functions effected by the Act, similar to the machinery set up for the purposes of the National Health Service Act, 1946. *A claimant must have served for at least eight years in central or local government employment (see definition of " existing officer " in regulation* 14). *If he has not refused a reasonably comparable office offered by a local planning authority to which he has been transferred (regulation* 16)

or made good his loss by obtaining other employment (paragraph 4) he will be eligible for "interim" payments of two-thirds of his net emoluments, with deductions if he gets other employment or unemployment benefit, for a period of up to three months (paragraphs 4 and 5). During this period his claim will be assessed. He will be expected to look for and take other suitable employment (paragraphs 5 (5) and 8). Compensation will be payable to him up to normal retiring age, and will be an annual sum based on a percentage of his net emoluments and the length of his service. The amount will be adjusted, in the light of the circumstances of the case, regard being had to any other emoluments which have or could have been obtained and the other factors mentioned in paragraphs 8 and 9. The award will be subject to review for a period of two years. If pensionable in his old employment, he will have a right to a payment equivalent to his accrued pension rights as from the age at which he would have retired, and in this payment account will be taken of any rights that may have existed under the pension scheme in respect of widow's pension, death benefit or incapacity pension (paragraphs 11, 12, 15, 16 and 17). For persons over 40, an addition may be made in recognition of their loss of future pensionable service (paragraph 20).

If the claimant was not pensionable, compensation will cease at normal retiring age unless he had expected to continue for a substantial period thereafter, in which case he will receive compensation after that age, for life, at half the rate he was getting up to that age (paragraph 24). Overlap with pension or remuneration from public funds is avoided (paragraphs 13, 35 and 36). A claimant who is aggrieved by a decision of a compensating authority may appeal to referees appointed by the Minister of Labour and National Service after consultation with the Lord Chancellor (regulation 17).

LOCAL LAND CHARGES (AMENDMENT) RULES, 1948

S.I. 1948 No. 1283/L.12

June 15, 1948

General note.—The present Rules are made with Treasury concurrence. On November 13, 1948, the Lord Chancellor made the Local Land Charges (Amendment No. 2) Rules, 1948 (S.I. 1948 No. 2471/L.28), which further amended, as from November 30, 1948, the Local Land Charges Rules, 1934 (S. R. & O., 1934, No. 285).

I, William Allen Viscount Jowitt, Lord High Chancellor of Great Britain, by virtue and in pursuance of the Land Charges Act, 1925, and of all other powers enabling me in this behalf, do hereby make the following Rules :—

1.—(1) These Rules may be cited as the Local Land Charges (Amendment) Rules, 1948, and shall come into operation on the first day of July, 1948.

(2) In these Rules, a Rule, paragraph, Schedule or Part of a Schedule referred to by number means the Rule, paragraph, Schedule or Part so numbered in the Local Land Charges Rules, 1934, as amended by any subsequent Rules. **[4757]**

2. Paragraph (1) of Rule 2, shall be amended as follows :—

(*a*) the following definition shall be inserted after the definition of the Town and Country Planning (Interim Development) Act, 1943, namely "The Act of 1947" means the Town and Country Planning Act, 1947 ;

transported to a senior school some miles away. Often, too, there are not enough children left, under 11, to justify a junior school, so these little ones have also to go elsewhere, and the village school is closed. It is generally agreed that the education and training which both groups thus receive in the bigger schools

amongst the younger school teachers to live, not in the small villages in which they teach, but in nearby towns or larger villages from which they can travel daily to their work and return, at its close, to some sort of companionship in the evenings. Thus, they

(*b*) in the definition of "Planning Charges" the following words shall be added, namely, "or prohibitions or restrictions which take effect by virtue of any notice given or any order, instrument or resolution made under the Act of 1947." [4758]

General note.—A further amendment of Rule 2, para. 1, is effected as from November 30, 1948, by S.I. 1948 No. 2471, referred to *supra*.

3. The following new Rule shall be inserted after Rule 9A and shall stand as Rule 9B, namely :—

"9B. Where any enforcement notice takes effect under section 23 or any notice takes effect under subsection 8 of section 30 or under section 35 or any order takes effect under sections 21, 26, 28 or 29 of the Act of 1947 or any other planning charge is created by virtue of the Act of 1947, the entry in Part III shall contain :—

(*a*) a reference to the notice, order, instrument or other document ;
(*b*) a sufficient description, by reference to a plan or otherwise, to enable the land affected to be identified ;
(*c*) notice of the place at which inspection may be made of any document referred to in paragraph (*a*) hereof or a certified copy of such document ;
(*d*) the date of registration of the charge. [4759]

4. In Rule 11 the words "the Minister of Town and Country Planning" shall be substituted for the words "the Minister" wherever they occur. [4760]

5. In Rule 14 after the words "or other record of" for the words "the local authority" there shall be substituted the words "a local authority (including any register kept by a local authority pursuant to the Act of 1947, or to any Order or Regulation made thereunder, or kept by a local planning authority as defined by the Act of 1947)". [4761]

6. In the First Schedule there shall be added after Part III (*b*) a new schedule to stand as Part III (*c*) which shall be in the form set out in the Schedule hereto. [4762]

7. In sub-paragraphs (i) and (ii) of paragraph 1 of the Second Schedule after the words "the Act of 1932" there shall be inserted the words "or any prohibition or restriction which takes effect by virtue of any notice given or any order, instrument or resolution made under the Act of 1947. [4763]

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EXPLANATORY NOTE

(*This Note is not part of the Rules, but is intended to indicate their general purport.*)

These Rules amend the Local Land Charges Rules, 1934, and provide for the registration in the Local Land Charges Registers of charges which may be created as a result of prohibitions and restrictions imposed under the Town and Country Planning Act, 1947. For the registration of those charges a new schedule is added to Part III of the Register. Provision is also made for the charging of fees for entries and searches in the Register in respect of these matters.

SCHEDULE

(c) Planning charges registrable under the Town and Country Planning Act, 1947.

1	2	3	4	5
Particulars of any enforcement notice which takes effect under section 23 or any notice which takes effect under sections 30 (8) or 33 or any order which takes effect under sections 21 or 26 of the Act of 1947, or in the case of a priority notice, nature of the contemplated charge.	Particulars of any order which takes effect under sections 28 or 29 of the Act of 1947, or in the case of a priority notice, nature of the contemplated charge.	Particulars of any other entry required to be made in the register.	Place at which any notice, order or other document, referred to in Columns 1, 2 or 3 or a certified copy of such document may be inspected.	Date of registration of charge or priority notice.

TOWN AND COUNTRY PLANNING (ERECTION OF INDUSTRIAL BUILDINGS) REGULATIONS, 1948

S.I. 1948 *No.* 1309

June 18, 1948

Whereas by subsection (4) of Section 14 of the Town and Country Planning Act, 1947, it is provided that an application to the local planning authority for permission to develop land by the erection thereon of an industrial building of any class prescribed by regulations made for the purposes of that subsection by the Board of Trade shall be of no effect unless it is certified by the Board that the development in question can be carried out consistently with the proper distribution of industry, but that no such certificate as aforesaid shall be required in respect of the erection of any industrial building which will have an aggregate floor space not exceeding five thousand square feet.

Now, therefore, the Board of Trade, in pursuance of the powers conferred upon them by the said subsection, hereby make the following regulations :—

1. All classes of industrial buildings are prescribed for the purposes of subsection (4) of Section 14 of the Town and Country Planning Act, 1947. [4765]

2. These regulations may be cited as the Town and Country Planning (Erection of Industrial Buildings) Regulations, 1948, and shall come into operation on the 1st day of July, 1948. [4766]

* * * * *

STOPPING UP OF HIGHWAYS (CONCURRENT PROCEEDINGS) REGULATIONS, 1948

S.I. 1948 *No.* 1348

June 19, 1948

The Minister of Transport (hereinafter referred to as " the Minister "), in exercise of the powers conferred upon him by subsection (5) of section 49 of the Town and Country Planning Act, 1947 (hereinafter referred to as " the Act ") and of all other powers him enabling, hereby makes the following Regulations :—

1. These Regulations shall come into operation on the 1st day of July, 1948, and may be cited as " The Stopping Up of Highways (Concurrent Proceedings) Regulations, 1948 ". [4767]

2. Where in pursuance of paragraph 1 of the Sixth Schedule to the Act, the Minister publishes a notice relating to an order which he proposes to make under subsection (1) of section 49 of the Act for the stopping up or diversion of any highway, the subsequent provisions of these Regulations shall apply. [4768]

3. The publication of any notice which the Minister or a local highway authority would be required to effect in pursuance of paragraphs 3 and 7 of the First Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, for the purpose of being authorised under subsection (3) of section 49 of the Act to acquire land compulsorily for the purpose of providing or improving any highway which is to be provided or improved in pursuance of the said order or for any other purpose for which land is required in connection with that order may be effected, notwithstanding that the said

order has not been made, at the same time as the publication of the notice referred to in Regulation 2 of these Regulations or at any time thereafter concurrently with any proceedings required to be taken for the purposes of the said order. [4769]

4. All other proceedings which would be required to be taken in pursuance of the said First Schedule for the purpose of authorising the Minister or the local highway authority, as the case may be, under subsection (3) of the said section 49 to acquire land compulsorily as aforesaid, may be taken, notwithstanding that the said order has not been made, concurrently with any proceedings required to be taken for the purposes of the said order :

Provided that nothing in this Regulation shall be taken to authorise the Minister to make or, as the case may be, to confirm any order authorising the compulsory acquisition of land under section 1 of the Acquisition of Land (Authorisation Procedure) Act, 1946, until after the relevant order under section 49 of the Act has been made and become operative. [4770]

5. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [4771]

* * * * *

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

Section 49 of the Town and Country Planning Act, 1947, empowers the Minister of Transport for development purposes by order to authorise the stopping up or diversion of any highway and the provision or improvement of any other highway. The section also enables the Minister or a local highway authority to be authorised to acquire land for the purposes of such an order. These Regulations make provision for enabling the proceedings relating to the compulsory acquisition of the land to be taken concurrently with the proceedings required to be taken for the purpose of the order under section 49.

TOWN AND COUNTRY PLANNING (GENERAL) REGULATIONS, 1948

S.I. 1948 *No.* 1380

June 24, 1948

The Minister of Town and Country Planning, in exercise of the powers conferred on him by sections 9, 19, 20, 22, 24, 27, 30, 33, 45, 79, 84, 105, 110 and 111, and paragraph 13 of the 10th Schedule to the Town and Country Planning Act, 1947, and by section 23 of the Town and Country Planning Act, 1944 as amended by that Act and of all other powers enabling him in that behalf hereby makes the following regulations :—

Citation and Commencement

1. These regulations may be cited as the Town and Country Planning (General) Regulations, 1948 and shall come into force on the appointed day. [4772]

Interpretation

2.—(1) In these regulations, unless the context otherwise requires, the following expressions have the meanings respectively assigned to them, namely :—

" the Act " means the Town and Country Planning Act, 1947 ;

" the appointed day " means the day appointed for the coming into force of the Act.*

(2) The Interpretation Act, 1889, shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [4773]

Notices under section 9 of the Act

3.—(1) A notice under subsection (1) of section 9 of the Act (which relates to the right of owners of land designated by a development plan as subject to compulsory acquisition to require their interests to be acquired) shall be in writing specifying the interest to be acquired and shall be served on the local planning authority by delivering it at the offices of the authority addressed to the Clerk thereof, or by sending it by pre-paid post addressed as aforesaid.

(2) Any such notice as is mentioned in paragraph (1) of this regulation may be served at any time after the expiration of eight years in the case of agricultural land within the meaning of the Rating and Valuation (Apportionment) Act, 1928, or of twelve years in any other case, from the date on which the plan, or the amendment of the plan, by virtue of which the land was first so designated, came into operation. [4774]

Claims for compensation and purchase notices

4.—(1) A claim for compensation made to a local planning authority under any of the following sections of the Act, namely sections 20, 22, 27 and 79, or a purchase notice served on the council of a county borough or a county district under section 19 of the Act or under that section as modified by section 22 or section 27 thereof shall be in writing and shall be served on that authority or council by delivering it at the offices of the authority or council addressed to the Clerk thereof or by sending it by pre-paid post addressed as aforesaid.

(2) The time within which any such claim or notice as is mentioned in paragraph (1) of this regulation shall be served shall be a period of six months from the date of the direction, order or decision in respect of which such claim or notice is made or given :

Provided that such period may be extended by the Minister in any particular case. [4775]

Notices, etc., to occupiers and persons having an interest in premises

5. The manner in which a notice or document such as is referred to in subsection (2) of section 105 of the Act shall be marked in order that it shall be deemed to be duly served under head (*b*) of that subsection shall be by inscribing clearly and legibly upon the notice or document and upon the envelope containing it, the words " Important—This Communication affects your property ". [4776]

Application of enforcement provisions of the Act to works in contravention of section 30 (6)

6. The following exceptions and modifications shall be made in subsections (3) to (5) of section 23 and section 24 of the Act in their application to a notice served under subsection (8) of section 30 of the Act, namely :—

(*a*) in paragraph (*a*) of the proviso to subsection (3) of section 23 for the words " on the land of any building or works, or for the continuance of any use of the land, to which the enforcement notice relates ",

* *See* S.I. 1948 No. 218.

there shall be substituted the words " of the works affected by the notice " ;

(*b*) for heads (*a*) and (*b*) of subsection (4) of section 23 there shall be substituted the following heads :—

" (*a*) if satisfied that no works have been carried out in contravention of subsection (6) of section 30, or that the works have been carried out before effect has been given to the requirements of subsections (3) and (4) of section 30 of this Act so far as they relate to such person, shall quash the notice to which the appeal relates ;

(*b*) if not so satisfied but satisfied that the requirements of the notice exceed what is necessary for restoring the building to its former state, shall vary the notice accordingly ; "

(*c*) in subsection (2) of section 24 the words " served under the last foregoing section in respect of any development " shall be omitted, and for the words " the development was carried out " there shall be substituted " the works were carried out " ;

(*d*) subsections (3) and (4) of section 24 shall be omitted ;

(*e*) in subsection (5) of section 24, for the words " an enforcement notice under the last foregoing section ", there shall be substituted the words " a notice under subsection (8) of section 30 of this Act ". [4777]

Notices under section 33 of the Act

7.—(1) A notice under subsection (1) of section 33 of the Act (which relates to the abatement of injury caused by the condition of any garden, vacant site or other open land) shall be served in any manner provided for the service of such a notice by section 105 of the Act and regulation 5 of these regulations.

(2) The following exceptions and modifications shall be made in subsections (3) to (5) of section 23 and section 24 of the Act in their application to any such notice as is referred to in paragraph (1) of this regulation, namely :—

(*a*) in subsection (3) of section 23, paragraph (*a*) of the proviso shall be omitted ;

(*b*) for heads (*a*) and (*b*) of subsection (4) of section 23, there shall be substituted the following heads :—

" (*a*) if satisfied that the condition of the land to which the notice relates is such as results in the ordinary course of events from operations or a use for which permission was granted under this Part of this Act, shall quash the notice to which the appeal relates ;

(*b*) if not so satisfied, but satisfied that the requirements of the notice exceed what is necessary for abating the injury, shall vary the notice accordingly ; "

(*c*) in the proviso to subsection (4) of section 23, the words " without prejudice to the provisions of paragraph (*a*) of the proviso to subsection (3) of this section " shall be omitted ;

(*d*) in subsection (2) of section 24 the words " served under the last foregoing section in respect of any development " shall be omitted, and for the words " the development was carried out," there shall be substituted the words " the condition of the land was caused " ;

(*e*) in subsection (3) of section 24 for the words from the beginning of the subsection up to and including " these operations ", there shall be substituted the words " Where any steps specified in the notice for abating the injury have not been taken within the period therein

specified, then if any person on whom such notice has been served causes or permits the injury to continue after the expiration of that period ", for the word " fifty " there shall be substituted the word " ten ", for the word " use " the word " injury ", and for the word " twenty " the word " two " ;

(*f*) subsection (4) of section 24 shall be omitted ;

(*g*) in subsection (5) of section 24 for the words " an enforcement notice under the last foregoing section " there shall be substituted the words " a notice under section 33 of this Act ". [4778]

Application of Public Health Act, 1936, to enforcement notices

8. The provisions of section 276, 289, 292 and 294 of the Public Health Act, 1936, shall apply in relation to steps required to be taken by an enforcement notice under section 24 or by a notice under subsection (8) of section 30 or under section 33 of the Act as if for references to a local authority or a council there were substituted references to a local planning authority, for references (in whatever form) to the execution of works under the said Act there were substituted references to the taking of steps required to be taken under such a notice, and for the reference in section 294 to " expenses under this Act " there were substituted a reference to expenses incurred in the taking of such steps as aforesaid. [4779]

Prescribed period under section 84

9. For the purpose of subsection (3) of section 84 of the Act (which provides that where land has since the appointed day ceased to be operational land of statutory undertakers, no development charge will be payable in respect of its use for the purpose prevailing generally in the use of contiguous or adjacent land, or in respect of any operations necessary for making that use, if the use is instituted or the operations are carried out within such period after the cessation as may be prescribed in these regulations) the prescribed period shall be a period of five years. [4780]

Disputes as to prevailing use

10.—(1) An application under section 110 of the Act for the reference of a dispute arising in relation to any land, as to what is the use which prevails generally in the case of contiguous or adjacent land, shall be made to the Central Land Board within 28 days from the date on which a notice that a dispute arises is served by one of the parties concerned on the other party or parties.

(2) Any such application shall be sent by post or delivered to any office of the Central Land Board, and a copy of such application shall be sent to the other party to the dispute, unless such party is the Central Land Board.

(3) An appeal to the Minister from a determination of the Central Land Board in any such dispute as aforesaid shall be in writing giving the Board's reference number, if known, shall state the grounds of the appeal, and shall be sent to the Minister within 28 days from the date of such determination ; and the appellant shall also send a copy of such appeal to the other party or parties to the dispute. [4781]

Concurrent procedure under section 45 (6) for development plans and compulsory purchase orders

11. Where notice has been given in the London Gazette of the submission to the Minister of a development plan, or of proposals for the amendment of such a plan, or of any proposal by the Minister to make or amend such a plan, and the plan or proposals as submitted or the proposal of the Minister

designates any land as subject to compulsory acquisition, any proceedings required by the Acquisition of Land (Authorisation Procedure) Act, 1946, to be taken for the purposes of an order or authorisation for the compulsory acquisition of such land or any part thereof under subsection (1) of section 37 or subsection (1) of section 38 of the Act may be taken concurrently with any proceedings required by or under the Act to be taken in connection with the approval, making or amendment of such development plan :

Provided that no such order or authorisation shall be confirmed, made or given by a Minister before such plan or amendment has become operative. [4782]

Concurrent procedure for acquisition of land and extinguishment of rights of way

12.—(1) Where under section 38 of the Act a compulsory purchase order for the acquisition of any land has been made by a local authority and submitted to the Minister in accordance with the provisions of the Acquisition of Land (Authorisation Procedure) Act, 1946, or where any land has been acquired by a local authority under section 40 of the Act, the succeeding provisions of this regulation shall apply in relation to the extinguishment of public rights of way over such land and the acquisition of land for the provision of alternative rights of way.

(2) The Minister may on or after any such submission or acquisition publish in accordance with the provisions of paragraph (1) of the Sixth Schedule to the Act, as applied by section 23 of the Town and Country Planning Act, 1944, notice of an order proposed to be made under subsection (1) of section 23 of that Act, relating to the extinguishment of any such right of way.

(3) On or after the publication of any such notice, the Minister of Transport may prepare in draft or a local highway authority may make a compulsory purchase order under subsection (3) of the said section 23, for the acquisition of land for providing an alternative right of way.

(4) Any other proceedings required to be taken in connection with the making of an order under subsecton (1) of section 23 of the Town and Country Planning Act, 1944, may be taken concurrently with the proceedings required to be taken in connection with such order as is mentioned in paragraph (1) of this regulation, and any other proceedings for the making or confirmation of such compulsory purchase order as is referred to in paragraph (3) of this regulation may be taken concurrently with either or both of the said proceedings :

Provided that—

(*a*) no such order under the said subsection (1) of section 23 shall be made until the land over which the right of way subsists has been acquired by the local authority ; and

(*b*) no such compulsory purchase order as is referred to in paragraph (3) of this regulation shall be made by the Minister of Transport or confirmed, until the original right of way has been extinguished by an order under the said subsection (1) of section 23. [4783]

Transitory provisions as to the Restrictions of Ribbon Development Acts

13.—(1) Any application to a highway authority under the Restriction of Ribbon Development Act, 1935, for any consent which that authority have power to give under section 1 or section 2 of that Act, being an application which has not been determined by that authority before the appointed day, shall be treated for the purposes of the Act as an application made to the local planning authority for planning permission, and shall be treated as having been so made on the appointed day :

Provided that where before the appointed day the highway authority have consulted with the Minister of Transport in accordance with the provisions of subsection (3) of section 4 of the Trunk Roads Act, 1936, the application shall not, provided any requirements of the Minister of Transport under that subsection are given effect to by the local planning authority, be treated as an application for development affecting trunk roads for the purposes of the Town and Country Planning (General Development) Order, 1948.

(2) Any decision of a highway authority on an application for such a consent under the Restriction of Ribbon Development Act, 1935, shall, unless the applicant has appealed against that decision under section 7 of that Act before the appointed day, be treated for the purpose of section 16 of the Act, as the decision of a local planning authority on an application for planning permission.

(3) Any appeal to the Minister of Transport under the said section 7 which is pending on the appointed day shall be treated as an appeal to the Minister under section 16 of the Act:

Provided that where under the said section 7 any such local inquiry as is required by that section has been held before the appointed day, the proviso to subsection (2) of section 15 of the Act, shall not apply in relation to any such appeal.

(4) Any such application as is referred to in paragraph (1) of this regulation shall be sent by the highway authority to the local planning authority with any plans, drawings or other documents relating thereto and the highway authority shall notify the applicant accordingly. [4784]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of these Regulations, but is intended to indicate their general purport.*)

These Regulations make provision for various procedural matters under the Town and Country Planning Act, 1947. *Regulations* 3, 4, 5 *and* 7 (1) *prescribe the time and manner in which certain notices may be given and claims made under the Act. Regulations* 6 *and* 7 (2) *deal with the adaptation of the provisions of the Act as to enforcement notices* (*sections* 23 *and* 24) *to notices of a similar character under other sections of the Act, and regulation* 8 *adapts certain provisions of the Public Health Act*, 1936, *dealing with the recovery of expenses and similar matters, so as to apply them to proceedings under these notices and under enforcement notices. Regulation* 9 *fixes at* 5 *years the period within which land which has ceased to be operational land of statutory undertakers may be developed without payment of development charge. Regulation* 10 *deals with the procedure for referring disputes as to what is the "prevailing use" of land to the Central Land Board and the Minister. Regulations* 11 *and* 12 *provide for proceedings being taken concurrently in respect of* (*i*) *development plans and compulsory purchase orders, and* (*ii*) *compulsory purchase orders and orders extinguishing rights of way. Regulation* 13 *is of a transitory nature, providing for the transfer to local planning authorities of applications under section* 1 *or section* 2 *of the Restriction of Ribbon Development Act*, 1935, *which have not been finally determined before the appointed day* (1*st July*, 1948), *on which date those sections are repealed.*

TOWN AND COUNTRY PLANNING (TREE PRESERVATION ORDER) REGULATIONS, 1948

S.I. 1948 *No.* 1436

June 29, 1948

The Minister of Town and Country Planning in exercise of the powers conferred on him by sections 28 and 111 of the Town and Country Planning Act, 1947, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

1. These Regulations may be cited as the Town and Country Planning (Tree Preservation Order) Regulations, 1948, and shall come into force on the appointed day.* [4785]

2.—(1) In these regulations unless the context otherwise requires :—

" the Act " means the Town and Country Planning Act, 1947 ;

" the appointed day " means the day appointed for the coming into force of the Act ;*

" order " means a tree preservation order made under section 28 of the Act, and in regulations 4, 6 and 7 includes an order amending or revoking such an order;

" notice by advertisement " in relation to an order means a notice published in a newspaper circulating in the locality in which the subject matter of the order is situate ;

" the Minister " means the Minister of Town and Country Planning.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [4786]

3.—(1) Subject to the provisions of paragraph (2) of this regulation, an order made by a local planning authority shall be in such form as the local planning authority may determine.

(2) Every order shall include a map showing the position of the trees, groups of trees or woodlands, which are the subject matter of the order. Such map shall be to a scale of 25 inches to 1 mile (or 1/2,500) where the order is for trees or groups of trees or affects only small areas of woodlands. For orders affecting large areas of woodlands, such map shall be to a scale of 6 inches to 1 mile and in respect of any woodlands which are too small to be shown adequately thereon, or in respect of which a clearer definition of boundaries is necessary, additional maps to a scale of 25 inches to 1 mile (or 1/2,500) shall form part of the order. [4787]

4. A local planning authority shall, on making an order—

(*a*) submit to the Minister :

(i) the sealed order in duplicate ;

(ii) the following number of unsealed copies thereof, namely, in the case of an order affecting woodlands, five copies, in the case of an order affecting only trees or groups of trees, four copies, and in the case of an order which merely amends or revokes an existing order, one copy ; and

(iii) a statement of their reasons for making the order ;

(*b*) give notice by advertisement of the submission of the order to the Minister, and include in the notice a statement that a certified copy of the order will be open for inspection at a specified place or places and between specified hours, and that objections or

* *See* S.I. 1948 No. 213.

transported to a senior school some miles away. Often, too, there are not enough children left, under 11, to justify a junior school, so these little ones have also to go elsewhere, and the village school is closed. It is generally agreed that the education and training which both groups thus receive in the bigger schools

amongst the younger school teachers to live, not in the small villages in which they teach, but in nearby towns or larger villages from which they can travel daily to their work and return, at its close, to some sort of companionship in the evenings. Thus, they

representations with reference to the order may be made in writing to the Minister in accordance with these regulations within 28 days from the date of publication of the advertisement;

(*c*) serve on the owners and occupiers of the land affected by the order and on any other person known to them, at the time of giving such notice as aforesaid, to be entitled to fell any trees, groups of trees or woodlands specified in the order, or to work by surface working any minerals in the land affected by the order, a copy of the order (either with or without any map forming part thereof) together with a notice stating that the order has been made and submitted to the Minister for confirmation, naming the place or places where and the hours within which a certified copy of the order may be inspected, and stating that objections or representations with reference thereto may be made in writing to the Minister in accordance with these regulations within 28 days from the date of service of the notice; and

(*d*) furnish to the Minister copies of any advertisement published in accordance with the provisions of this regulation, and a certificate that the provisions of sub-paragraphs (*b*) and (*c*) of this regulation have been complied with. [4788]

5.—(1) Every objection or representation shall specify the particular trees, groups of trees or woodlands in respect of which it is made and shall state the grounds thereof.

(2) An objection shall not be duly made unless it is received within the period allowed under the last foregoing regulation and complies with the provisions of paragraph (1) of this regulation. [4789]

6. The Minister shall, before deciding whether to confirm the order, take into consideration any objections and representations duly made in accordance with the foregoing regulation, and, if a local inquiry is held, the report of such inquiry. [4790]

7. The local planning authority shall, on receipt of the Minister's decision on the order—

(*a*) inform all persons on whom notices have been served under sub-paragraph (*c*) of regulation 4 of these regulations of the Minister's decision, and in addition, where the order is confirmed or confirmed subject to modifications, serve a copy of the order on every such person; and

(*b*) (except where the order is confirmed provisionally under the proviso to sub-section (4) of section 28 of the Act) give notice by advertisement of the Minister's decision, and where the order is confirmed with or without modifications, state in such notice the place where and the hours within which a copy of the order may be inspected. [4791]

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EXPLANATORY NOTE

(This Note is not part of these Regulations, but is intended to indicate their general purport.)

These Regulations deal with the form of tree preservation orders made under section 28 of the Town and Country Planning Act, 1947, and the procedure to be followed in connection with the submission and confirmation of such orders.

TOWN AND COUNTRY PLANNING MINERALS DIRECTION NO. 1, 1948

S.I. 1948 *No.* 1437

June 29, 1948

The Minister of Town and Country Planning (hereinafter called "the Minister") in exercise of the powers conferred upon him by paragraph (6) of Article 5 of the Town and Country Planning (General Development) Order, 1948, and of all other powers enabling him in that behalf hereby gives the following direction :—

1. Any local planning authority to whom an application has been made for permission under the Town and Country Planning Act, 1947, to develop land by the winning and working of any of the minerals specified in the Schedule hereto shall furnish to the Minister—

(*a*) on receipt of such application, a copy thereof and of any plans or maps submitted therewith, and

(*b*) where a decision in respect of such application has been given by them, particulars of such decision and of the date thereof. [4792]

2. This Direction may be cited as the Town and Country Planning Minerals Direction No. 1, 1948, and shall come into force on the first day of July, 1948. [4793]

SCHEDULE

Fullers Earth.
Diatomite.
China Clay.
China Stone.
Felspar.
Ball Clay.
Talc.
Pyrophyllite.

Moulding Sands.
Silica Sands.
Rock Quartzite.

Bauxite.
Tungsten Ore.
Lead Ore.
Zinc Ore.
Tin Ore.
Manganese Ore.
Fluorspar.

Graphite.
Lignite.
Oil Shale.

Anhydrite.
Gypsum.
Phosphate Rock.
Mica.
Celestine.

[4794]

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TOWN AND COUNTRY PLANNING DELEGATION (LONDON) REGULATIONS, 1948

S.I. 1948 *No.* 1459

June 30, 1948

The Minister of Town and Country Planning in exercise of the powers conferred upon him by Section 114 of the Town and Country Planning Act, 1947, and of all other powers enabling him in that behalf hereby makes the following regulations :—

Citation and Commencement

1. These regulations may be cited as the Town and Country Planning Delegation (London) Regulations, 1948, and shall come into force on the first day of July, 1948. [4795]

transported to a senior school some miles away. Often, too, there are not enough children left, under 11, to justify a junior school, so these little ones have also to go elsewhere, and the village school is closed. It is generally agreed that the education and training which both groups thus receive in the bigger schools

amongst the younger school teachers to live, not in the small villages in which they teach, but in nearby towns or larger villages from which they can travel daily to their work and return, at its close, to some sort of companionship in the evenings. Thus, they

Interpretation

2.—(1) In these regulations :—

" the Common Council " means the Common Council of the City of London ;

" the Act " means the Town and Country Planning Act, 1947.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [4796]

Delegation of functions

3.—(1) The London County Council shall delegate to the Common Council their functions in relation to applications for planning permission, in respect of land in the City of London, under sections 14, 16, 17, 18, 23 and 24 of the Act.

(2) Before dealing with any application for permission, the Common Council shall obtain the agreement of the London County Council to the manner in which they propose to deal with it, and any application which in the opinion of the said Councils is of exceptional difficulty shall be referred to the Minister in accordance with the Town and Country Planning (City of London Applications) Direction, 1948. [4797]

Exercise of delegated functions

4. Any document by which any function delegated to the Common Council under Regulation 3 of these regulations is exercised shall state that such function is exercised on behalf of the London County Council. [4798]

Transfer of liabilities

5. The London County Council may by agreement with the Common Council transfer to the Common Council any liability to pay compensation under Part III of the Act in respect of anything done by the Common Council in the exercise of functions delegated to them in accordance with these regulations. [4799]

Validity of documents

6. No document issued by the Common Council under these regulations shall be invalid by reason only that the requirements of these regulations have not been complied with, and no person acting in pursuance of any such document shall be concerned to see that such requirements have been observed. [4800]

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EXPLANATORY NOTE

(This Note is not part of these Regulations, but is intended to indicate their general purport.)

These Regulations are made under subsection (10) *of section* 114 *of the Town and Country Planning Act,* 1947, *and relate to the delegation by the London County Council to the Common Council of the City of London of planning functions in relation to land in the City. The functions which are to be delegated are indicated in paragraph* (1) *of regulation* 3 ; *and paragraph* (2) *of that regulation requires the concurrence of the London County Council in decisions on applications for planning permissions and provides that where the Councils are agreed that any application is of exceptional difficulty, the application shall be referred to the Minister under the Town and Country Planning (City of London Applications) Direction,* 1948. *(This Direction, made under section* 15 *of the Act at the same time as these Regulations, will enable the Minister to determine such applications.) Regulation* 4 *deals with the*

manner in which delegated functions are to be exercised, Regulation 5 gives power to the London County Council to transfer liabilities arising from the exercise of such functions to the Common Council, by agreement with that Council, and Regulation 6 deals with the validity of documents issued under the regulations.

TOWN AND COUNTRY PLANNING (CITY OF LONDON APPLICATIONS) DIRECTION, 1948

S.I. 1948 *No.* 1460

June 30, 1948

Whereas the Town and Country Planning Delegation (London) Regulations, 1948, provide that the London County Council shall delegate to the Common Council of the City of London their functions in relation to applications for planning permission in respect of land in the City of London under (*inter alia*) Sections 14 and 18 of the Town and Country Planning Act, 1947, and that before dealing with any such application the Common Council shall obtain the agreement of the London County Council to the manner in which they propose to deal with it;

Now the Minister of Town and Country Planning in exercise of the powers conferred on him by Section 15 of the said Act hereby gives the following direction:—

1. Any application for permission to develop land in the City of London which in the opinion of the said Councils is of exceptional difficulty shall be referred by the London County Council to the Minister to be dealt with by him. [4801]

2. This direction may be cited as the Town and Country Planning (City of London Applications) Direction, 1948, shall come into force on the first day of July, 1948, and may be varied by a subsequent direction. [4802]

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TOWN AND COUNTRY PLANNING (LOCAL AUTHORITIES' LAND: EXCEPTIONS TO SECTION 82) REGULATIONS, 1948

S.I. 1948 *No.* 1461

June 30, 1948

The Minister of Town and Country Planning in exercise of the powers conferred on him by Section 82 (1) (*c*) of the Town and Country Planning Act, 1947, and all other powers enabling him in that behalf, hereby makes the following regulations:—

1.—(1) These regulations may be cited as the Town and Country Planning (Local Authorities' Land: Exceptions to Section 82) Regulations, 1948, and shall come into force on the appointed day.*

(2) The Interpretation Act, 1889, shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

(3) In these regulations—

(*a*) "the Act" means the Town and Country Planning Act, 1947; and "the appointed day" means the day appointed for the coming into force of the Act;

* *See* S.I. 1948 No. 213.

transported to a senior school some miles away. Often, too, there are not enough children left, under 11, to justify a junior school, so these little ones have also to go elsewhere, and the village school is closed. It is generally agreed that the education and training which both groups thus receive in the bigger schools

amongst the younger school teachers to live, not in the small villages in which they teach, but in nearby towns or larger villages from which they can travel daily to their work and return, at its close, to some sort of companionship in the evenings. Thus, they

(*b*) "land held for commercial purposes" means land held for the purpose of any activity (including restaurants, theatres, concert-halls, holiday camps and airfields) with the intention of making profit therefrom, whether that intention is the main object of that activity or not. [4803]

2. The following classes of land shall be excepted from the provisions of Section 82 of the Act :—

(1) Land held for commercial purposes.
(2) Land held solely or mainly for the revenue derived therefrom.
(3) Land held for industrial estates.
(4) Land held by local highway authorities for working and winning minerals for highway purposes.
(5) Land acquired by a local authority—

(*a*) before the appointed day in pursuance of a notice to treat served after the passing of the Act, or in pursuance of a contract (not being a contract which excludes the application of sub-sections (2) and (3) of Section 91 of the Act) made after the passing of the Act ;

(*b*) on or after the appointed day in pursuance of a notice to treat served or a contract made after the passing of the Act ;

and not for the time being developed by that authority.

Provided that classes (1) to (4) shall not include the following land :—

(i) land acquired by a local authority—

(*a*) in pursuance of a notice to treat served, or a contract made, before the passing of the Act ; or

(*b*) before the appointed day in pursuance of a contract made after the passing of the Act, being a contract which excludes the application of subsections (2) and (3) of Section 91 of the Act ;

under an express statutory power to acquire land for the benefit of the area of the local authority, or for development or recoupment or other general purposes not more particularly identified (including land acquired for the improvement or development of frontages under Section 83 of the Public Health Act, 1925) which is for the time being not developed by that authority or appropriated to any more particular purpose ;

(ii) land held for the purpose of any enactment relating to housing ;
(iii) land held for the purpose of—

a gymnasium, public library, museum or art gallery ; a cemetery, burial ground, crematorium or mortuary ; the burial of carcases. [4804]

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EXPLANATORY NOTE

(*This Note is not part of these Regulations, but is intended to indicate their general purport.*)

By section 82 of the Town and Country Planning Act, 1947, land held at the appointed day (1st July, 1948) by a local authority for the purposes of their functions is excluded from the provisions of Part VI of the Act and no development charge is payable if the land is developed or if it is appropriated or sold or leased for another purpose with a planning permission. Where land held by a local authority at any time for the purposes of their functions is compulsorily acquired from that authority the compensation on such acquisition is to be assessed on the basis that no development charge would be payable for any development by which the use of the land is made to correspond with the generally prevailing use of contiguous or adjacent land.

Certain land is excepted from the benefit of this section, including land of any class excepted by these regulations.

Class (5) *refers to land which a local authority has acquired at restricted value and which is not developed by that authority. The object of taking it out of this section is that upon any compulsory acquisition from that authority, the latter (having acquired it at restricted value) shall not reap the benefit of "prevailing use value" referred to above.*

On the other hand the effect of the proviso is that the land therein mentioned (all of which will have been acquired at unrestricted value) falls back into the section and is thus excluded both from a claim under Part VI and from a development charge.

TOWN AND COUNTRY PLANNING (ENFORCEMENT OF RESTRICTION OF RIBBON DEVELOPMENT ACTS) REGULATIONS, 1948 ‡

S.I. 1948 *No.* 1520

May 25, 1948

The Minister of Town and Country Planning in exercise of the powers conferred on him by subsection (8) of Section 75 of the Town and Country Planning Act, 1947, and of all other powers enabling him in that behalf hereby makes the following Regulations :—

1. These Regulations shall come into force on the appointed day,* and may be cited as the Town and Country Planning (Enforcement of Restriction of Ribbon Development Acts) Regulations, 1948. [4805]

2.—(1) In these Regulations, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say :—

"the Act" means the Town and Country Planning Act, 1947 ;

"the appointed day" means the day appointed for the coming into force of the Act.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [4806]

3. For the purpose of applying the provisions of subsections (1) to (7) of Section 75 of the Act to works on land carried out or uses of land begun at any time before the appointed day in contravention of any restriction in force under Section 1 or Section 2 of the Restriction of Ribbon Development Act, 1935, subsection (1) and (2) of Section 75 of the Act shall be adapted and modified so as to have effect as follows :—

† "(1) Where any works on land existing at the appointed day were carried out or any use to which land is put on that day was begun in contravention of previous planning control **or any building law** then, subject to the provisions of this Section, the provisions of Part III of this Act with respect to enforcement notices shall apply in relation

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* *See* S.I. 1948 No. 213.

† *Note.*—Words printed in heavy type are words inserted by the Regulation.

‡ These Regulations were approved by Resolution of the House of Commons, 28th June, 1948, and by the House of Lords, 30th June, 1948, in accordance with Section 75 (8) of the Town and Country Planning Act, 1947.

thereto as they apply in relation to development carried out after the appointed day without the grant of permission in that behalf under the said Part III:

Provided that an enforcement notice shall not be served by virtue of the provisions of this Section in respect of any works or use (not being works or a use carried out or begun during the war period as defined by the Building Restrictions (War-Time Contraventions) Act, 1946) at any time after three years from the appointed day.

In this Section the expression "building law" means any restriction in force before the appointed day by virtue of Section 1 or Section 2 of the Restriction of Ribbon Development Act, 1935.

(2) Where any such works as aforesaid were carried out, or any such use as aforesaid was begun, during the war period as defined by the Building Restrictions (War-Time Contraventions) Act, 1946, then—

(*a*) if by virtue of the provisions of that Act, **or of that Act as amended by any regulations made by the Minister under subsection (8) of this Section,** or of any determination effected thereunder (whether before or after the appointed day), the works or use are deemed to comply with planning control within the meaning of that Act **or with any building law,** the provisions of this Section shall not apply, or, as the case may be, shall cease to apply to those works or that use; and

(*b*) if it has been determined under that Act **or under that Act amended as aforesaid** (whether before or after the appointed day) that the works or use shall not be deemed to comply with planning control within the meaning of that Act **or with any building law,** subsection (3) of Section twenty-three of this Act shall have effect, in relation to any enforcement notice served in respect of the works or use, by virtue of the provisions of this Section, as if the proviso to that subsection were omitted."

and subsections (3) to (7) of the said Section 75 shall have effect accordingly. [4807]

4. The Building Restrictions (War-Time Contraventions) Act, 1946, shall have effect as regards any restriction in force before the appointed day by virtue of Section 1 or Section 2 of the Restriction of Ribbon Development Act, 1935, as though:—

(*a*) any reference therein to a building law included a reference to any such restriction, and any reference to the authority responsible for enforcing such a law were, in relation to that restriction, a reference to the authority empowered by virtue of Section 75 of the Act as applied by Regulation 3 of these Regulations to serve an enforcement notice under Part III of the Act;

(*b*) any reference therein to a failure to comply or non-compliance with a building law included a reference to a failure to comply or non-compliance, before the appointed day, with any such restriction, any reference to compliance with such a law being construed accordingly;

(*c*) any reference in subsections (10) and (11) of Section 2 thereof to an authority responsible for enforcing planning control included a reference to an authority empowered by virtue of Section 75 of the Act as applied by Regulation 3 of these Regulations to serve an enforcement notice under Part III of the Act. [4808]

* * * * *

EXPLANATORY NOTE

(This Note is not part of these Regulations, but is intended to indicate their general purport.)

Section 75 of the Town and Country Planning Act, 1947, provides for the application of the enforcement provisions contained in Part III of that Act to breaches, occurring before the appointed day, of previous planning control under the Town and Country Planning Acts of 1932 and 1943, which are repealed. These Regulations adapt the provisions of that Section so as to make it applicable to breaches, occurring before the appointed day, of the control exercised by highway authorities under Sections 1 and 2 of the Restriction of Ribbon Development Act, 1935, which are also repealed. The power of enforcement is given by the Regulations to local planning authorities, as if the restrictions imposed by that Act were part of previous planning control (Regulation 3).

The Building Restrictions (War-Time Contraventions) Act, 1946, confers on authorities responsible for enforcing building laws or planning control power to sanction war-time non-compliance with such laws or control, and certain other powers. Regulation 4 of these Regulations makes necessary amendments in this Act in order to apply its provisions to the enforcement machinery created by Regulation 3, in substantially the same manner as it formerly applied to the enforcement of the repealed sections of the Restriction of Ribbon Development Act, 1935.

TOWN AND COUNTRY PLANNING (MINERALS) REGULATIONS, 1948†

S.I. 1948 *No.* 1521

May 13, 1948

The Minister of Town and Country Planning (hereinafter called "the Minister") in exercise of the powers conferred on him by Sections 81 (1) and 111 of the Town and Country Planning Act, 1947, and of all other powers enabling him in that behalf hereby with the consent of the Treasury makes the following Regulations.

PART I

Interpretation, Citation and Commencement

1.—(1) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

(2) In these Regulations—

(*a*) "the Act" means the "Town and Country Planning Act, 1947";

(*b*) "mining operations" means the winning and working of minerals in, on or under land, whether by surface or underground working, and "mineral undertaker" means any person engaged in mining operations;

(*c*) "the Appointed Day" means the day appointed for the coming into force of the Act;

(*d*) "Crown land" and "appropriate authority" have the meanings assigned to them in Section 87 of the Act.

(3) These Regulations may be cited as the Town and Country Planning (Minerals) Regulations, 1948, and shall come into operation on the appointed day.* [4809]

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* *See* S.I. 1948 No. 213.

† These Regulations were approved by Resolution of the House of Commons, 28th June, 1948, and the House of Lords, 30th June, 1948, in accordance with Section 81 (5) of the Town and Country Planning Act, 1947.

transported to a senior school some miles away. Often, too, there are not enough children left, under 11, to justify a junior school, so these little ones have also to go elsewhere, and the village school is closed. It is generally agreed that the education and training which both groups thus receive in the bigger schools

amongst the younger school teachers [illegible] the small villages in which they teach, but in nearby towns or larger villages from which they can travel daily to their work and return, at its close, to some sort of companionship in the evenings. Thus, they [illegible] contribution to the life of the little com-

PART II

Adaptations and modifications of the Act

2. In relation to development consisting of the winning and working of minerals, the provisions of the Act shall have effect subject to the adaptations and modifications prescribed by the following Regulations. [4810]

3.—(1) For the purposes of the Act, "use" in relation to land does not include the use of land by the carrying out of mining operations, provided that in the following provisions of the Act, viz., subsection (2) (*b*) of Section 14, subsections (2) and (3) of Section 23, subsection (3) of Section 24, and subsection (2) of Section 72 references to the use of land shall include the carrying out of mining operations and references to the continuance or discontinuance of a use of land shall include the continuance or discontinuance of mining operations.

(2) Subsection (1) of Section 22 of the Act (which provides for the payment of compensation in the event of a revocation or modification of permission to develop) shall have effect subject to the following modifications :—

(*a*) The compensation awarded under that subsection shall not include compensation for loss of minerals the winning and working of which has been prevented by the revocation or modification of the permission referred to in that subsection, but the claimant shall be at liberty to prove that any sum paid by him in respect of development charge (or any part of such sum) is expenditure which has been rendered abortive by the revocation or modification and is not otherwise recoverable and thereupon compensation shall be payable in respect of that expenditure ; but save as aforesaid the proviso to the said subsection shall apply as if (*a*) and (*b*) of the proviso to that subsection had not been excepted therefrom.

(*b*) A claim for expenditure or loss shall not be entertained under that subsection in respect of buildings plant or machinery unless the claimant can prove that he is unable to use such buildings plant or machinery or (as the case may be) to use them except at the loss claimed and for this purpose the arbitrator may give directions that such claim be severed from the remainder of the claim and be dealt with at such later date as may be fixed by the arbitrator either in such directions or subsequently on application by either party.

(3) Where minerals have been won and worked after the appointed day in breach of any condition subject to which the permission to develop was granted, an enforcement notice in respect of that breach may be served under Section 23 of the Act at any time within four years after the breach has come to the knowledge of the local planning authority. [4811]

4.—(1) Where at the appointed day a mineral undertaker has any interest in land which entitles him (whether subject to the consent of another person or not) to win and work the minerals therein (or has a right to acquire such an interest), no development charge shall be payable in respect of the winning and working of minerals in that land during the period of three years from the appointed day.

(2) The restricted and unrestricted values of an interest in any such land as aforesaid shall be calculated for the purposes of Part VI of the Act as if any operations carried out for the winning and working of minerals therein during the period referred to in the preceding paragraph had been carried out before the appointed day ; provided that it shall not be assumed that any other operations would have been advanced thereby, and in all other respects the value shall be calculated as if this Regulation had not been made.

(3) No claim for compensation on compulsory acquisition of land or on the revocation or modification of any permission to develop land shall be increased by reason of the provisions of this Regulation. [4812]

5. In assessing compensation under Section 51 of the Act for the compulsory acquisition of an interest in any land in respect of which a planning permission to win and work minerals is in force at the date of the notice to treat—

(*a*) any sum (or any part of a sum) which has been paid under Part VII of the Act by way of development charge in respect of that permission shall, if it can be shown that it is expenditure which has been rendered abortive by the acquisition of the interest and that it is not otherwise recoverable, be recoverable by way of compensation;

(*b*) for the purpose of assessing the value of any buildings, plant or machinery on the land regard shall be had to that permission;

(*c*) in so far as that permission has diminished the value of the surface of the land by rendering it liable to subsidence or otherwise, regard shall be had to that diminution;

but save as aforesaid the value of the interest to which the notice to treat relates shall (notwithstanding that any sum has been paid under Part VII of the Act as mentioned in (*a*) of subsection (4) of the said Section, or that no such charge as is mentioned in (*b*) of that subsection is payable) be calculated as if the said permission had not been granted. [4813]

6. Subsection (3) of Section 60 of the Act (which provides that a claim for a payment under the Treasury Scheme referred to in Part VI of the Act may be made in respect of any interest in land being an interest in fee simple or a leasehold interest as defined by the Act) shall have effect as if the interests therein specified included an interest in land under a mining lease as defined by the Act. [4814]

7. For the purposes of Section 61 of the Act (which provides for the ascertainment of development values of land) in calculating the restricted and unrestricted values of an interest in any land used for the purpose of winning and working minerals regard shall be had to any increase in the value of the interest arising from the presence of any buildings plant and machinery used for such purpose but the value of the buildings plant and machinery as such shall be excluded. [4815]

8.—(1) Without prejudice to anything contained in Section 71 of the Act the Central Land Board may, after taking into account any representations made by the applicant, calculate the amount (or any part of the amount) of the development charge payable under Part VII of the Act in respect of any development consisting of the winning and working of minerals by reference to the amount of minerals got from time to time, and for this purpose the amount of minerals got may be measured by reference to the amount of the manufactured article produced or by any other method recognised as appropriate to the type of minerals concerned.

(2) The Central Land Board may require the mineral undertaker to furnish in such form as the Board may prescribe such periodical returns and other information (including an auditor's certificate) as may be necessary in order to ensure that payment is made in accordance with the Board's determination of the development charge and the Board may, in any case where a mineral undertaker neglects to furnish any such information as aforesaid to their satisfaction, require the mineral undertaker to permit such examination of his books and accounts as may be necessary for the said purpose.

(3) Information obtained by the Board under the preceding paragraph shall be treated as confidential by the Board and the Minister. [4816]

9.—(1) Where a development charge is payable under Part VII of the Act in respect of the winning and working of minerals comprised in a mining lease which was in force on the appointed day, the royalty or other payment required to be made under the lease may be varied by the tribunal prescribed by paragraph (4) of this Regulation so far as may be just having regard to the amount of the development charge.

(2) Where a development charge is payable under the said Part VII in respect of the winning and working of minerals authorised by an Order made under Part I of the Mines (Working Facilities and Support) Act, 1923, the provisions of the Order may be varied by the Railway and Canal Commission so far as may be just having regard to the amount of the development charge.

(3) The powers of the tribunal under paragraph (1) and of the Railway and Canal Commission under paragraph (2) of this Regulation may, with the consent of the appropriate authority, be exercised in relation to any interest of the Crown in Crown land.

(4) The tribunal referred to in paragraph (1) of this Regulation shall consist of a member or members of the panel constituted under Part I of the Schedule to these Regulations, being a member or members selected in accordance with the provisions of Part II of that Schedule, and the provisions of Part III of that Schedule shall have effect in relation to any reference to that tribunal under the provisions of this Regulation. [4817]

10.—(1) Where an application is made under Part III of the Act, or is treated as having been so made—

(*a*) for permission to carry out such mining operations as are mentioned in paragraph 1 of Class XIX of the First Schedule to the Town and Country Planning (General Development) Order, 1948, and the application is made, or is treated as having been made, within the period specified in that paragraph; or

(*b*) for permission to resume any mining operations by an undertaker who suspended such operations—

(i) at any time during the war period in consequence of any arrangement for the concentration of production approved, or in consequence of any order for that purpose made, by a Government department in the exercise or purported exercise of emergency powers;

(ii) at any time since the seventh day of January, nineteen hundred and thirty-seven, in the normal course of his operations, where such suspension was ordinarily incidental to the particular class of mining operations in which he is engaged;

Section 79 of the Act (which provides for compensation for abortive expenditure on refusal of permission for certain development authorised before the appointed day) shall apply as if the operations in respect of which the application is made, or is treated as having been made, were buildings or works to which that Section applies and as if the reference in paragraph (*c*) of subsection (1) of that Section to expenditure in carrying out work which is rendered abortive included expenditure or loss in respect of buildings plant and machinery required for the purposes of the said mining operations:

Provided that a claim for expenditure or loss in respect of buildings plant and machinery shall be subject to the provisions set out in Regulation 3 (2) (*b*) of these Regulations.

(2) In this Regulation—

(*a*) the expression "the war period" means the period beginning with the third day of September, nineteen hundred and thirty-nine

and ending with the twenty-sixth day of February, nineteen hundred and forty-six;

(*b*) the expression "emergency powers" means powers conferred by Defence Regulations. [4818]

SCHEDULE

PART I

Constitution of Panel

1. For the purposes of these Regulations there shall be constituted a panel consisting of a Chairman and such number of other members as the Lord Chancellor may from time to time determine, to be appointed by the Lord Chancellor.

2. The Chairman shall be a barrister-at-law of at least seven years' standing, and of the other members of the panel such number as the Lord Chancellor may determine shall be persons of legal experience and the others shall be persons who have had experience in the valuation of land and minerals appointed after consultation with the President of the Royal Institution of Chartered Surveyors.

3. In the case of temporary absence or inability to act of the Chairman, the Lord Chancellor may appoint another member of the panel to act as deputy for the Chairman, and a member so appointed shall, when so acting, have all the functions of the Chairman.

4. The appointment of a member of the panel shall be for such term as may be determined by the Lord Chancellor, with the approval of the Treasury, before his appointment and shall be subject to such conditions as may be so determined, and a person who ceases to hold office as a member of the panel shall be eligible for re-appointment thereto. [4819]

PART II

Constitution of Tribunals

5. The member or members of the panel who is or are to be the tribunal for the purposes of any reference shall be selected as follows, that is to say—

(*a*) the Chairman may select a member or members to be the tribunal for a particular reference or for each of a group of references; or

(*b*) the Chairman may select as respects a group of references members of the panel from amongst whom the tribunal for any reference in the group is to be selected, and in that case the tribunal for any reference in the group shall be such one or more of those members as is or are selected either by the Chairman or, if he so directs, by one of those members appointed by the Chairman to be their chairman.

6. Where the tribunal for any reference consists of two or more members of the panel—

(*a*) if the Chairman is one of them he shall preside at the hearing, and, if he is not, one of them shall be nominated to preside at the hearing by the person by whom the members of whom the tribunal consists were selected;

(*b*) a decision of the tribunal shall be taken, in case of difference between the members of whom the tribunal consists, by the votes of the majority, and, in the case of an equality of votes, the person presiding at the hearing shall be entitled to a second or casting vote. [4820]

PART III

Provisions as to references to a Tribunal

7. The Lord Chancellor may make rules for regulating, subject to the provisions of this Schedule, references to a tribunal under these Regulations, and such rules may in particular make provision—

(*a*) as to the time within which, and the manner in which, any such reference is to be made;

transported to a senior school some miles away. Often, too, there are not enough children left, under 11, to justify a junior school, so these little ones have also to go elsewhere, and the village school is closed. It is generally agreed that the education and training which both groups thus receive in the bigger schools

amongst the younger school teachers to live, not in the small villages in which they teach, but in nearby towns or larger villages from which they can travel daily to their work and return, at its close, to some sort of companionship in the evenings. Thus, they make no contribution to the life of the little com-

(*b*) for limiting the number of expert witnesses who may be heard at the instance of any party to one, except where the tribunal otherwise determines ; and
(*c*) as to the form in which any decision of the tribunal is to be given. [4821]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of these Regulations, but is intended to indicate their general purport.*)

These Regulations, which are made under Section 81 (1) *of the Town and Country Planning Act,* 1947, *prescribe the adaptations and modifications to which the Act is to be subject in relation to development consisting of the winning and working of minerals.* (*By Section* 81 (6) *the Regulations have no application to :—*

(1) *the winning and working, on land held or occupied with land used for the purposes of agriculture, of any minerals reasonably required for the purposes of that use ;*
(2) *the winning and working of minerals vested in the National Coal Board.*)

TOWN AND COUNTRY PLANNING (MODIFICATION OF MINES ACT) REGULATIONS, 1948 †

S.I. 1948 *No.* 1522

May 13, 1948

The Minister of Town and Country Planning and the Minister of Fuel and Power by virtue of the powers conferred on them by sub-section (4) of Section 81 of the Town and Country Planning Act, 1947, and all other powers enabling them in that behalf, hereby make the following Regulations :—

Citation, Commencement and Interpretation

1. These Regulations may be cited as the Town and Country Planning (Modification of Mines Act) Regulations, 1948, and shall come into operation on the appointed day.* [4822]

2.—(1) In these Regulations—
(*a*) " the Mines Act " means the Mines (Working Facilities and Support) Act, 1923 ;
(*b*) " the appointed day " means the appointed day for the coming into force of the Town and Country Planning Act, 1947 ;
(*c*) " the Commission " means the Railway and Canal Commission.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [4823]

General

3. Where a development plan provides that any land is to be used for the purpose of securing the winning and working of any minerals comprised therein, the provisions of the Mines Act shall have effect in relation to that land subject to the modifications prescribed by these Regulations. [4824]

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* *See* S.I. 1948 No. 213.

† These Regulations were approved by Resolution of the House of Commons, 28th June, 1948, and the House of Lords, 30th June, 1948, in accordance with Section 81 (5) of the Town and Country Planning Act, 1947.

4. The right to work such minerals as aforesaid may be conferred by the Commission under subsection (1) of Section 1 of the Mines Act, where there is danger for any reason that the minerals will not be worked in accordance with the development plan, on any person (whether having an interest in the minerals or not) who is desirous of working them either by himself or through his lessees and who is unable to obtain the necessary rights by agreement on reasonable terms, and any such person may apply under subsection (1) of Section 5 of that Act for the grant of such a right. [4825]

5. For the purposes of the determination by the Commission of an application for any such right, it shall be assumed that the winning and working of the minerals is expedient in the national interest. [4826]

6. The compensation or consideration in respect of any such right which is granted by the Commission shall be assessed having regard to the amount of the compensation which would be payable in respect of a compulsory acquisition of the minerals under Part IV of the Town and Country Planning Act, 1947. [4827]

* * * * *

EXPLANATORY NOTE

(This Note is not part of these Regulations, but is intended to indicate their general purport.)

Under Section 81 (4) *of the Town and Country Planning Act*, 1947, *where a development plan makes provision for the winning and working of minerals in any land, the provisions of the Mines (Working Facilities and Support) Act*, 1923, *dealing with the granting of rights to work certain minerals in the national interest may be modified by Regulations—*

(*a*) *extending its operation to any land allocated in the plan for mineral working ;*

(*b*) *requiring the Railway and Canal Commission to assume that such working is in the national interest ;*

(*c*) *requiring the compensation to the landowner to be assessed on the same basis as for compulsory purchase.*

These Regulations prescribe the necessary modifications of the 1923 *Act.*

(By Section 81 (6) *these Regulations have no application to*

(1) *the winning and working, on land held or occupied with land used for the purposes of agriculture, of any minerals reasonably required for the purposes of that use :*

(2) *the winning and working of minerals vested in the National Coal Board.)*

TOWN AND COUNTRY PLANNING (CONTROL OF ADVERTISEMENTS) REGULATIONS, 1948

S.I. 1948 *No.* 1613

July 12, 1948

ARRANGEMENT OF REGULATIONS

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transported to a senior school some miles away. Often, too, there are not enough children left, under 11, to justify a junior school, so these little ones have also to go elsewhere, and the village school is closed. It is generally agreed that the education and training which both groups thus receive in the bigger schools

amongst the younger school teachers to live, but in the small villages in which they teach, but in nearby towns or larger villages from which they can travel daily to their work and return, at its close, to some sort of companionship in the evenings. Thus, they

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The Minister of Town and Country Planning in exercise of the powers conferred upon him by Section 31, subsections (2) and (3) of Section 32, and Section 111 of the Town and Country Planning Act, 1947, and of all other powers enabling him in that behalf, hereby makes the following Regulations :—

PART I

Title, interpretation and extent and application

Citation and operation

1. These Regulations may be cited as the Town and Country Planning (Control of Advertisements) Regulations, 1948, and shall come into force on the 1st day of August, 1948. [4828]

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires, the following expressions have the meanings hereinafter respectively assigned to them, namely—

" the Act " means the Town and Country Planning Act, 1947 ;

" the Minister " means the Minister of Town and Country Planning ;

" advertisement " means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of and employed wholly or in part for the purposes of advertisement, announcement or direction (excluding any such thing employed wholly as a memorial or as a railway signal), and without prejudice to the foregoing provision includes any hoarding or similar structure used or adapted for use for the display of advertisements, and references to the display of advertisements shall be construed accordingly ;

" existing advertisement " has the meaning assigned to it in Regulation 7 of these Regulations ;

" illuminated advertisement " means an advertisement which is designed or adapted to be illuminated by artificial lighting, directly or by reflection, and which is so illuminated for the purposes of advertisement, announcement or direction at any time after the date on which these Regulations come into force ;

" area of special control " means an area defined under Regulation 10 of these Regulations as an area of special control in respect of the display of advertisements ;

" building " includes any structure or erection and any part of a building as so defined ;

" business premises " has the meaning assigned to it in paragraph (3) of Regulation 12 of these Regulations ;

" enactment " includes an enactment in any local or private Act of Parliament and an order, rule, regulation, byelaw or scheme made under an Act of Parliament ;

transported to a senior school some miles away. Often, too, there are not enough children left, under 11, to justify a junior school, so these little ones have also to go elsewhere, and the village school is closed. It is generally agreed that the education and training which both groups thus receive in the bigger schools amongst the younger school teachers to live, not in the small villages in which they teach, but in nearby towns or larger villages from which they can travel daily to their work and return, at its close, to some sort of companionship in the evenings. Thus, they make no contribution to the life of the little com-

" land " includes buildings, and land covered with water ;

" local authority " means the Council of a County, county borough, metropolitan borough or county district, the Common Council of the City of London and any other authority being a local authority within the meaning of the Local Loans Act, 1875, and includes any drainage board and any joint board or joint committee if all the constituent authorities are such local authorities as aforesaid ;

" local planning authority " means, for each county or county borough, the council of that county or county borough, and for any united district established by the Minister under Section 4 of the Act, means the joint planning board constituted for that district, and references to the local planning authority in these Regulations shall, in relation to the exercise of any functions delegated by the local planning authority in accordance with Regulations made under Section 34 or subsection (12) of Section 114 of the Act, be construed as references to the authority to whom those functions are for the time being delegated ;

" owner " in relation to any land, has the meaning assigned to it by subsection (1) of Section 119 of the Act ;

" site ", in relation to an advertisement, means any land, or any building other than an advertisement as herein defined, on which an advertisement is displayed ;

" specified classes " means the classes of advertisements specified in Regulation 12 of these Regulations ;

" standard conditions " means the standard conditions set out in the First Schedule to these Regulations ;

" statutory undertakers " means persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, island navigation, dock, harbour, pier or lighthouse undertaking or any undertaking for the supply of electricity, gas, hydraulic power or water, and " statutory undertaking " shall be construed accordingly, and, in relation to the display of advertisements of Class I specified in Regulation 12 of these Regulations, shall be deemed to include any undertaking carried on by the National Coal Board for the winning or supply of coal.

(2) Reference in these Regulations to the person displaying an advertisement shall be construed as reference to the person who himself, or by his servant or agent, undertakes or maintains the display of such advertisement, and, unless the context otherwise requires, shall be deemed to include—

(*a*) the owner and occupier of the land on which the advertisement is displayed ; and

(*b*) any person to whose goods, trade, business or other concerns publicity is given by the advertisement.

(3) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. **[4829]**

Extent and application

3.—(1) These Regulations shall apply to the display on land in England and Wales of all advertisements, except any advertisement—

(*a*) displayed on enclosed land, and not readily visible from land outside the enclosure wherein it is displayed or from any part of such enclosure over which there is a public right of way or to which there is public right of access ;

(*b*) displayed within a building, subject however to the provisions of Regulation 27 of these Regulations ;

(*c*) displayed on or in a vehicle ;

(*d*) incorporated in, and forming part of, the fabric of a building, other than a building used principally for the display of such advertisements or a hoarding or similar structure.

(2) For the purposes of this Regulation—

(*a*) the expression " enclosed land " means land which is wholly or for the most part enclosed within a hedge, fence, wall or similar screen or structure, and shall be deemed to include any railway station together with the yards and forecourt thereof, whether enclosed or not; but shall not include any public park, public garden or other land held for the use or enjoyment of the public, or (save as hereinbefore specified) any part of a railway undertaking's enclosed land normally used for the carriage of passengers by rail;

(*b*) " vehicle " means a vehicle normally employed as a moving vehicle on any highway or railway, or a vessel normally employed as a moving vessel on any inland waterway;

(*c*) no advertisement shall be deemed to be displayed within a building unless there is access to the advertisement from inside the building;

(*d*) no advertisement shall be deemed to form part of the fabric of a building by reason only of being affixed to, or painted on, the building. [4830]

PART II

General Provisions

Control of advertisements to be exercised in the interests of amenity and public safety

4.—(1) The powers conferred by these Regulations with respect to the grant or refusal of consent for the display of advertisements, and to the revocation or modification of such consent, shall be exercisable only in the interests of amenity and public safety.

(2) When exercising such powers a local planning authority,

(*a*) shall, in the interests of amenity, determine the suitability of the use of a site for the display of advertisements in the light of the general characteristics of the locality, including the presence therein of any feature of historic, architectural, cultural or similar interest; and when assessing the general characteristics of a locality the authority may disregard any advertisements therein being displayed;

(*b*) shall, in the interests of public safety, have regard to the safety of persons who may use any road, railway, inland waterway, dock, harbour or airfield affected or likely to be affected by any display of advertisements; and shall in particular consider whether any such display is likely to obscure, or hinder the ready interpretation of, any road traffic sign, railway signal, or signal for the control or safety of navigation by water or air;

but without prejudice to their power to have regard to any other material factor.

(3) In the determination of an application for consent for the display of advertisements (other than an application pursuant to a notice served under Regulation 8 of these Regulations with respect to an advertisement of a specified class), or where the revocation or modification of a consent is under consideration, regard may be had to any material change in circumstances likely to occur within the period for which the consent is required or granted.

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(4) Save as hereinafter provided, and subject to the provisions of these Regulations, express consent for the display of advertisements shall not contain any limitation or restriction relating to any particular subject matter or class of subject matter or to the consent or design of any subject matter to be displayed, but shall take effect as consent to the use of a site for the purpose of displaying advertisements in the manner authorised by the consent whether by the erection of structures on the site or otherwise as the case may be :

Provided that where an application for consent relates to the display of a particular advertisement the local planning authority may have regard to the effect on amenity and public safety of the display of such advertisement. [4831]

Consent required for the display of advertisements

5.—(1) No advertisement may be displayed without consent granted by the local planning authority or by the Minister on application in that behalf (hereinafter referred to as " express consent "), or deemed by virtue of the next following paragraph to be granted.

(2) Consent shall be deemed to be granted for any advertisement displayed in accordance with a provision of these Regulations whereby advertisements of that description may be displayed without express consent; and where the display of such advertisements is allowed subject to the power in Regulation 8 of these Regulations to require application for express consent to be made, the consent so deemed to be granted shall be consent limited until such application is finally determined, or, if no application is made within the period allowed for that purpose, until the expiry of that period; without prejudice however to the provisions of Regulation 7 and Regulation 11 hereafter, in relation respectively to periods of grace for existing advertisements and to the removal of advertisements which are being displayed in an area defined as an area of special control.

(3) In so far as the nature of the consent permits, consent for the display of advertisements shall enure for the benefit of the land to which the consent relates and of all persons for the time being interested in that land, but without prejudice to the provisions of these Regulations with respect to the revocation or modification of consents granted hereunder.

(4) Save only as hereinafter excepted, it shall be a condition of every consent under these Regulations (whether expressly imposed or not) that before any advertisement is displayed on land in pursuance of the consent the permission of the owner of that land or of a person entitled to grant such permission shall be obtained; except where an advertisement of the description specified in sub-paragraph (*b*) of paragraph (1) of Regulation 14 of these Regulations is required to be displayed notwithstanding that such permission is not obtained. [4832]

The standard conditions

6. Without prejudice to the power of the local planning authority to impose additional conditions upon a grant of consent under these Regulations, the standard conditions set out in the First Schedule hereto shall, subject to the provisions of these Regulations, apply without further notice—

(*a*) in the case of the conditions set out in Part I of that Schedule, to the display of all advertisements; and

(*b*) in the case of the condition set out in Part II thereof, only to advertisements being displayed with consent deemed to be granted under these Regulations, or granted under Regulation 26 thereof. [4833]

Existing advertisements

7.—(1) Advertisements which are being displayed on the date on which these Regulations come into force (hereafter in these Regulations called "existing advertisements") shall be exempt from the provisions thereof until the expiry of a period of three months from that date, and may then continue to be displayed without express consent, subject to the standard conditions and subject, after the appropriate period of grace hereinafter granted, to the power of the local planning authority, by notice served under the next following Regulation, to require application for express consent to be made.

(2) No such application shall be required until after the expiry of the appropriate period of grace hereby granted, namely,

(*a*) in the case of existing advertisements which were being displayed on the seventh day of January, 1947, three years from the date on which these Regulations come into force;

(*b*) in the case of any other existing advertisement, one year from that date.

(3) Subject to this Regulation, a notice under the next following Regulation purporting to require an application for express consent to be made for the continuance of the display of an existing advertisement before the expiry of a period of grace to which that advertisement is entitled, shall not take effect in the manner specified in paragraph (2) of Regulation 5 of these Regulations to bring to an end the consent in force for the display of that advertisement; and where a local planning authority are satisfied, whether on a claim made to them in that behalf or otherwise, that any person on whom they have served such a notice is, by virtue of the last foregoing paragraph, relieved of the obligation to comply with the requirement thereof, then, subject to the subsequent provisions of this Regulation, they shall forthwith inform that person accordingly and shall withdraw the notice.

(4) Except where the authority are satisfied as aforesaid, they may determine any application made to them in pursuance of the notice, and if the display to which the notice relates is continued without express consent they may exercise their powers to secure the discontinuance thereof; and any consent in force for the display of an advertisement shall be deemed to have been duly brought to an end by a notice served under the next following Regulation and not withdrawn, unless it is shown to the court in enforcement or summary proceedings, taken in respect of continuance of the display either despite such notice or notwithstanding refusal of consent on an application made thereunder, that the notice failed by virtue of this Regulation to take effect as aforesaid.

(5) Nothing in this Regulation shall restrict the exercise by a local planning authority of any power hereinafter conferred on them to decide an application voluntarily made to them or to take action in respect of any contravention of these Regulations.

(6) Reference in this Regulation to the display of advertisements shall be construed as reference also to the use of a site for the display of advertisements:

Provided that consent, deemed in consequence to be granted for the continued use for the purpose of displaying advertisements of any site which is being used for that purpose on the date on which these Regulations come into force, shall be subject to the following conditions and limitations—

(*a*) there shall be no substantial increase in the extent, or substantial alteration in the manner, of the use of the site for that purpose on that date;

(*b*) where a building or structure on which advertisements are being displayed on the date on which these Regulations come into force is

transported to a senior school some miles away. Often, too, there are not enough children left, under 11, to justify a junior school, so these little ones have also to go elsewhere, and the village school is closed. It is generally agreed that the education and training which both groups thus receive in the bigger schools

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required under any enactment to be removed, consent under this Regulation shall not extend to the erection of any building or structure on which to continue the display of such advertisements without substantial alteration in the manner of the display. [4834]

Power to require application to be made for express consent

8.—(1) Subject to these Regulations, where it appears expedient to the local planning authority so to do, they may serve on any person displaying an advertisement with consent deemed to be granted, other than an advertisement of a description specified in Regulation 14 hereafter, a notice requiring application for express consent for the continuance of such display to be made within the time (not being less than twenty-eight days) specified in the notice; and the authority shall send together with such notice a copy of the application form referred to in Regulation 15 of these Regulations, or instructions as to the manner in which an application should be made.

(2) A notice under this Regulation may be served in respect of the use of land for the display of advertisements as aforesaid, and in that event it shall not be necessary to specify any advertisement to the display of which such notice relates.

(3) The provisions of Part V of these Regulations relating to applications for consent and to appeals to the Minister from the determination of such applications shall apply to the submission and determination of applications made in pursuance of a notice served under this Regulation. [4835]

Liability to fine for contravention of the Regulations

9.—(1) The amount of the fine to which a person who displays an advertisement in contravention of these Regulations is liable on summary conviction under subsection (3) of Section 32 of the Act is fifty pounds and in the case of a continuing offence, forty shillings for each day during which the offence continues after conviction.

(2) Failure to observe any condition relating to the maintenance of an advertisement or of the site used for the display thereof, or to the satisfactory removal of an advertisement, shall not be a contravention of these Regulations for the purpose of subsection (3) of Section 32 of the Act in so far as concerns any person who is only deemed, by virtue of subsection (4) of that Section to display such advertisement, unless within the time allowed for complying with an enforcement notice served on such person under Regulation 23 of these Regulations steps required by the notice to be taken to remedy such failure are not taken. [4836]

PART III

Areas of special control

Definition of areas of special control

10.—(1) As soon as may be after the coming into force of these Regulations, and subject to any direction given by the Minister, every local planning authority shall consider what part, if any, of their area should be selected for definition as an area of special control in the manner hereinafter prescribed, with a view to restricting the display of advertisements therein to the extent specified in the next following Regulation.

(2) By virtue of subsection (3) of Section 31 of the Act, rural areas or areas other than rural areas which appear to the Minister to require special protection on grounds of amenity may be defined by order as areas of special control; and the provisions of sub-paragraph (*a*) of paragraph (2) of Regulation 4 of these Regulations shall apply with respect to the exercise by a

local planning authority of their powers under this Regulation, as if those provisions related to the display in any such area of advertisements in general and to the general characteristics of such an area.

(3) In the selection of areas under this Regulation a local planning authority shall consult—

(*a*) where it appears to them that the order is likely to affect any part of the area of a neighbouring local planning authority, with that authority ;

(*b*) with the council of any county district or metropolitan borough in whose area any land they propose to define as aforesaid is situate ;

(*c*) with such other authorities, associations or persons as the Minister may direct.

(4) An area of special control shall be defined by an order made by the local planning authority and approved by the Minister in accordance with the provisions of the Second Schedule to these Regulations.

(5) Without prejudice to the provisions of paragraph (1) of this Regulation, every local planning authority shall from time to time consider whether any part, or additional part, of their area should be defined as an area of special control, and whether, in the light of circumstances then obtaining, any order under this Regulation in force in relation to land in their area should be modified or revoked. [4837]

Display of advertisements in areas of special control

11.—(1) No display of advertisements may be undertaken in an area of special control except in the case of—

(*a*) advertisements of the classes and descriptions specified in Part IV of these Regulations ;

(*b*) advertisements of the descriptions specified in Regulations 26 and 27 hereafter ;

(*c*) advertisements of the descriptions specified in the next following paragraph.

(2) Without prejudice to the provisions of these Regulations with respect to advertisements of the descriptions referred to in sub-paragraphs (*a*) and (*b*) of the last foregoing paragraph, advertisements of the following descriptions may be displayed in an area of special control with express consent granted in accordance with these Regulations—

(*a*) hoardings or similar structures to be used only for the display of notices relating to local events, activities or entertainments ;

(*b*) roadside advertisements for the purpose of indicating the presence in the vicinity of any hotel, inn, guest house or garage which cannot, in the opinion of the local planning authority or of the Minister on appeal, adequately be made known solely by the display of advertisements of specified classes II or IV ;

(*c*) any advertisement which, in the opinion of the local planning authority or of the Minister on appeal, is required in the interests of public safety to be displayed, and which is not an advertisement of any other description specified in this Regulation ;

(*d*) any advertisement which could be displayed as an advertisement of a specified class but for some infringement of a condition or limitation as respects size, height from the ground, number or illumination, imposed in the next following Regulation in relation to the display thereunder of advertisements of that class :

Provided that a local planning authority shall not grant consent for the display in an area of special control of any advertisement of the last mentioned description, unless they are satisfied that there is a special reason

transported to a senior school some miles away. Often, too, there are not enough children left, under 11, to justify a junior school, so these little ones have also to go elsewhere, and the village school is closed. It is generally agreed that the education and training which both groups thus receive in the bigger schools

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why the display thereof should not be required to conform with the relevant provisions of the next following Regulation.

(3) The power conferred on local planning authorities by Regulation 17 of these Regulations to grant consent for the display of advertisements shall in relation to the display of advertisements in an area of special control, be limited to advertisements of the descriptions mentioned in the last two foregoing paragraphs, including (but without prejudice to the proviso to the last foregoing paragraph) illuminated advertisements of those descriptions.

(4) On the coming into force of an order defining an area of special control, advertisements then being displayed in accordance with these Regulations in the area may continue to be displayed as follows :—

(*a*) advertisements of the descriptions specified in Regulations 14, 26 and 27 hereafter may continue to be displayed in accordance with the provisions of those Regulations respectively ;

(*b*) advertisements of the specified classes and advertisements of the description specified in sub-paragraph (*d*) of paragraph (2) of this Regulation may continue to be displayed with or without express consent, subject, after the term of any express consent has expired, to service of a notice under Regulation 8 of these Regulations in respect of the continuance of the display of any such advertisement :

Provided that the provisions of Regulation 7 of these Regulations shall restrict, within the periods of grace and in the manner therein mentioned, the exercise of powers under Regulation 8 aforesaid in respect of the continued display of any existing advertisement being displayed without express consent in an area of special control ;

(*c*) any other advertisement may continue to be displayed

(i) for a period of six months from the date on which the order defining the area comes into force or for the remainder of the term of any express consent, whichever is the longer, or

(ii) where no such consent has been granted, for a period of six months from the date on which the order defining the area comes into force or for the unexpired part of any period of grace to which such advertisement may be entitled under Regulation 7 of these Regulations, whichever is the longer,

and then, in every case, for a further two months within which the advertisement shall without further notice be removed, unless express consent is granted for the continued display thereof in accordance with this Regulation.

(5) Nothing in the foregoing provisions of this Regulation shall—

(*a*) affect a notice served under Regulation 8 of these Regulations before the coming into force of the order defining an area of special control, but without prejudice to the aforesaid provisions of Regulation 7 ;

(*b*) override any condition attached to a consent whereby an advertisement is required to be removed ;

(*c*) restrict the powers of a local planning authority, or of the Minister, in regard to any contravention of these Regulations ;

(*d*) restrict the power of the local planning authority, or of the Minister, to consent to the display in an area of special control of advertisements of the specified classes in respect of which a direction under Regulation 13 of these Regulations is in force. [4838]

PART IV

Advertisements the display of which may be undertaken without express consent

The specified classes

12.—(1) Advertisements of the following classes may be displayed without express consent, subject to the provisions of this Regulation and to the power of the local planning authority, by notice served under Regulation 8 of these Regulations, to require application for express consent to be made :—

CLASS I—*Functional advertisements of local authorities, statutory undertakers and public transport undertakers*

Advertisements employed wholly for the purposes of announcement or direction in relation to any of the functions of a local authority or to the operation of a statutory undertaking or of a public transport undertaking engaging in the carriage of passengers in a manner similar to that of a statutory transport undertaking ; being advertisements which are reasonably required to be displayed in the manner in which they are displayed in order to secure the safe or efficient performance of those functions, or operation of that undertaking, and which cannot be displayed as such, or in such a manner, under the provisions of this Regulation relating to advertisements of any other of the specified classes.

CLASS II—*Miscellaneous advertisements relating to premises on which they are displayed*

(*a*) Advertisements for the purpose of identification, direction or warning with respect to the land or buildings on which they are displayed, and not exceeding two square feet in area in the case of any such advertisement.

(*b*) Advertisements relating to any person, partnership or company separately carrying on a profession, business or trade at the premises where any such advertisement is displayed ; limited to one advertisement, not exceeding three square feet in area, in respect of each such person, partnership or company, or, in the case of premises with entrances on different road frontages, one such advertisement at each of two such entrances.

(*c*) Advertisements relating to any institution of a religious, educational, cultural, recreational or medical or similar character, or to any residential hotel, block of flats, club, boarding house or hostel situate on the land on which any such advertisement is displayed ; limited to one advertisement, not exceeding twelve square feet in area, in respect of each such premises or, in the case of premises with entrances on different road frontages, two such advertisements displayed on different road frontages of the premises.

CLASS III—*Certain advertisements of a temporary nature*

(*a*) Advertisements relating to the sale or letting of the land on which they are displayed ; limited, in respect of each such sale or letting, to one advertisement consisting of a board (whether or not attached to a building) not exceeding twenty square feet in area, or of two conjoined boards, together not exceeding twenty-four square feet in area ; no such advertisement, when displayed on a building, to project further than three feet from the face of the building.

(*b*) Advertisements relating to the sale of goods or livestock, or the carrying out of building or similar work on the land on which they

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are displayed, not being land which is normally used, whether at regular intervals or otherwise, for the purpose of holding such sales or carrying out such work; limited to one advertisement not exceeding twelve square feet in area in respect of each such sale or work.

(*c*) Advertisements relating to any event or other matter of a temporary nature in connection with an activity promoted for non-commercial purposes by or on behalf of any local organisation of a religious, educational, cultural, social or recreational character, or by a local branch of an organisation of such a character; limited to a display of advertisements occupying an area not exceeding a total of six square feet on any premises.

CLASS IV—*Advertisements on business premises*

Advertisements displayed on business premises wholly with reference to all or any of the following matters: the business or other activity carried on, the goods sold or services provided, and the name and qualifications of the person carrying on such business or activity, or supplying such goods or services, on those premises:

Provided that the space which may be occupied by such advertisements on any external face of a building in an area of special control shall not exceed one twelfth of the overall area of that face up to a height of twelve feet from ground level; and the area occupied by any such advertisement, howsoever affixed to a building, shall be computed as if the said advertisement as a whole were displayed flat against the face of the building.

(2) Consent deemed to be granted by virtue of these Regulations for the display of advertisements of the foregoing descriptions shall be subject to the following conditions in addition to the standard conditions—

(*a*) no such advertisements, other than an advertisement of Class I, shall contain letters, figures, symbols, emblems or devices of a height exceeding two feet six inches, or, in an area of special control, one foot;

(*b*) no such advertisement, other than an advertisement of Class I, shall be displayed so that the highest part of the advertisement is above fifteen feet from ground level, or, in an area of special control, above twelve feet from ground level; provided that an advertisement relating to the sale or letting of any part of a building above such height limit may be displayed on or below that part of the building at the lowest level above that limit at which it is reasonably practicable to display the advertisement;

(*c*) no such advertisement shall be illuminated except as follows—

(i) advertisements of Class I, illuminated in a manner reasonably required to achieve the purpose of the advertisement;

(ii) advertisements of Class II or Class IV for the purpose of indicating that medical or similar services or supplies are available at the premises on which they are displayed, and illuminated in a manner reasonably required for that purpose;

(*d*) save as hereinafter provided, no advertisement of Class III relating to a sale or other matter which is due to start or take place on a specified date shall be displayed earlier than twenty-eight days before that date, and every advertisement of that Class shall be removed within fourteen days after the conclusion of the event or other matter to which it relates: provided that an advertisement of Class III relating to the carrying out on land of building or

similar works may be displayed only while such works are in progress.

(3) In this Regulation the following expressions have the meanings hereinafter respectively assigned to them, namely—

(*a*) " business premises " means any building normally used for the carrying on of any professional, commercial or industrial undertaking, or any undertaking for the provision of services for profit, and without prejudice to the generality thereof includes public restaurants, licensed premises and places of public entertainment; but in the case of any building used principally for residential purposes includes only that part of the building normally used as business premises;

(*b*) in relation to the display of advertisements on any building, " ground level " means the ground-floor level of that building;

(*c*) " recreational " in relation to an institution or organisation shall not apply to any institution or organisation for the carrying on of sports, games or physical training primarily as a commercial undertaking.

(4) On the determination of an application for express consent made in respect of an advertisement of a specified class, whether in pursuance of a notice served under Regulation 8 of these Regulations or otherwise, the provisions of this Regulation whereby advertisements may be displayed without express consent shall cease to apply with respect to that advertisement; and, in the event of refusal of consent, or of the grant of consent subject to conditions in the nature of restrictions as to the site on which, or the manner in which, the display may be undertaken, or both, the provisions of this Regulation whereby the display of advertisements may be undertaken without express consent shall not apply to the subsequent display on the same land of any advertisement in contravention of that refusal or of those conditions, by, or on behalf of, the person whose application was so refused or granted subject to conditions.

(5) The conditions and limitations in this Regulation apply only to the display without express consent of advertisements of the descriptions therein mentioned, and shall not restrict the powers of a local planning authority in regard to the determination in accordance with these Regulations of any application for express consent. [4839]

Power to exclude application of Regulation 12

13.—(1) If the Minister is satisfied, whether upon representations made to him by the local planning authority or otherwise, that the display of advertisements of a class or description specified in the last foregoing Regulation should not be undertaken in any particular area or in any particular case without express consent, he may direct that the provisions of that Regulation shall not apply to the display of such advertisements in that area or in that case.

(2) Notice of any direction given by the Minister under this Regulation with respect to an area shall be published by the local planning authority in at least one newspaper circulating in the locality in which the area is situate, and, unless the Minister otherwise directs, on the same or a subsequent date in the London Gazette; and such notice shall contain a concise statement of the effect of the direction and name a place or places in that locality where a copy thereof and of a map defining the area to which it relates may be seen at all reasonable hours.

(3) Notice of any direction given by the Minister under this Regulation in a particular case shall be served by a local planning authority on the owner and on any occupier of the land to which the direction relates, and on any other person who, to the knowledge of the authority, proposes to

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display on such land an advertisement of the class or description referred to in the direction.

(4) A direction given under this Regulation with respect to an area shall come into force on the date specified in the notice relating thereto, being a date not less than fourteen, and not more than twenty-eight days after first publication of the notice; and a direction given under this Regulation in a particular case shall come into force on the date on which notice thereof is served on the occupier, or if there is no occupier, on the owner of the land. [4840]

Election notices, statutory advertisements and traffic signs

14.—(1) The display of advertisements of the following descriptions may be undertaken without express consent:—

(*a*) any advertisement relating specifically to a pending parliamentary or local government election, not being an advertisement to which the next following sub-paragraph applies;

(*b*) advertisements required to be displayed by any enactment for the time being in force, or by Standing Orders of either House of Parliament, including (but without prejudice to the generality hereof) advertisements the display of which is so required as a condition of the valid exercise of any other power, or proper performance of any function, given or imposed by an enactment;

(*c*) advertisements in the nature of traffic signs employed wholly for the control, guidance or safety of traffic, and displayed in accordance with an authorisation given by the Ministry of Transport or by the appropriate local highway or police authority.

(2) Consent deemed to be granted by virtue of these Regulations for the display of advertisements of the foregoing descriptions shall be subject to the following conditions in addition to the standard conditions:—

(*a*) Where advertisements of the description specified in sub-paragraph (*b*) of the last foregoing paragraph could, apart from this Regulation, be displayed as advertisements of a specified class, they shall conform with any provision of Regulation 12 of these Regulations as respects size, number or height in relation to the display of advertisements of that class, and otherwise shall not exceed in those respects what may reasonably be considered necessary to achieve the purpose for which the display is required; without prejudice however, to the express requirements in regard to size, number or height as aforesaid of any enactment or Standing Orders under which such advertisements are displayed.

(*b*) An advertisement of the description specified in sub-paragraph (*a*) of the last foregoing paragraph shall be removed within fourteen days after the close of the poll in the election to which the advertisement relates; and any other advertisement displayed for a temporary purpose in accordance with this Regulation shall be removed as soon as may be after the expiry of the period during which such advertisement is required or authorised to be displayed, or, if no such period is specified, shall be removed within a reasonable time after the purpose for which such advertisement was required or authorised to be displayed is satisfied.

(3) With respect to the display of advertisements of the description specified in sub-paragraph (*a*) of paragraph (1) of this Regulation, standard condition 1 shall not apply. [4841]

PART V

Applications for express consent

How to apply

15.—(1) Subject to this Regulation an application to a local planning authority for consent to display advertisements shall be made on a form issued by the local planning authority and obtainable from that authority or from the council with whom the application is to be lodged, and shall include such particulars and shall be accompanied by such plans, together with such additional number of copies (not exceeding two) of the form and plans, as may be required by the directions of the local planning authority printed on the form.

(2) The application shall be lodged—

(*a*) where the land in respect of which the application is made is in the administrative county of London—

(*i*) in the case of land in the City of London, with the Common Council of that City;

(ii) in the case of any other land in the said county, with the London County Council or with the metropolitan borough council for the area in which the land is situate;

(*b*) where the land is not in the administrative county of London, with the county borough council or the county district council for the area in which the land is situate;

and the authority with whom the application is lodged shall, where necessary, transmit it to the local planning authority to whom it is made.

(3) On receipt of the application the local planning authority shall send an acknowledgment in writing to the applicant and may by a direction addressed to him in writing require such information, in addition to that given in the application, as may be requisite to enable them to determine the matter in respect of which the application is made, to be given to them, or such evidence as they may reasonably call for to verify any particulars of information given to them to be produced to an officer of the authority.

(4) The Minister may restrict, by direction given either generally or in any particular case or class of case, the amount of particulars, plans or information which an applicant may be required to furnish under this Regulation.

(5) The provisions of paragraph (1) of this Regulation shall be without prejudice to the acceptance by a local planning authority of an application in writing made otherwise than on the form therein referred to, in any case in which the information provided is sufficient to enable the authority to determine the application. [4842]

Duty to consult with respect to an application

16.—(1) Before determining any application for consent under these Regulations the local planning authority shall consult—

(*a*) with any neighbouring local planning authority whose area, or any part thereof, appears likely to be affected by the display of advertisements to which the application relates;

(*b*) with the council of any county district in whose area land to which the application relates is situate; except where consultation concerning any application or class of application is agreed by the local planning authority and such council to be unnecessary;

(*c*) where it appears to the local planning authority that the display of

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advertisements to which the application relates may affect the safety of persons using—

(i) any trunk road, with the Minister of Transport;

(ii) any railway, inland waterway, dock, harbour or airfield, with the British Transport Commission or other authority, statutory undertaker, body or person responsible for the operation thereof;

(*d*) with such other authorities, persons or bodies as the Minister may direct.

(2) The local planning authority shall give to any authority, person or body with whom they are required to consult as aforesaid, not less than fourteen days' notice that an application is to be taken into consideration and shall, in determining the application, take into account any representation made by such authority, person or body. [4843]

Power of local planning authority to deal with application

17.—(1) Subject to the provisions of these Regulations, where application for consent for the display of advertisements is made to the local planning authority, that authority may grant consent subject to the standard conditions specified in Part I of the First Schedule hereto and to such additional conditions (if any) as they think fit, or may refuse consent:

Provided that where the application relates to the display of an advertisement of a specified class the authority shall not refuse consent, or impose a condition more restrictive in effect than any provision of Regulation 12 of these Regulations in relation to advertisements of that class, unless they are satisfied that such refusal or condition is required to prevent or remedy a substantial injury to the amenity of the locality or a danger to members of the public.

(2) Without prejudice to the generality of the foregoing paragraph, and subject always to the provisions of Regulation 4 of these Regulations, conditions may be imposed on the grant of consent hereunder—

(*a*) for regulating the display of advertisements to which the consent relates, or the use of land by the applicant for the display of advertisements (whether or not it is land in respect of which the application was made), or requiring the carrying out of works on any such land, so far as appears to the local planning authority to be expedient for the purposes of or in connection with the display of advertisements authorised by the consent;

(*b*) for requiring the removal of any advertisement authorised by the consent, or the discontinuance of any use of land so authorised, at the expiration of a specified period, and the carrying out of any works required for the reinstatement of land at the expiration of that period.

(3) The power to grant consent for the display of advertisements under these Regulations shall include power to grant consent for the retention on land of any advertisement being displayed thereon before the date of the application or for the continuance of any use of land for the display of advertisements begun before that date; and reference in these Regulations to consent for the display of advertisements and to applications for such consent shall be construed accordingly. [4844]

Consent to be limited

18.—(1) Every grant of express consent shall be for a fixed term, which shall normally (but without prejudice to the discretion of the consenting authority, subject to the next following paragraph) be three years; and any

such consent granted without the imposition of a term shall take effect as consent for the period for which application was made or for three years, whichever is the shorter, unless any other term is agreed between the applicant and the consenting authority as the term intended to be imposed.

(2) Express consent shall not be granted for a term longer than three years without the approval of the Minister.

(3) Provision may be made, in granting consent, for the term thereof to run from the subsequent inception of the display to which the consent relates or from a subsequent date not later than six months after the date on which the consent is granted, whichever is the earlier.

(4) At any time within a period of six months before the expiry of a consent granted under these Regulations, application may be made for the renewal thereof, and the provisions of these Regulations relating to applications for consent and to the determination thereof shall apply where application is made for such renewal.

(5) Except where the local planning authority direct otherwise when granting consent, or where renewal of consent is applied for as aforesaid and is refused, advertisements displayed with express consent granted under these Regulations may on the expiry of the term thereof continue to be displayed, subject to service by the local planning authority of a notice under the foregoing Regulation 8, but without prejudice to the exercise of any other power in these Regulations to require the removal of such advertisements.

(6) Consent deemed by virtue of paragraph (2) of Regulation 5 of these Regulations to be granted in respect of the continuance of such display shall be subject to the like conditions as those to which the express consent immediately preceding it was subject, and, unless previously brought to an end under these Regulations, shall expire when the site ceases to be used for such display of advertisements. [4845]

Notification of local planning authority's decision

19.—(1) The grant or refusal by a local planning authority of consent for the display of advertisements shall be in writing and, where the authority decide to grant consent subject to conditions in addition to the standard conditions, or to refuse consent, the reasons for their decision shall be stated in writing.

(2) The local planning authority shall, within two months from the date of receipt of the application, give notice to the applicant of their decision or, if the application has been referred to the Minister in accordance with directions given by him under Regulation 28 of these Regulations, shall within two months as aforesaid notify the applicant accordingly:

Provided that such period of two months may, at any time before the expiration thereof, be extended by agreement in writing made between the authority and the applicant. [4846]

Appeals to the Minister

20.—(1) Where, on application being made for consent under these Regulations, consent is refused by the local planning authority or is granted by them subject to conditions, the applicant may appeal to the Minister.

Provided that the Minister shall not be required to entertain an appeal under this Regulation if it appears to him, having regard to the provisions of these Regulations, that consent for the display of advertisements in respect of which application was made could not have been granted by the local planning authority, or could not have been granted otherwise than subject to the conditions imposed by them.

(2) Any person who desires to appeal under this Regulation shall give notice of appeal in writing to the Minister within one month from the receipt

transported to a senior school some miles away. Often, too, there are not enough children left, under 11, to justify a junior school, so these little ones have also to go elsewhere, and the village school is closed. It is generally agreed that the education and training which both groups thus receive in the bigger schools

amongst the younger school teachers to live, not in the small villages in which they teach, but in nearby towns or larger villages from which they can travel daily to their work and return, at its close, to some sort of companionship in the evenings. Thus, they make no contribution to the life of the little com-

of notification of the local planning authority's decision, and shall forthwith notify the authority that an appeal has been made and shall furnish to the Minister a copy of the following documents :—

(i) the application made to the local planning authority ;
(ii) all relevant plans and particulars submitted to them ;
(iii) the notice of the decision, if any ;
(iv) all other relevant correspondence with the authority.

(3) The Minister may, if he thinks fit, require the applicant or the local planning authority to submit within a specified period a further statement in writing in respect of any of the matters to which the appeal relates, and if, after considering the grounds of the appeal and any such further statement, the Minister is satisfied that he is sufficiently informed for the purpose of reaching a decision as to the matters to which the appeal relates, he may decide the appeal without further investigation : but otherwise the Minister shall, if either party so desire afford to each of them an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose.

(4) Where an appeal is brought under this Regulation from a decision of the local planning authority the Minister may allow or dismiss the appeal or may reverse or vary any part of the decision of the local planning authority, whether or not the appeal relates to that part, and deal with the application as if it had been made to him in the first instance.

(5) Where the local planning authority fail to notify the applicant as required in the last foregoing Regulation within two months from receipt of the application, or within such extended period as is agreed between them, the provisions of paragraphs (1) and (2) of this Regulation shall apply in relation to the application as if consent had been refused by the local planning authority and as if notification of their decision had been received by the applicant at the expiration of the said period of two months or the extended period agreed upon as aforesaid, as the case may be.

(6) The decision of the Minister on an appeal under this Regulation shall be final. [4847]

PART VI

Provisions as to revocation and modification of consent

Revocation and modification of consent

21.—(1) Subject to the provisions of Regulation 4 above and of this Regulation, if it appears to the local planning authority that it is expedient that any express consent for the display of advertisements should be revoked or modified, they may by order revoke or modify the consent to such extent as appears to them to be expedient as aforesaid :

Provided that no such order shall take effect unless it is confirmed by the Minister, and the Minister may confirm any order submitted to him for the purpose either without modification or subject to such modifications as he considers expedient.

(2) Where a local planning authority submit an order to the Minister for his confirmation under this Regulation, that authority shall serve notice on the person on whose application the consent was granted, on the owner and on the occupier of the land affected, and on any other person who in their opinion will be affected by the order ; and if within such period as may be specified in that behalf in the notice (not being less than twenty-eight days from the service thereof) any person on whom the notice is served so requires, the Minister shall, before confirming the order, afford to him and to the local planning authority an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose.

(3) The power conferred by this Regulation to revoke or modify consent for the display of advertisements may be exercised :—

(*a*) where the consent relates to a display which involves the carrying out of building or similar operations, at any time before those operations have been completed ;

(*b*) where the consent relates to a display which involves no such operations as aforesaid, at any time before the display is begun :

Provided that the revocation or modification of consent for a display which involves the carrying out of building or similar operations shall not affect so much of those operations as has been previously carried out. [4848]

Supplementary provisions as to revocation and modification

22.—(1) Where consent for the display of advertisements is revoked or modified by an order made under the last foregoing Regulation then if, on a claim made to the local planning authority in writing and served in the manner indicated in paragraph (3) hereof within six months after confirmation of the order, it is shown that any person has incurred expenditure in carrying out, in connection with the display in question, work which is rendered abortive by the revocation or modification, or has otherwise sustained loss or damage which is directly attributable to the revocation or modification, that authority shall pay to that person compensation in respect of that expenditure, loss or damage :

Provided that no compensation shall be payable under this paragraph in respect of loss or damage consisting of the depreciation in value of any interest in the land by virtue of the revocation or modification.

(2) For the purposes of this Regulation, any expenditure incurred in the preparation of plans for the purposes of any work or upon other similar matters preparatory thereto shall be deemed to be included in the expenditure incurred in carrying out that work, but except as aforesaid no compensation shall be paid under this Regulation in respect of any work carried out before the grant of the consent which is revoked or modified, or in respect of any other loss or damage arising out of anything done or omitted to be done before the grant of that consent.

(3) A claim for compensation made to a local planning authority under paragraph (1) of this Regulation shall be served on that authority by delivering it at the offices of the authority addressed to the Clerk thereof or by sending it by pre-paid post addressed as aforesaid. [4849]

PART VII

Provisions as to enforcement

Enforcement of advertisement control

23.—(1) If it appears to the local planning authority that any advertisement has been displayed on land after the coming into force of these Regulations without consent required in that behalf, or that any conditions subject to which such consent was granted have not been complied with, then, subject to any directions given by the Minister, the local planning authority may serve on the owner and occupier of the land, and also on any other person known to the local planning authority to be displaying the advertisement without such consent, or to have displayed it in contravention of such conditions, a notice under this Regulation.

(2) Any notice served under this Regulation (hereinafter called " an enforcement notice ") shall specify the display of advertisements which is alleged to have been begun or continued without such consent as aforesaid

transported to a senior school some miles away. Often, too, there are not enough children left, under 11, to justify a junior school, so these little ones have also to go elsewhere, and the village school is closed. It is generally agreed that the education and training which both groups thus receive in the bigger schools

amongst the younger school teachers to live, not in the small villages in which they teach, but in nearby towns or larger villages from which they can travel daily to their work and return, at its close, to some sort of companionship in the evenings. Thus, they

or, as the case may be, the matters in respect of which it is alleged that any such conditions as aforesaid have not been complied with, and may require such steps as may be specified in the notice to be taken within such period as may be so specified for restoring the land to its condition before the display was begun or for securing compliance with the conditions, as the case may be; and in particular any such notice may, for the purpose aforesaid, require the demolition or alteration of any buildings or works, the discontinuance of any use of land, or the carrying out on land of any building or other operations.

(3) Subject to the provisions of the next following paragraph, an enforcement notice shall take effect at the expiration of such period as may be specified therein, being a period not less than—

(*a*) seven days in any case where the local planning authority consider it urgently necessary in the interests of public safety that the advertisement to which the notice relates should be altered or removed, or where they are satisfied that any steps required by the notice to be taken can be taken without the removal or substantial modification of any structure or the carrying out of any building or similar operations on land;

(*b*) in any other case, twenty-eight days:

Provided that if within the period specified as aforesaid an appeal is made to the court under the following provisions of this Regulation by a person on whom the enforcement notice was served, the notice shall be of no effect pending the final determination or withdrawal of the appeal.

(4) If any person on whom an enforcement notice is served under this Regulation is aggrieved by the notice, he may, at any time within the specified period mentioned in the last foregoing paragraph, appeal against the notice to a court of summary jurisdiction for the petty sessional division or place within which any advertisement to which the notice relates is being displayed; and on any such appeal the court—

(*a*) if satisfied that the advertisement to which the notice relates is being displayed with consent under the Regulations, or that it is not an advertisement to which these Regulations apply or, as the case may be, that the conditions subject to which such consent was granted have been complied with, shall quash the notice to which the appeal relates;

(*b*) if not so satisfied, but satisfied that the requirements of the notice exceed what is necessary for restoring land to its condition before the display was begun, or for securing compliance with the conditions, as the case may be, shall vary the notice accordingly;

(*c*) in any other case shall dismiss the appeal:

Provided that where the enforcement notice is varied or the appeal is dismissed, the court may, if they think fit, direct that the enforcement notice shall not come into force until such date (not being later than twenty-eight days from the determination of the appeal) as the court think fit.

(5) Any person aggrieved by a decision of a court of summary jurisdiction under the last foregoing paragraph may appeal against that decision to a court of quarter sessions. [4850]

Supplementary provisions as to enforcement

24.—(1) If within the period specified in an enforcement notice, or within such extended period as the local planning authority may allow, any steps required by the notice to be taken (other than the discontinuance of any use of land) have not been taken, the local planning authority may enter on the land and take those steps and, save as hereinafter provided, may recover as a simple contract debt in any court of competent jurisdiction from the person

who is then the owner of the land any expenses reasonably incurred by them in that behalf; and if that person having been entitled to appeal to the court under the last foregoing Regulation, failed to make such an appeal, he shall not be entitled in proceedings under this paragraph to dispute the validity of the action taken by the local planning authority upon any ground which could have been raised by such an appeal:

Provided that where the person who is then the owner of the land would have been entitled, under subsection (2) of Section 32 of the Act, to compensation in respect of any expenses reasonably incurred by him in removing the advertisement, the local planning authority shall be entitled to recover from that person only such part (if any) of their expenses as they may claim on account of establishment charges by virtue of the provisions of paragraph (3) of this Regulation.

(2) Any expenses incurred by the owner or occupier of any land for the purpose of complying with an enforcement notice served under the last foregoing Regulation in respect of any display of advertisements, and any sums paid by the owner of any land under the foregoing paragraph in respect of the expenses of the local planning authority in taking steps required to be taken by such a notice, shall be deemed to be incurred or paid for the use and at the request of the person who displayed such advertisements in contravention of these Regulations.

(3) The provisions of Sections 276, 289, 292 and 294 of the Public Health Act, 1936, shall apply in relation to steps required to be taken by an enforcement notice under the last foregoing Regulation as if for references to a local authority or a council there were substituted references to a local planning authority, for references (in whatever form) to the execution of works under the said Act there were substituted references to the taking of steps required to be taken under such a notice, and for the reference in Section 294 to "expenses under this Act" there were substituted a reference to expenses incurred in the taking of such steps as aforesaid. [4851]

PART VIII

Special cases

Display of advertisements by local planning authorities

25.—(1) Subject to this Regulation, a local planning authority may without express consent display advertisements on land in respect of which they are the local planning authority; but shall not display in an area of special control any advertisement for the display of which they could not, by virtue of the foregoing provisions of Regulation 11, grant consent.

(2) Consent deemed to be granted for the display of advertisements to which this Regulation relates shall be subject to service of a notice by the Minister, under Regulation 8 of these Regulations, requiring application for express consent to be made to him in respect of the continuance of such display. [4852]

Advertisements relating to travelling circuses and fairs

26.—(1) On application in that behalf being made to them, a local planning authority may grant consent for the temporary display, on unspecified sites in their area, of placards, posters or bills relating to the visit of a travelling circus, fair or similar travelling entertainment to any specified place in the district; and for the purposes of this Regulation the expression "in the district" means in the area of the local planning authority to whom application for such consent is made or in the area of any neighbouring local planning authority.

(2) Consent granted under this Regulation shall be subject to the following

conditions in addition to the standard conditions set out in Parts I and II of the First Schedule :—

(*a*) no such advertisement shall exceed six square feet in area or be displayed above twelve feet from ground level ;

(*b*) no such advertisement shall be displayed earlier than fourteen days before the first performance or opening of the circus, fair or other entertainment in the district at a place specified in the advertisement, and every such advertisement shall be removed within seven days after the last performance or closing of the circus, fair or other entertainment in the district at a place specified in the advertisement,

and it shall be the duty of the local planning authority, when granting consent for the display of such advertisements, to inform the applicant that consent does not extend to the display of any advertisement on land without the prior permission of the owner of that land or of a person entitled to grant such permission.

(3) Without prejudice to the right to apply under Part V of these Regulations for consent to display advertisements of the foregoing description on specified sites, the provisions of that Part shall not apply to an application for consent under this Regulation, and the decision of a local planning authority on any such application shall be final. [4853]

Control of advertisements displayed within buildings

27. Illuminated advertisements displayed within a building so as to be visible from outside that building, and all advertisements displayed within, and visible from outside, any building used principally for the display of such advertisements shall, without prejudice to the provisions of Regulation 3 of these Regulations, be subject to these Regulations as follows :—

(*a*) consent shall be deemed to be granted for the display of any such advertisement, subject to the standard condition in Part II of the First Schedule hereto, and in the event of a breach of that condition, to the provisions of Part VII of these Regulations relating to contraventions ;

(*b*) except where such advertisement is an advertisement of a description specified in Regulation 14 of these Regulations, the display thereof shall be subject to the power of the local planning authority to serve a notice under the foregoing Regulation 8 as if it were an advertisement of a specified class ; and where such a notice is served, the display of advertisements to which it relates shall become subject to the full control of these Regulations, save as hereinafter provided :

Provided that the standard conditions in Part I of the First Schedule hereto may be waived in a grant of express consent for the display of advertisements to which this Regulation relates, and where the local planning authority, or the Minister on appeal, consider it expedient so to do they may, instead of granting express consent for the display of such advertisements, declare that the display thereof may continue as before, subject only to the provisions of this Regulation. [4854]

PART IX

Miscellaneous

Powers of Minister

28.—(1) If it appears expedient to the Minister so to do he may give directions to any local planning authority, or to local planning authorities generally, requiring them—

(*a*) to refer to him for his decision any particular application for consent under these Regulations or any class or description of such applications ;

(*b*) to furnish him with such information as he may require for the purpose of exercising any of his functions under these Regulations ;

(*c*) to consult, in the exercise of their functions under these Regulations, with any, or any class of, persons, bodies or authorities ;

and, without prejudice to the generality of the foregoing, such directions may be given as respects any particular area or class of area.

(2) Where an application is referred to the Minister under this Regulation, the provisions of Regulation 17 and paragraph (3) of Regulation 20 shall apply, with such modifications as may be necessary, to the determination of the application by the Minister.

(3) If it appears to the Minister, after consultation with the local planning authority, to be expedient that an order should be made under Regulation 10 defining an area of special control, or revoking or varying such an order, or that a notice should be served under Regulation 8 of these Regulations, he may give directions to the local planning authority requiring them to make such an order, or to serve such a notice, as the case may be, or may himself make the order or serve the notice ; and any reference in these Regulations to the power of the local planning authority to serve a notice under Regulation 8 of these Regulations shall be deemed to include a reference to the power of the Minister to serve such a notice.

(4) Where the Minister proposes to make an order under Regulation 10 of these Regulations he shall prepare a draft of the order in the form in which he proposes to make it, defining an area by reference to a map, and in all other respects the provisions of the Second Schedule hereto shall apply, with such modifications as may be necessary, to the making of the order by the Minister as they apply to the making of such an order by the local planning authority.

(5) Where the Minister serves a notice under Regulation 8 of these Regulations he may require any application made in pursuance of the notice to be submitted to him instead of to the local planning authority.

(6) The decision of the Minister on any application referred or submitted to him under the provisions of this Regulation shall be final. [4855]

Extension of time

29.—(1) Subject to the provisions of the Act and of these Regulations—

(*a*) the Minister may for special reasons, in any particular case, extend the time within which anything is required under these Regulations to be done, or within which any objection, representation or claim for compensation may be made thereunder ;

(*b*) the local planning authority may, on reasonable cause being shown to them, extend the time within which an application for consent is required to be, or may be, made to them under these Regulations, or within which an appeal may be made to the court under Regulation 23 of these Regulations,

and any such extension may be granted either unconditionally or subject to such conditions as the Minister or the local planning authority, as the case may be, think fit to impose.

(2) The power conferred by this Regulation to grant extensions of time shall not apply to—

(*a*) the time within which the local planning authority is required, under Regulation 19 of these Regulations, to notify an applicant of the manner in which his application has been dealt with, save as expressly provided in that Regulation ;

transported to a senior school some miles away. Often, too, there are not enough children left, under 11, to justify a junior school, so these little ones have also to go elsewhere, and the village school is closed. It is generally agreed that the education and training which both groups thus receive in the bigger schools amongst the younger school teachers to live, not in the small villages in which they teach, but in nearby towns or larger villages from which they can travel daily to their work and return, at its close, to some sort of companionship in the evenings. Thus, they

(*b*) any period specified by these Regulations during which an advertisement may be displayed without express consent. [4856]

How to claim compensation in respect of expenses under Section 32 (2) of the Act

30.—(1) Any person who is required under these Regulations to remove an existing advertisement which was also being displayed on the seventh day of January, 1947, or to discontinue the use for the display of advertisements of any site being used for that purpose on the date on which these Regulations come into force, and who desires to claim compensation under subsection (2) of Section 32 of the Act in respect of any expenses reasonably incurred by him in carrying out works in compliance with such a requirement, shall submit a claim in writing to the local planning authority within six months after the completion of such works; and such a claim shall contain sufficient information to enable the local planning authority to give proper consideration thereto, including, in the case of a claim in respect of the removal of an advertisement which was being displayed on the seventh day of January, 1947, and on the date on which these Regulations came into force, a statement that such advertisement was being displayed on both those dates.

(2) If the local planning authority consider that the information furnished by any claimant under this Regulation is insufficient to enable them properly to determine the claim, they may call for such further particulars as they require for that purpose. [4857]

Register of applications

31.—(1) Every local planning authority shall keep a register containing the following information in respect of all land within their area namely :—

(*a*) particulars of any application made to them for consent for the display of advertisements on any such land, including the name and address of the applicant, the date of the application, and brief particulars of the type of advertisements forming the subject of the application;

(*b*) particulars of any direction given under these Regulations in respect of the application;

(*c*) the decision (if any) of the local planning authority in respect of the application and the date of such decision;

(*d*) the date and effect of any decision of the Minister in respect of the application, whether on appeal or on a reference to him under Regulation 28 of these Regulations.

(2) Such register shall include an index, which shall be in the form of a map, unless the Minister approves some other form, for enabling a person to trace any entry in the register.

(3) Such register may be kept either at the office of of the local planning authority, or, in relation to the City of London or any county district within the area of the local planning authority, at a convenient place within the said City or the county district affected, as the case may be. [4858]

Directions and notices

32.—(1) Any power conferred by these Regulations to give a direction shall be construed as including power to cancel or vary that direction by a subsequent direction.

(2) Any notice to be served or given under these Regulations may be served or given in the manner prescribed by Section 105 of the Act and by Regulation 5 of the Town and Country Planning (General) Regulations, 1948, made under that Section. [4859]

Provisions of the Act applied

33.—(1) The provisions of Part III of the Act specified in the first column of the Fourth Schedule hereto are applied for the purposes of these Regulations, subject to the adaptations and modifications appearing in the Regulations specified respectively in the second column of that Schedule.

(2) Subsection (5) of Section 24 of the Act shall apply in relation to an enforcement notice under Regulation 23 of these Regulations, as if for the words " under the last foregoing section " there were substituted the words " under regulations for the time being in force under Section 31 of this Act ".

(3) Subsection (5) of Section 14 of the Act shall apply in relation to applications for consent under these Regulations as if for the words " the development order " there were substituted the words " regulations for the time being in force under Section 31 of this Act ", and as if for the word " permission " there were substituted the words " consent for the display of advertisements ". [4860]

Other statutory obligations unaffected

34. Nothing in these Regulations or in a consent granted thereunder shall be taken as operating to discharge an obligation or liability, imposed or incurred under any other enactment in force, in relation to any operation or other matter involved in the display of advertisements. [4861]

SCHEDULES

Regulation 6

FIRST SCHEDULE

THE STANDARD CONDITIONS

PART I

Conditions attaching to all consents save as otherwise provided in the Regulations

1. All advertisements displayed, and any land used for the display of advertisements, shall be maintained in a clean and tidy condition to the reasonable satisfaction of the local planning authority.

2. Any hoarding or similar structure, or any sign, placard, board or device erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition to the reasonable satisfaction of the local planning authority.

3. Where any advertisement is required under these Regulations to be removed, the removal thereof shall be carried out to the reasonable satisfaction of the local planning authority. [4862]

PART II

Condition attaching to consent deemed to be granted, or granted under Regulation 26

4. An advertisement for which consent is deemed to be granted, or is granted under Regulation 26 of the foregoing Regulations, shall not be sited or displayed so as to obscure, or hinder the ready interpretation of, any road traffic sign, railway signal or signal for the control or safety of navigation by water or air, or so as otherwise to render hazardous the use of any highway, railway, inland waterway or airfield. [4863]

Regulation 10

SECOND SCHEDULE

PROCEDURE FOR DEFINING AREAS OF SPECIAL CONTROL

1. Where a local planning authority propose to define an area of special control they shall make an order, defining an area by reference to a map annexed thereto, either with or without descriptive matter (which, in the case of any discrepancy

transported to a senior school some miles away. Often, too, there are not enough children left, under 11, to justify a junior school, so these little ones have also to go elsewhere, and the village school is closed. It is generally agreed that the education and training which both groups thus receive in the bigger schools

amongst the younger school teachers to live, not in the small villages in which they teach, but in nearby towns or larger villages from which they can travel daily to their work and return, at its close, to some sort of companionship in the evenings. Thus, they

with the map, shall prevail except in so far as may be otherwise provided by the order).

2. As soon as may be thereafter the authority shall submit the order with map and any descriptive matter annexed thereto to the Minister for approval, and shall send therewith to the Minister two certified copies of the order, map and descriptive matter (if any), and a statement of their reasons for proposing that the area to which the order relates should be defined as an area of special control. Where it appears expedient to the Minister in any particular case so to do, he may direct the authority to send to him an additional certified copy of the order, map and any descriptive matter.

3. The authority shall forthwith publish in the London Gazette, and in each of two successive weeks in one or more newspapers circulating in the locality in which the area is situate, a notice in the form prescribed in the next following Schedule (or in a form substantially to the like effect) describing the area, stating that an order defining it as an area of special control for the purpose of these Regulations has been submitted to the Minister, naming a place or places where a copy of the order and of the map and any descriptive matter annexed thereto may be seen at all reasonable hours without payment of fee and specifying the time, not being less than 28 days from the first local advertisement, within which objections or representations with respect to the order may be sent in writing to the Minister.

4. If any objection is duly made as aforesaid and is not withdrawn the Minister shall, before approving the order, either cause a public local inquiry to be held or afford to the person making such objection an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose, and if any such person avails himself of the opportunity of being heard the Minister shall afford to the local planning authority, and to any other person to whom it appears to the Minister expedient to afford it, an opportunity of being heard on the same occasion.

5. After considering any representation or objection duly made and not withdrawn and the report of the person by whom any inquiry or hearing was held, the Minister may approve the order with or without modifications :

Provided that if the Minister proposes to approve the order subject to a modification involving the inclusion therein of any area of land not included in the order as submitted he shall publish prior notice of his intention so to do and shall afford opportunity for the making of objections and representations with respect to the proposed modification, and for such further hearing as may appear to him, in the light of any such objections or representations, to be necessary or expedient.

6. As soon as may be after the order has been approved, the local planning authority shall publish in the London Gazette, and in each of two successive weeks in one or more newspapers circulating throughout the locality in which the area is situate, a notice in the form prescribed in the next following Schedule (or in a form substantially to the like effect) stating that the order has been approved and naming a place or places where a copy or copies thereof and of the map and any descriptive matter annexed thereto may be seen at all reasonable hours without payment of fee ; and any such order shall come into force on the date on which notice of the approval thereof is published in the London Gazette. [4864]

THIRD SCHEDULE

FORMS OF NOTICES

FORM NO. 1

Form of notice of submission for approval of an order defining an area of special control

TOWN AND COUNTRY PLANNING ACT, 1947

TOWN AND COUNTRY PLANNING (CONTROL OF ADVERTISEMENTS) REGULATIONS, 1948 (*a*)

Notice is hereby given that the (1)
in exercise of their powers under Regulation 10 of the Town and Country Planning (Control of Advertisements) Regulations, 1948, have submitted for the

approval of the Minister of Town and Country Planning an order defining as an area of special control for the purposes of the said Regulations an area of land situate at and described in the Schedule hereto, which land is shown edged and coloured on the map accompanying the order, and that the order is about to be considered by the Minister.

A copy of the order and of the map referred to [and of the descriptive matter annexed thereto] (2) and of the other documents relating to the Order have been deposited at and will be open for inspection without payment of fee between the hours of

Any objection to the order must be made in writing, stating the grounds of the objection, and addressed to the Secretary, Ministry of Town and Country Planning, 32, St. James's Square, S.W.1, before the (3) day of 19 .

Schedule

(Here insert description of the lands comprised in the order.)

Dated the day of , 19 .

(Signature of duly authorised officer.)

Directions for completing this Form

(1) Insert name of Authority.

(2) Strike out words in square brackets where inapplicable.

(3) Insert a date not less than 28 days from the first date of local advertisement.

(*a*) S.I. 1948 No. 1613.

FORM NO. 2

Form of notice of the approval of an order defining an area of special control

TOWN AND COUNTRY PLANNING ACT, 1947

TOWN AND COUNTRY PLANNING (CONTROL OF ADVERTISEMENTS) REGULATIONS, 1948 (*a*)

Notice is hereby given that the Minister of Town and Country Planning in exercise of the powers vested in him by Section 31 of the Town and Country Planning Act, 1947, and Regulation 10 of the Town and Country Planning (Control of Advertisements) Regulations, 1948, has approved [with modifications] (1) an order defining as an area of special control for the purposes of those Regulations an area of land situate at and described in the Schedule hereto, which land is shown edged and coloured on the map referred to in the order.

The order comes into force on the day of , 19 (2).

A copy of the approved order and of the map [and of the descriptive matter annexed thereto] (1) have been deposited at and will be open for inspection without payment of fee between the hours of

Schedule

(Here insert description of the lands comprised in the order.)

Dated the day of , 19 .

(Signature of duly authorised officer.)

IMPORTANT

Attention is drawn to Regulation 11 of the above Regulations under which advertisements being displayed in an area defined as an area of special control are in certain circumstances required to be removed without further notice within

transported to a senior school some miles away. Often, too, there are not enough children left, under 11, to justify a junior school, so these little ones have also to go elsewhere, and the village school is closed. It is generally agreed that the education and training which both groups thus receive in the bigger schools amongst the younger school teachers to live, not in the small villages in which they teach, but in nearby towns or larger villages from which they can travel daily to their work and return, at its close, to some sort of companionship in the evenings. Thus, they make no contribution to the life of the little com-

two months after expiry of a specified period, not being less than six months from the date on which the order defining the area comes into force.

Directions for completing this Form

(1) Strike out words in square brackets where inapplicable.

(2) Insert date of publication in the London Gazette. [4865]

(*a*) S.I. 1948 No. 1613.

Regulation 33 (1) FOURTH SCHEDULE

APPLICATION OF CERTAIN PROVISIONS OF PART III OF THE ACT

Enactment of Part III of the Act applied	*Regulation containing enactment as applied*
Subsections (1) and (2) of Section 14 ..	Regulation 17 (1) and (2).
Section 15	Regulation 28.
Section 16	Regulation 20.
Subsection (1) of Section 18	Regulation 17 (3).
Subsection (4) of Section 18	Regulation 5 (3).
Section 21	Regulation 21.
Section 22	Regulation 22.
Section 23	Regulation 23.
Subsections (1) and (2) of Section 24 ..	Regulation 24 (1) and (2). [4866]

* * * * *

EXPLANATORY NOTE

(This Note is not part of these Regulations, but is intended to indicate their general purport.)

These are the Regulations which the Minister of Town and Country Planning is required by Section 31 of the Town and Country Planning Act, 1947, to make for the purpose of restricting and regulating the display of advertisements in the interests of amenity and public safety. Regulation 3 applies the provisions of the Regulations to the display on land in England and Wales of all advertisements except those displayed in the circumstances specified in that Regulation. Part II of the Regulations requires that any display of advertisements must have consent, granted either by the local planning authority or by virtue of the provisions of the Regulations (Regulation 5); attaches standard conditions to the display of all advertisements (Regulation 6 and the First Schedule); and allows the display of existing advertisements to continue undisturbed unless, after an initial period of complete exemption and a further stage of minimum control, the consent of the local planning authority is in any particular case required by notice to be obtained (Regulations 7 and 8). Part III empowers local planning authorities to submit for the Minister's approval orders defining areas of special control (Regulation 10 and the Second Schedule) in which the display of advertisements will be governed by the special provisions of Regulation 11. Part IV deals with advertisements which may be displayed without the consent of the local planning authority. Advertisements of the descriptions specified in Regulation 14 may be displayed subject only to the conditions laid down in that Regulation, but the local planning authority may (by virtue of Regulation 8 and the proviso to Regulation 17 (1) read together with Regulation 12) bring under their control advertisements of the classes specified in Regulation 12 in order to prevent such advertisements from being displayed in a manner which is considered dangerous or substantially injurious to amenity. Parts V, VI, and VII provide respectively for the submission of applications for consent to the local planning authority and appeals from their decisions to the Minister, for the revocation and modification of express consent, and for

enforcement of the Regulations, and for that purpose apply certain provisions of Part III of the Act in the manner referred to in Regulation 33 and the Fourth Schedule. By virtue of subsection (3) of Section 32 of the Act, a person who displays an advertisement in contravention of the Regulations is liable to a fine, the amount of which is prescribed in Regulation 9. Regulation 30 prescribes the time and manner in which compensation under subsection (2) of Section 32 of the Act may be claimed in respect of expenses incurred in the removal of an existing advertisement.

TOWN AND COUNTRY PLANNING (BUILDING PRESERVATION ORDER) REGULATIONS, 1948

S.I. 1948 *No.* 1766

July 28, 1948

The Minister of Town and Country Planning (hereinafter called " the Minister ") in exercise of the powers conferred on him by Section 29 of the Town and Country Planning Act, 1947 (hereinafter called " the Act ") and of all other powers enabling him in that behalf hereby makes the following regulations :—

1. These regulations may be cited as the Town and Country Planning (Building Preservation Order) Regulations, 1948, and shall come into force on the sixteenth day of August, 1948. [4867]

2.—(1) In these regulations, unless the context otherwise requires :—

" the Act " means the Town and Country Planning Act, 1947 ;

" local authority " means a local planning authority or the council of a county district ;

" the Minister " means the Minister of Town and Country Planning ;

" order " means a building preservation order made under section 29 of the Act, and in regulations 4, 5 and 6 includes an order amending or revoking such an order ;

" notice by advertisement," in relation to an order, means a notice published in at least one local newspaper circulating in the locality in which the building is situate.

(2) Any reference in these regulations to the council of a county district shall include a reference to the Common Council of the City of London and to the council of any metropolitan borough.

(3) The Interpretation Act, 1889, shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [4868]

3.—(1) An order shall be in the form (or substantially in the form) set out in the Schedule hereto with such adaptations as the circumstances may require.

(2) Before making an order, the Common Council of the City of London, or the council of a metropolitan borough, shall consult with the London County Council. [4869]

4.—(1) A local authority desiring to submit an order to the Minister for confirmation shall transmit to the Minister the sealed order in duplicate with any plan annexed thereto, a copy of such order and plan (if any) and a statement of the grounds on which the local authority consider that the order should be confirmed ; and shall send a copy of such order, plan and statement to the council of the county district in which the building is situate or if the authority making the order are themselves that council, to the local planning authority for the area.

transported to a senior school some miles away. Often, too, there are not enough children left, under 11, to justify a junior school, so these little ones have also to go elsewhere, and the village school is closed. It is generally agreed that the education and training which both groups thus receive in the bigger schools

amongst the younger school teachers to live, not in the small villages in which they teach, but in nearby towns or larger villages from which they can travel daily to their work and return, at its close, to some sort of companionship in the evenings. Thus, they make no contribution to the life of the little com-

(2) The local authority shall forthwith give notice by advertisement of the submission of the order to the Minister, and shall include in the notice a statement that the order and plan (if any) or certified copies thereof, will be open for inspection at a specified place or at specified places and between specified hours, and that any objections or representations with reference thereto may be sent in writing to the Minister within twenty-eight days from the date of the publication of the advertisement.

(3) The local authority shall serve on the owner and any occupier of the building notice of the submission of the order to the Minister, together with a copy of the order and plan (if any) and of the statement referred to in paragraph (1) of this regulation. The notice shall contain a statement that the period of twenty-eight days, during which objections and representations may be sent to the Minister, shall run from the date of the service of the notice.

(4) The local authority shall, as soon as may be after the publication of the advertisement, send a copy of the newspaper containing the advertisement to the Minister, together with a copy of the notice served on the owner and any occupier of the building, and a statement of the date or dates of such service. [4870]

5. The Minister shall, before deciding whether to confirm the order, take into consideration any objections or representations in writing received by him within the time specified in the notices under paragraphs (2) and (3) of regulation 4, and if a local inquiry is held, the report of such inquiry. [4871]

6. The local authority shall on receipt of the Minister's decision on the order

(*a*) inform the owner and any occupier of the building and the council of the county district in which the building is situate (or the local planning authority as the case may be) of the Minister's decision, and, where the order is confirmed, serve on each of them a copy of the order as confirmed;

(*b*) where the order is confirmed, otherwise than provisionally under the proviso to subsection (4) of section 29 of the Act, give notice by advertisement of such confirmation and state in such notice the place where and the hours within which a copy of the order as confirmed may be inspected; and

(*c*) furnish to the Minister a certificate that the requirements of this regulation have been complied with. [4872]

SCHEDULE

FORM OF BUILDING PRESERVATION ORDER

TOWN AND COUNTRY PLANNING ACT, 1947

(Title of Order)

(1) Insert name of authority making the order.

The (1) (in this order referred to as "the Authority") in pursuance of the powers in that behalf conferred by section 29 of the Town and Country Planning Act, 1947 (hereinafter called "the Act") hereby makes the following order:—

1. The building described in the First Schedule hereto and shown coloured on the plan annexed hereto shall not without the consent of the Authority be demolished, or altered or extended by any of the following works (2).....

(2) Set out works of alteration or extension prohibited by the order (see proviso to section 29 (3)).

Provided that nothing in this order shall render unlawful the execution of any works which are urgently necessary in the interests of safety or health or for the preservation of the building or of neighbouring property, so long as notice in writing of the proposed execution

of the works is given to the Authority as soon as may be after the necessity for the works arises.

(3) This provision is optional and may be adapted or modified as necessary. (See section 29 (2)).

2. (3) The provisions of subsection (1) and subsection (2) (except paragraph (*a*)) of section 14, section 15, subsection (1) (except the proviso) and subsections (2) and (3) of section 16, subsections (1) (2) and (4) of section 18 and section 19 of the Act relating to permission to develop land and to applications for such permission shall apply to consents under this order and to applications therefor as if such consents or applications were permissions or applications respectively to develop land, and as if the Authority were the local planning authority; and accordingly those provisions shall have effect for the purposes of this order as set out in the Second Schedule hereto.

3. (3) The provisions of section 23 and of subsections (1) (2) and (3) of section 24 of the Act shall apply in relation to this order subject to the omission of the references therein to the use of land and to the substitution for the expressions set out in column 1 of the following table, of the expressions set out opposite thereto in column 2 of that table :—

Column 1	*Column* 2
" the local planning authority "	" the Authority "
" development of land ", or " development "	" works of demolition or other works prohibited by this order " or " works "
" the appointed day "	" the making of this order "
" permission "	" consent "
" this part of this Act "	" this order "
" the retention on the land of any buildings or works "	" the retention on the land of any buildings or the execution or retention of any works "

and accordingly the provisions of the said sections shall have effect for the purposes of this order as set out in the Second Schedule hereto.

4. (Insert, where appropriate, provisions as to compensation in accordance with section 29 (2) (*c*) of the Act.)

FIRST SCHEDULE

(*Insert description of the building*)

SECOND SCHEDULE

Provisions of Part III of the Act relating to permission to develop land, to applications for such permission and to enforcement notices, adapted and modified for the purposes of the order.

(The provisions adapted or modified are printed in heavy type.)

* * * * *

14.—(1) Subject to the provisions of this and the next following section, where application is made to **the authority** for **consent under this order the authority** may grant **consent** either unconditionally or subject to such conditions as they think fit, or may refuse **consent**; and in dealing with any such application **the authority** shall have regard to the provisions of the development plan, so far as material thereto, and to any other material considerations.

(2) Without prejudice to the generality of the foregoing subsection, conditions may be imposed on the grant of ..... consent thereunder—

transported to a senior school some miles away. Often, too, there are not enough children left, under 11, to justify a junior school, so these little ones have also to go elsewhere, and the village school is closed. It is generally agreed that the education and training which both groups thus receive in the bigger schools

amongst the younger school teachers to live, not in the small villages in which they teach, but in nearby towns or larger villages from which they can travel daily to their work and return, at its close, to some sort of companionship in the evenings. Thus, they make no contribution to the life of the little com-

(*b*) for requiring the removal of any buildings or works authorised by the **consent**, at the expiration of a specified period, and the carrying out of any works required for the re-instatement of land at the expiration of that period ;

and any **consent** granted subject to any such condition as is mentioned in paragraph (*b*) of this subsection is ..... referred to as **consent** granted for a limited period only.

15.—(1) The Minister may give directions to **the authority** ..... requiring that an application for **consent under this order** or all such applications of any class specified in the directions, shall be referred to the Minister instead of being dealt with by **the authority**, and any such application shall be so referred accordingly.

(2) Where an application for **consent under this order** is referred to the Minister under this section, the provisions of subsection (1) of the last foregoing section shall apply, subject to any necessary modifications, in relation to the determination of the application by the Minister as they apply in relation to the determination of such an application by the **authority :**

Provided that before determining any such application the Minister shall, if either the applicant or **the authority** so desire, afford to each of them an opportunity for appearing before and being heard by a person appointed by the Minister for the purpose.

(3) The decision of the Minister on any application referred to him under this section shall be final.

16.—(1) Where application is made **to the authority for consent under this order** ..... and that **consent** ..... is refused by that authority, or is granted by them subject to conditions, then if the applicant is aggrieved by their decision he may by notice served within ..... **one month** from the receipt of notification of their decision, ... appeal to the Minister.

(2) Where an appeal is brought under this section from a decision of the **authority** the Minister may allow or dismiss the appeal or may reverse or vary any part of the decision of **the authority**, whether or not the appeal relates to that part, and deal with the application as if it had been made to him in the first instance ; and the provisions of the last foregoing section shall apply, subject to any necessary modifications, in relation to the determination of an application by the Minister on appeal ..... as they apply in relation to the determination by the Minister of an application referred to him under that section.

(3) Unless within **two months from the date of the receipt of an application for consent under this order,** or within such extended period as may at any time be agreed upon in writing between the applicant and **the authority, the authority** either—

(*a*) give notice to the applicant of their decision on any application for **consent under this order** ..... or

(*b*) give notice to him that the application has been referred to the Minister in accordance with directions given by him under the last foregoing section,

the provisions of subsection (1) of this section shall apply in relation to the application as if the **consent** ..... to which it relates had been refused by **the authority** and as if notification of their decision had been received by the applicant at the expiration of the **said period of two months** or the extended period agreed upon as aforesaid, as the case may be.

* * * * *

18.—(1) The power to grant **consent under this order** shall include power to grant **consent** for the retention on land of any buildings or **for the execution or retention of works of demolition or other works prohibited by this Order,** constructed or carried out thereon before the date of the application, ... (whether without **consent** granted **under this order** or in accordance with **consent** so granted for a limited period only) and references ..... to **consent under this order** and to applications for such **consent** shall be construed accordingly.

(2) Any such **consent** as is mentioned in the foregoing subsection may be granted so as to take effect from the date on which the buildings or works were

constructed or carried out ..... or from the expiration of the said period as the case may be.

* * * * *

(4) Where **consent** is granted **under this order** then, except as may be otherwise provided by the **consent,** the grant of **consent** shall enure for the benefit of the land and of all persons for the time being interested therein .....

19.—(1) Where **consent under this order is** refused, whether by **the authority** or by the Minister, on an application in that behalf ....., or is granted by that authority or by the Minister subject to conditions, then if any owner of the land claims—

(*a*) that the land has become incapable of reasonably beneficial use in its existing state ; and

(*b*) in a case where **consent under this order** was granted as aforesaid subject to conditions, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of the permitted **works** in accordance with those conditions ;

(*c*) in any case, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of any other **works** for which **consent** has been ..... granted ....., or for which the local planning authority or the Minister have undertaken to grant such **consent,**

he may, within **six months from such refusal,** serve on the council of the county borough or county district in which the land is situated a notice (hereinafter referred to as a " purchase notice ") requiring that council to purchase his interest in the land in accordance with the provisions of this section.

(2) Where a purchase notice is served on any council under this section that council shall forthwith transmit a copy of the notice to the Minister, and subject to the following provisions of this section the Minister shall, if he is satisfied that the conditions specified in paragraphs (*a*) to (*c*) of the foregoing subsection are fulfilled, confirm the notice, and thereupon the council shall be deemed to be authorised to acquire the interest of the owner compulsorily in accordance with the provisions of Part IV of this Act, and to have served a notice to treat in respect thereof on such date as the Minister may direct :

Provided that—

(*a*) if it appears to the Minister to be expedient so to do, he may, in lieu of confirming the purchase notice, grant **consent** for the **works** in respect of which the application was made or, where **consent** for **those works** was granted subject to conditions, revoke or amend those conditions so far as appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of **those works ;**

(*b*) if it appears to the Minister, that the land, or any part of the land, could be rendered capable of reasonably beneficial use within a reasonable time by the carrying out of any other **works** for which **consent** ought to be granted, he may, in lieu of confirming the notice, or in lieu of confirming it so far as it relates to that part of the land, as the case may be, direct that such **consent** shall be so granted in the event of an application being made in that behalf ;

(*c*) if it appears to the Minister having regard to the probable ultimate use of the land, that it is expedient so to do, he may, if he confirms the notice, modify it either in relation to the whole or in relation to any part of the land to which it relates by substituting any other local authority for the council on whom the notice is served, and in any such case the foregoing provisions of this subsection shall have effect accordingly,

(3) If within the period of six months from the date on which a purchase notice is served under this section the Minister has neither confirmed the notice nor taken any such other action as is mentioned in paragraph (*a*) or paragraph (*b*) of the last foregoing subsection nor notified the owner by whom the notice was served that he does not propose to confirm the notice, the notice shall be deemed to be confirmed at the expiration of that period, and the council on whom the notice was

transported to a senior school some miles away. Often, too, there are not enough children left, under 11, to justify a junior school, so these little ones have also to go elsewhere, and the village school is closed. It is generally agreed that the education and training which both groups thus receive in the bigger schools amongst the younger school teachers to live, not in the small villages in which they teach, but in nearby towns or larger villages from which they can travel daily to their work and return, at its close, to some sort of companionship in the evenings. Thus, they make no contribution to the life of the little com-

served shall be deemed to be authorised to acquire the interest of the owner compulsorily in accordance with the provisions of Part IV of this Act, and to have served notice to treat in respect thereof at the expiration of the said period.

(4) The power conferred by subsection (2) of section five of the Acquisition of Land (Assessment of Compensation) Act, 1919, to withdraw a notice to treat shall not be exercisable in the case of a notice to treat which is deemed to have been served by virtue of this section.

(5) Before confirming a purchase notice, or taking any other action in lieu thereof, under this section, the Minister shall give notice of his proposed action—

(*a*) to the person by whom the notice was served ;

(*b*) to the council on whom the notice was served ;

(*c*) to the local planning authority for the area in which the land is situated ; and

(*d*) to any other local authority whom the Minister proposes, under the foregoing provisions of this section, to substitute for the said council ;

and if within the period prescribed by the notice under this subsection (not being less than twenty-eight days from the service thereof) any person or authority on whom that notice is served so requires, the Minister shall, before confirming the purchase notice or taking any such other action as aforesaid, afford to those persons and authorities an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose.

23.—(1) If it appears to **the authority** that any **works of demolition or other works prohibited by this order have** been carried out after the **making of this order** without the grant of **consent** required in that behalf **under this order,** or that any conditions subject to which such **consent** was granted in respect of **any such works** have not been complied with, then, subject to any direction given by the Minister, the **authority** may within four years of such **works** being carried out, if they consider it expedient so to do having regard to the provisions of the development plan and to any other material considerations, serve on the owner and occupier of the land a notice under this section.

(2) Any notice served under this section (hereinafter called an " enforcement notice ") shall specify the **works** which **are** alleged to have been carried out without the grant of such **consent** as aforesaid or, as the case may be, the matters in respect of which it is alleged that any such conditions as aforesaid have not been complied with, and may require such steps as may be specified in the notice to be taken within such period as may be so specified for restoring the land to its condition before the **works of demolition or other works prohibited by this order** took place or for securing compliance with the conditions, as the case may be ; and in particular any such notice may, for the purpose aforesaid, require the demolition or alteration of any building or works ..... or the carrying out on land of any building or other operations.

(3) Subject to the provisions of the next following subsection an enforcement notice shall take effect at the expiration of such period (not being less than twenty-eight days after the service thereof) as may be specified therein :

Provided that—

(*a*) if within the period aforesaid an application is made to **the authority under this order** for **consent** for **the retention on the land of any buildings or the execution or retention of any works,** ..... to which the enforcement notices relates shall be of no effect pending the final determination of that application, and if such **consent** as aforesaid is granted on that application, the notice shall not take effect ;

(*b*) if within the period aforesaid an appeal is made to the court under the following provisions of this section by a person on whom the enforcement notice was served, the notice shall be of no effect pending the final determination or withdrawal of the appeal.

(4) If any person on whom an enforcement notice is served under this section is aggrieved by the notice, he may, at any time within the period mentioned in the last foregoing subsection, appeal against the notice to a court of summary jurisdiction for the petty sessional division or place within which the land to which the notice relates is situated ; and on any such appeal the court—

(*a*) if satisfied that **consent** was granted under this **order** for the **works** to which the notice relates, or that no such **consent** was required in respect thereof,

or, as the case may be, that the conditions subject to which such **consent** was granted have been complied with, shall quash the notice to which the appeal relates ;

(*b*) if not so satisfied, but satisfied that the requirements of the notice exceed what is necessary for restoring land to its condition before the **works** took place, or for securing compliance with the conditions, as the case may be, shall vary the notice accordingly ;

(*c*) in any other case shall dismiss the appeal :

Provided that where the enforcement notice is varied or the appeal is dismissed, then, without prejudice to the provisions of paragraph (*a*) of the proviso to subsection (3) of this section, the court may, if they think fit, direct that the enforcement notice shall not come into force until such date (not being later than twenty-eight days from the determination of the appeal) as the court think fit.

(5) Any person aggrieved by a decision of a court of summary jurisdiction under the last foregoing subsection may appeal against that decision to a court of quarter sessions.

24.—(1) If within the period specified in an enforcement notice, or within such extended period as **the authority** may allow, any steps required by the notice to be taken ..... have not been taken, **the authority** may enter on the land and take those steps, and may recover as a simple contract debt in any court of competent jurisdiction from the person who is then the owner of the land any expenses reasonably incurred by them in that behalf ; and if that person, having been entitled to appeal to the court under the last foregoing section, failed to make such an appeal, he shall not be entitled in proceedings under this subsection to dispute the validity of the action taken by **the authority** upon any ground which could have been raised by such an appeal.

(2) Any expenses incurred by the owner or occupier of any land for the purpose of complying with an enforcement notice served under the last foregoing section in respect of any **works**, and any sums paid by the owner of any land under the foregoing subsection in respect of the expenses of **the authority** in taking steps required to be taken by such a notice, shall be deemed to be incurred or paid for the use and at the request of the person by whom the **works were** carried out.

(3) Where, by virtue of an enforcement notice, ... any conditions are required to be complied with in respect of ..... the carrying out of any operations thereon, then if any person, without the grant of **consent** in that behalf under **this order** ..... carries out or causes or permits to be carried out those operations, in contravention of the notice, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifty pounds

.....

.....

[4873]

* * * * *

EXPLANATORY NOTE

(*This Note is not part of these Regulations, but is intended to indicate their general purport.*)

These regulations deal with the form of building preservation orders made under section 29 *of the Town and Country Planning Act*, 1947, *and the procedure to be followed in connection with the submission and confirmation of such orders.*

TOWN AND COUNTRY PLANNING (DEVELOPMENT PLANS) REGULATIONS, 1948

S.I. 1948 *No.* 1767

July 28, 1948

The Minister of Town and Country Planning, in exercise of the powers conferred on him by Sections 8, 10, 11 and 111 of the Town and Country

transported to a senior school some miles away. Often, too, there are not enough children left, under 11, to justify a junior school, so these little ones have also to go elsewhere, and the village school is closed. It is generally agreed that the education and training which both groups thus receive in the bigger schools

amongst the younger school teachers to live, both in the small villages in which they teach, but in nearby towns or larger villages from which they can travel daily to their work and return, at its close, to some sort of companionship in the evenings. Thus, they make no contribution to the life of the little com-

Planning Act, 1947, and of all other powers enabling him in that behalf hereby makes the following Regulations :—

PART I

GENERAL

Citation and Commencement

1. These Regulations may be cited as the Town and Country Planning (Development Plans) Regulations, 1948, and shall come into force on the sixteenth day of August, 1948. [4874]

Interpretation

2.—(1) In these Regulations unless the context otherwise requires :—

" the Act " means the Town and Country Planning Act, 1947.

" the Minister " means the Minister of Town and Country Planning.

" Certified copy " or " certified extract " mean respectively a copy or extract certified by the clerk of the local planning authority as being a true copy or extract.

" Development Plan ", in relation to any area, means the maps and written statement required in relation to that area by Part II of these Regulations and includes a Development Plan relating to any part of the area of a local planning authority prepared under subsection (5) of section 5 or section 7 of the Act, and proposals for any alterations or additions to a Development Plan.

" County " means an administrative county, but does not include the administrative county of London.

" Notice by advertisement ", in relation to a Development Plan, means a notice published in the " London Gazette " and in each of two successive weeks in at least one local newspaper circulating in the locality in which the land to which the Development Plan relates is situated.

" Specified period ", in relation to a notice by advertisement inviting objections or representations, means a period to be specified by the local planning authority in the notice being not less than six weeks from the date of the first local advertisement.

" District " means a county district, or, in relation to the administrative county of London, the City of London or a metropolitan borough.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [4875]

Maps

3.—(1) Every map comprised in a Development Plan and every extract therefrom shall include a key describing the notation used.

(2) The Minister may in any particular case, direct or approve a scale for any map comprised in a Development Plan or for any part of such map which differs from the scale prescribed for that map in Part II of these Regulations. [4876]

PART II

FORM AND CONTENT OF DEVELOPMENT PLANS

General description of Development Plan

4.—(1) A Development Plan shall subject to paragraph (2) of this regulation consist of a basic map and a written statement and such other map or maps as may be appropriate under the succeeding provisions of these regulations.

(2) A Development Plan containing proposals for alterations or additions to a Development Plan already approved or made shall consist of such map, or maps referred to in the succeeding provisions of these regulations, and such written statement, as may be appropriate to those proposals, and any such map may be in substitution for any map or part of any map, forming part of the Development Plan already approved or made, or in addition to any such map. [4877]

Basic map for county boroughs and the administrative county of London

5. Subject to the provisions of regulation 11, a basic map in the case of a county borough or the administrative county of London shall be a map (hereinafter referred to as a town map) to a scale of 6 inches to a mile and showing particulars and proposals in respect of such of the items specified in Parts I and III of the First Schedule to these regulations as may be appropriate to the area to which the particular map relates. [4878]

Basic map and town maps for counties

6.—(1) Subject to the provisions of regulation 11, a basic map in the case of a county shall be a map (hereinafter referred to as a county map) to a scale of one inch to a mile and showing particulars and proposals in respect of such of the items specified in Parts II and III of the First Schedule to these regulations as may be appropriate to the area to which the particular map relates.

(2) Town maps shall also be prepared as part of a Development Plan, for such areas in the county as the local planning authority may determine, or as the Minister may in a particular case direct. [4879]

Comprehensive development area map

7. A Development Plan which defines any land as an area of comprehensive development shall define the area on a map (hereinafter referred to as a comprehensive development area map) to a scale of 1/2,500 and such map shall show particulars and proposals in respect of such of the items specified in Part IV of the First Schedule to these regulations as may be appropriate to the area. [4880]

Designation map

8. A Development Plan which designates any land as subject to compulsory acquisition shall designate such land on a map (hereinafter referred to as a designation map) to a scale of 1/2,500 and such map shall show particulars and proposals in respect of the items specified in Part V of the First Schedule to these regulations. [4881]

Street authorisation map

9. A Development Plan which defines any land as the site of a proposed road solely for the purposes of section 47 of the Act or which designates any land as land to which section 48 of the Act (relating to the construction and improvement of private streets) applies shall define such land on a map (hereinafter referred to as a street authorisation map) to a scale of 1/2,500 and such map shall show whether the land is defined for the purposes of section 47 of the Act, or designated for the purposes of section 48 of the Act, and if designated, whether as the site of a proposed road, or as land required for the widening of an existing road. [4882]

Titles and combination of maps

10.—(1) The maps referred to in this Part of these regulations shall be identified on the face by the titles thereby conferred on them.

transported to a senior school some miles away. Often, too, there are not enough children left, under 11, to justify a junior school, so these little ones have also to go elsewhere, and the village school is closed. It is generally agreed that the education and training which both groups thus receive in the bigger schools to which they go are of higher standards, but the

amongst the younger school teachers to live, not in the small villages in which they teach, but in nearby towns or larger villages from which they can travel daily to their work and return, at its close, to some sort of companionship in the evenings. Thus, they make no contribution to the life of the little com-

(2) Any map referred to in any of the last three preceding regulations may be combined with any other such map, provided that the combined map is identified as aforesaid and that separate notations are used so as to differentiate clearly between the particulars and proposals required to be shown on one map and those required to be shown on the other or others. [4883]

Basic maps in cases under section 5 (5) of the Act

11. In the case of a Development Plan relating to part of the area of a local planning authority prepared under subsection (5) of section 5 of the Act

(*a*) if that part is in a county borough or the administrative county of London, and a comprehensive development area map but not a town map is prepared in respect thereof, such comprehensive development area map shall be the basic map for that part until a town map in respect thereof has been approved, when such town map shall become the basic map, but the map or maps already approved shall, subject to the provisions of regulation 4, continue to form part of the Development Plan;

(*b*) if that part is in a county, and a town map or a comprehensive development area map but not a county map is prepared in respect thereof, such town map, or, if there is no town map, such comprehensive development area map shall be the basic map for that part until a county map in respect thereof has been approved, when such county map shall become the basic map, but the map or maps already approved shall subject to the provisions of regulation 4, continue to form part of the Development Plan. [4884]

Programme maps

12.—(1) Every county map and every town map shall be accompanied by a programme map to a similar scale indicating the stages by which the proposals shown on such county map or town map should be carried out and distinguishing at least between (*a*) the first five years from the approval of the Development Plan, and (*b*) the remainder of the period covered by the Development Plan.

(2) Every comprehensive development area map shall be accompanied by a programme map to a scale of 1/2,500 indicating by reference to intervals of not more than five years the stages by which the proposals shown on the map should be carried out. [4885]

Written statement

13. A written statement shall form part of every Development Plan and such written statement shall include:

(*a*) a summary of the main proposals of the Development Plan with such descriptive matter as the local planning authority consider necessary to illustrate the proposals of the Development Plan or as the Minister may from time to time direct for that purpose;

(*b*) in relation to any comprehensive development area map,

(i) a statement in accordance with the provisions of subsection (3) of section 5 of the Act, of the purpose or purposes for which the area is to be developed or redeveloped as a whole, and

(ii) a use zone table showing the main types of development proposed to be permitted or disallowed in different parts of the area;

(*c*) in relation to any designation map designating land allocated by the Development Plan for the purposes of any of the functions of a

Minister, local authority or statutory undertaker, a statement identifying separately

(i) the land allocated to each Minister, authority or undertaker,

(ii) the purpose for which such land is allocated, and

(iii) the Minister, authority or undertaker to whom such land is allocated;

(*d*) in relation to any designation map designating land for the purpose of securing its use in the manner proposed by the Development Plan, a statement identifying the land proposed for each use and what that use is. [4886]

Reconciliation of maps and statement

14. In the case of any contradiction in respect of any land to which a Development Plan relates between the particulars or proposals shown on one map comprised in the Development Plan and those shown on another of or other such maps, the map which is to a larger scale shall, if those particulars or proposals are required by these regulations to be shown thereon, prevail, and in case of any such contradiction between the maps included in the Development Plan and the written statement, the written statement shall prevail. [4887]

PART III

PROCEDURE FOR THE SUBMISSION AND APPROVAL OF DEVELOPMENT PLANS

Submission of Development Plan to Minister

15. A Development Plan shall be prepared in duplicate, each duplicate being sealed with the seal of the local planning authority. One duplicate shall be submitted to the Minister together with a certified copy, and a certificate that the provisions of subsection (1) of Section 10, or (in the case of a Development Plan relating to land within the City of London) of paragraph (*a*) of subsection (11) of Section 114, or (in case of a Development Plan relating to land within a metropolitan borough) of paragraph (*a*) of subsection (12) of Section 114 of the Act have been complied with. [4888]

Notice of submission of Development Plan to Minister

16. On the submission of a Development Plan to the Minister the local planning authority shall publish notice by advertisement of the submission in the form specified in Part I of the Second Schedule to these Regulations, or a form substantially to the like effect. [4889]

Local inquiries or hearings

17. After the Development Plan has been submitted the Minister shall take into consideration the Development Plan and any objection or representation received by him within the specified period and shall decide whether or not to cause a public local inquiry to be held into the objections or representations at which any interested persons may be heard. If the Minister decides to dispense with an inquiry he shall, before approving the Development Plan, afford to any person who has duly made an objection and whose objection has not been met or withdrawn, an opportunity of appearing before and being heard by a person appointed by him for the purpose; and if such a hearing is arranged the Minister shall at the same time afford to the local planning authority and such other persons as he deems expedient an opportunity of appearing and being heard on the same occasion. [4890]

Notice of approval of Development Plan

18. On receiving notice of the Minister's approval of the Development Plan with or without modifications the local planning authority shall forthwith publish a notice by advertisement in the form specified in Part II of the Second Schedule to these Regulations, or a form substantially to the like effect. [4891]

Service of notice of approval of Development Plan

19. The local planning authority shall serve a notice in the same terms as the notice referred to in the last preceding regulation on any person by whom an objection or representation was duly made to the Development Plan and who has sent to the authority a request in writing for the service of such notice specifying an address for service, and on such other persons if any, as may be required by general or special directions given by the Minister. [4892]

Certificates as to advertisements and service of notices

20. The local planning authority shall furnish to the Minister a certified copy of any advertisement published in pursuance of these Regulations and when the service of any notices required to be served under these Regulations has been completed shall furnish to the Minister a certificate that the requirement has been complied with. [4893]

Deposit of copies of Development Plan

21. Where any notice required to be given under the provisions of these Regulations refers to the deposit of a certified copy or certified extract of a Development Plan, the local planning authority shall arrange for such copy or extract to be deposited at a place generally convenient to the whole area to which the Development Plan relates, and, where that area extends over more than one district, shall arrange for the deposit in each district to which the Development Plan relates or in a place convenient thereto of a certified copy, or a certified extract relating to that district or to a group of districts which includes that district. [4894]

Access to Development Plan

22. The local planning authority shall arrange for giving access to the Development Plan and to such copies or extracts therefrom as are mentioned in regulation 21 at all reasonable hours and without charge. Where such copies or extracts are deposited in pursuance of a notice inviting objections or representations, they shall be available for inspection from the beginning of the specified period, until the expiration of six weeks from the date on which the notice referred to in regulation 18 is first published. [4895]

Making of Development Plan by Minister

23. In relation to the making of a Development Plan by the Minister under Section 7 of the Act the foregoing provisions of this Part of these Regulations and of the Second Schedule thereto with respect to the submission of the Development Plan to the Minister, to the approval thereof and to the publication and service of notice of approval, shall have effect, subject to any necessary modifications, in relation to the preparation in draft of a Development Plan by the Minister, to the making thereof and to the publication and service of notice of such making:

Provided that—

(*a*) the draft Development Plan shall not be sealed and no such certified copy or certificate as is referred to in regulation 15 shall be required;

(*b*) the local planning authority shall publish or serve such notices as are required to be published or served unless the Minister otherwise directs, and shall arrange for the deposit of copies or extracts of the Development Plan and for giving access thereto. [4896]

Sale of copies of Development Plan

24. As soon as possible after the coming into operation of a Development Plan, the local planning authority shall arrange for the printing and publishing of the Development Plan, including the reproduction on such scale as may be appropriate of any relevant maps, and shall make available printed copies for sale to the public at a reasonable cost; provided that such printing and publication shall not be necessary in regard to a Development Plan which amends an existing Development Plan but the amendment shall unless the Minister otherwise directs be sufficiently published by being incorporated in the next subsequent reprinting of the Development Plan. [4897]

PART IV

CONCURRENT PROCEDURE UNDER SECTION 8 OF THE ACT

25.—(1) Where a Development Plan has been submitted to the Minister or is prepared in draft by the Minister, the Minister or the Minister of Transport may, pending the approval or making of the Development Plan, take any proceedings to which this regulation applies with reference to any land included in the area to which the Development Plan relates concurrently with any proceedings required under the Act or these Regulations to be taken in connection with the approval or making of the Development Plan.

(2) The proceedings to which this regulation applies are

(*a*) the proceedings required to be taken by the Minister under the First Schedule to the New Towns Act, 1946 preliminary to the making of an order under Section 1 of that Act designating an area as the site of a new town, and

(*b*) the proceedings required to be taken by the Minister of Transport under the Second Schedule to the Trunk Roads Act, 1946 preliminary to the making of an order directing that any road proposed to be constructed by him shall be a trunk road or authorising him to construct or improve any road under Section 4 of that Act. [4898]

SCHEDULES

FIRST SCHEDULE

PARTICULARS AND PROPOSALS TO BE INCLUDED IN TOWN, COUNTY COMPREHENSIVE DEVELOPMENT AND DESIGNATION MAPS

Note.—The Development Plan is to include, in respect of the items mentioned in this Schedule, particulars of existing development which it is intended to retain, and proposals for future development. Locations required to be shown may be shown approximately or in appropriate cases by means of symbols.

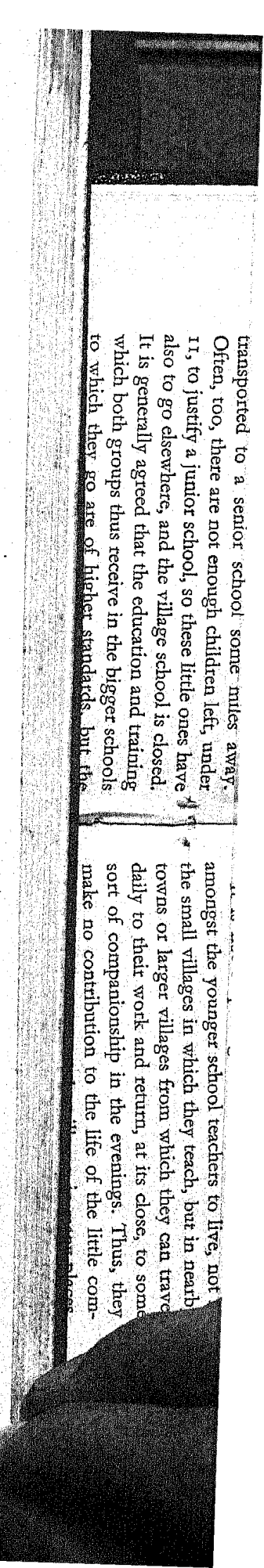
PART I

Particulars and proposals to be shown on town maps (to a scale of six inches to one mile)

(i) Areas or location of areas comprised in the following maps:

(*a*) comprehensive development area maps already approved or presently submitted, showing the other particulars and proposals specified in this Part and in Part III but (save as aforesaid) not those specified in Parts IV or V of this Schedule;

(*b*) designation maps already approved or presently submitted;



(ii) Areas primarily for :

(*a*) industrial use ;

(*b*) principal business, civic, cultural or other special uses for the town as a whole ;

(*c*) residential use indicating densities proposed for each area, and location or area of shopping centres ;

(iii) Location of principal roads, parking places, etc., in the following categories :

(*a*) trunk roads ;

(*b*) other principal traffic roads ;

(*c*) principal parking places or stations for public vehicles ;

(iv) Location of railway and water transport facilities in the following categories :

(*a*) railways and railway land (indicating passenger and goods stations) ;

(*b*) waterways, whether docks, harbours or inland waterways ;

(*c*) wharves, depots and land for use with such waterways ;

(v) Areas or locations of primary and secondary schools, colleges or other educational institutions ; and their playing fields ;

(vi) Open spaces. [4899]

PART II

Particulars and proposals to be shown on county maps (to a scale of one inch to one mile)

(i) Areas or location of areas comprised or to be comprised in the following maps :

(*a*) town maps already approved or presently submitted, showing the present and proposed built-up areas and the particulars and proposals specified in item (iv) of this Part, but not any other particulars or proposals under this Schedule ;

(*b*) town maps which will be prepared at a later date ;

(*c*) comprehensive development area maps already approved or presently submitted ;

(*d*) designation maps already approved or presently submitted ;

(ii) Areas designated or proposed to be designated under Section I of the New Towns Act, 1946, showing the particulars and proposals specified in item (iv) (*a*) of this Part but not any other particulars and proposals under this Schedule :

(iii) Location of other settlements intended as centres for social, educational or health services :

(iv) Location of principal roads, in the following categories :

(*a*) trunk roads ;

(*b*) other principal traffic roads ;

(v) Location of railway and water transport facilities in the following categories :

(*a*) railways ;

(*b*) waterways, whether docks, harbours or inland waterways. [4900]

PART III

Other Particulars and proposals to be shown on town and county maps if applicable

(i) Land to be used for securing the winning and working of minerals other than coal ;

(ii) Surface areas required in connection with the winning and working of coal, or for collieries ;

(iii) Areas for the deposit of refuse or waste materials ;

(iv) Areas to be used for Government purposes (the purposes being indicated) ;

(v) Airfields ;

(vi) Areas to be used for the purposes of local authorities or statutory undertakers (the purposes being indicated) ;

(vii) Areas of great landscape, scientific or historic value ;
(viii) Areas where facilities for large scale holiday camping are to be provided ;
(ix) Any other particulars or proposals of importance. [4901]

PART IV

Particulars and proposals to be shown on comprehensive development area maps (to a scale of 1/2500—*approximately* 25 *inches to a mile*)

(i) The boundary of the area of comprehensive development ;
(ii) Use zones, indicating the densities of buildings proposed in each zone ;
(iii) Principal roads, in the following categories :
(*a*) trunk roads ;
(*b*) other principal traffic roads ;
(*c*) streets forming the main framework of residential, industrial or business areas ;
(iv) Open spaces, and the purposes for which they are to be used ;
(v) Any other particulars or proposals of importance. [4902]

PART V

Particulars and proposals to be shown on designation maps (to a scale of 1/2500—*approximately* 25 *inches to a mile*)

(i) The boundary of the area or areas designated ;
(ii) In relation to each area or part of an area, the following particulars :
(*a*) land allocated for the purposes of any of the functions of a Minister, local authority or statutory undertaker ;
(*b*) land comprised in an area of comprehensive development ;
(*c*) land contiguous or adjacent to an area of comprehensive development ;
(*d*) other land allocated for the purpose of securing its use in the manner proposed by the Development Plan. [4903]

SECOND SCHEDULE

PART I

FORM OF NOTICE OF SUBMISSION OF DEVELOPMENT PLAN

Town and Country Planning Act, 1947

(Name of Local Planning Authority.)

(Title of Development Plan.)

NOTICE IS HEREBY GIVEN THAT THE ABOVE Development Plan was on the day of , 19 submitted to the Minister of Town and Country Planning for approval.

The Development Plan relates to land situate within the (1) and comprises land within the under-mentioned districts.

A certified copy of the Development Plan as submitted for approval has been deposited for public inspection at (2).

Certified copies or extracts of the Development Plan so far as it relates to the under-mentioned districts have also been deposited for public inspection at the places mentioned below (3).

The copies or extracts of the Development Plan so deposited are available for inspection free of charge by all persons interested at the places mentioned above between (4).

Any objection or representation with reference to the Development Plan may be sent in writing to the Secretary, Ministry of Town and Country Planning, 32, St. James's Square, London, S.W.1, before the day of 19 (5) and any such objection or representation should state the grounds on which it is made. Persons making an objection or representation may register

transported to a senior school some miles away. Often, too, there are not enough children left, under 11, to justify a junior school, so these little ones have also to go elsewhere, and the village school is closed. It is generally agreed that the education and training which both groups thus receive in the bigger schools to which they go are of higher standards, but the

amongst the younger school teachers to live, not in the small villages in which they teach, but in nearby towns or larger villages from which they can travel daily to their work and return, at its close, to some sort of companionship in the evenings. Thus, they make no contribution to the life of the little com-

their names and addresses with the (6) and will then be entitled to receive notice of the eventual approval of the Development Plan.

Dated this day of , 19 .

(Signature of duly authorised officer.) [4904]

(1) Insert name of County or County Borough.

(2) Insert address of place (e.g. "County offices, etc.") where a copy of the Development Plan has been deposited.

(3) Insert names of districts concerned and addresses of places where appropriate extracts have been deposited. Where additional full copies of the Development Plan are available these should be deposited at central places and the wording of the notice amended if necessary. (In the case of the county boroughs deposit at one place is all that is obligatory.)

(4) Specify the hours during which the Development Plan will be open for inspection.

(5) Insert date not less than six weeks from the date of first local advertisement.

(6) Insert name of local planning authority.

PART II

FORM OF NOTICE OF APPROVAL OF DEVELOPMENT PLAN

Town and Country Planning Act, 1947

(Name of Local Planning Authority.)

(Title of Development Plan.)

To (1)

NOTICE IS HEREBY GIVEN that on the day of , 19 , the Minister of Town and Country Planning approved (with modifications) the above Development Plan.

A certified copy of the Development Plan as approved by the Minister has been deposited at (2)

and certified copies or extracts of the Development Plan so far as it relates to the under-mentioned districts have also been deposited at the places mentioned below (3).

The copies or extracts of the Development Plan so deposited will be open for inspection free of charge by all persons interested between (4).

The Development Plan became operative as from the (5) day of , 19 , but if any person aggrieved by the Development Plan desires to question the validity thereof or of any provision contained therein on the ground that it is not within the powers of the Town and Country Planning Act, 1947, or on the ground that any requirement of the Act or any regulation made thereunder has not been complied with in relation to the approval of the Development Plan, he may, within six weeks from the (5) day of , 19 , make application to the High Court (6).

Dated this day of , 19 .

(Signature of duly authorised officer.) [4905]

(1) This line is required for personal notices only.

(2) Insert address of place (e.g. "County Offices, etc.") where a copy of the Development Plan has been deposited.

(3) Insert names of districts concerned and addresses of places where appropriate extracts have been deposited. Where additional full copies of the Development Plan are available, these should be deposited at central places and reference to such deposit made in the notice. (In the case of county boroughs deposit at one place is all that is obligatory.)

(4) Specify the hours during which the Development Plan will be open for inspection.

(5) Insert first date of publication of this Notice.

(6) If an order has been made by the Minister under paragraph (*c*) of the proviso to subsection (4) of section 5 of the Act, this paragraph will require modification in the light of the provisions of subsection (4) of section 11 of the Act.

* * * * *

EXPLANATORY NOTE

(This Note is not part of these Regulations, but is intended to indicate their general purport.)

These Regulations deal with the form and content of development plans prepared under Part II of the Town and Country Planning Act, 1947, *and with the procedure to be followed for bringing them into operation. By virtue of the definition of "Development Plan" in regulation* 2, *they apply also to proposals for alterations or additions to a development plan.*

Part II of the regulations specifies the maps and written statement which make up the development plan, and, with the First Schedule, indicates their contents. Part III deals with procedure, and contains provision (in regulation 24) *for the placing on sale of copies of development plans when they become operative. Part IV provides for the procedure in relation to development plans being carried out at the same time as that in relation to the making of orders relating to trunk roads under the Trunk Roads Act,* 1946, *or new towns under the New Towns Act,* 1946.

CASES

Town and country planning—New town—Duties of Minister—Consultation —New Towns Act, 1946 (*c.* 68), *s.* 1 (1).

By the New Towns Act, 1946, s. 1 (1): "If the Minister [of Town and Country Planning] is satisfied, after consultation with any local authorities who appear to him to be concerned, that it is expedient in the national interest that any area of land should be developed as a new town by a corporation established under this Act, he may make an order designating that area as the site of the proposed new town."

On July 10, 1946, three weeks before the Act received the Royal Assent, a meeting took place between the Minister and his assistants and the local authorities who appeared to him to be concerned at which the Minister proposed to "outline the main factors which . . . led him to consider the Crawley-Three Bridges area especially suitable to be the site of a new town. . . ." The local authorities were informed at that meeting of the general nature of the proposal, the area, the size of the proposed town and what the Minister wished and intended to bring about. Discussion was invited and a number of questions was put by the representatives of the authorities and answered by the Minister and his assistants, a minute was prepared, and a Press notice was issued stating what had happened. On October 7, 1946, a second meeting was held between representatives of the Minister and the local authorities, at the latter's request, "to explain the considerations which the Minister had in mind in arriving at the boundaries of the area." Objections were raised to the proposed order and on November 4, 5 and 6, 1946, a public inquiry was held:—

Held: regarding as a whole the events which occurred between July 10 and the holding of the public inquiry in November, the local authorities throughout were aware of the effect of the provisions of the Act and had full opportunity to put forward any criticism or suggestion which they wished, and, therefore, the requirements of s. 1 (1) of the Act had been complied with.

Per Lord GREENE, M.R.: there was no need for the Minister to complete his "consultation" with local authorities before he published the draft order.

Per BUCKNILL, L.J.: consultation in the sub-section means that, on the

one hand, the Minister must supply sufficient information to the local authority to enable them to tender advice, and, on the other hand, a sufficient opportunity must be given to the local authority to tender that advice.

Decision of MORRIS, J., [1947] 2 All E. R. 488, *affirmed.*—ROLLO *v.* MINISTER OF TOWN AND COUNTRY PLANNING, [1948] 1 All E. R. 13; [1948] L. J. R. 817; 112 J. P. 104; 64 T. L. R. 25; 92 Sol. Jo. 40, C. A. [4906]

Town and country planning—Town planning scheme—Industrial building—Factory—Premises used for testing concrete—Factories Act, 1937 (*c.* 67), *s.* 151 (1).

A consulting engineer, specialising in the testing of materials used in building and engineering construction, and, in return for fees, advising builders and others engaged in constructional work, in the course of one process made and crushed concrete blocks to test their properties, for which purpose he used a laboratory concrete mixer, six feet, six inches high and three feet wide, and a crushing machine twelve feet high by four feet square. He employed persons in manual labour to conduct these operations. The premises on which the process was carried out were within an area designated as wholly residential by the local authority in pursuance of a town planning scheme under the Town and Country Planning Act, 1932. The scheme defined "industrial building" as "a building . . . designed for use as a factory . . . within the meaning of" the Factories Act, 1937:—

Held: although the main object of the process was the testing of materials, the building constituted "premises in which . . . the work is carried on by way of trade or for the purposes of gain," within s. 151 (1) of the Act of 1937, and it was, therefore, a factory within the meaning of that Act and an "industrial building" for the purpose of the scheme.

Decision of the Divisional Court, [1947] 1 All E. R. 877, *affirmed.*

Nash v. *Hollinshead,* [1901] 1 K. B. 700, *explained.*

Per VAISEY, J.: the building might also be held to be a factory within s. 151 (1) (xii).—HENDON CORPN. *v.* STANGER, [1948] 1 All E. R. 377; 112 J. P. 199, C. A. [4907]

Advertisement—Advertising sign of sheet metal fixed to wall of old theatre—"Wooden or other structure or erection"—Manchester Corporation Act, 1891 (*c.* ccvii), *s.* 18 (1).

By the Manchester Corporation Act, 1891, s. 18 (1), which is included in a part of the Act dealing with matters relating to buildings, it is (with certain exceptions) unlawful "to erect or set up in the city in any place any wooden or other structure or erection of a movable or temporary character" except under licence from the corporation. The appellants fixed to the wall of a building in Manchester an advertising sign consisting of a sheet of metal, sixty feet long, on which the advertisement was painted and which was nailed to a wooden frame which, in turn, was fixed to the wall by means of nails driven into plugs in the wall and by wall hooks. The legs of the frame rested on wooden steps and the bottom of the sign was two feet above ground level:—

Held: the advertising sign was not a "wooden or other structure or erection" within the meaning of s. 18, which applied only to structures in the nature of buildings.

Royle v. *Orme* (1932), 96 J. P. 468, 471, *applied.*—BOROUGH BILLPOSTING CO., LTD. *v.* MANCHESTER CORPN., [1948] 1 All E. R. 807; 112 J. P. 244; 64 T. L. R. 249; 92 Sol. Jo. 258; 46 L. G. R. 227. [4908]

Town and Country planning—Interim development agreement between landowners and local authority—Permission to develop lands in accordance with specified method—Permission relating to period after planning scheme in force—Authority's planning scheme not yet in force—Revocation of permission for interim development—Town and Country Planning Act, 1932 (*c.* 48), *ss.* 10, 34—*Town and Country Planning* (*Interim Development*) *Act*, 1943 (*c.* 29), *s.* 4 (1), (2).

The plaintiffs were the present owners of certain land in Chessington forming part of the Chessington Hall estate and the borough council was the interim development authority for the area for the purpose of the Town and Country Planning Acts. In 1938, the council had made a planning scheme under the Act of 1932 and submitted it to the Minister, but it had not yet been approved. On May 11, 1934, the Minister of Health, in exercise of powers conferred by s. 10 (5) of the Town and Country Planning Act, 1932, allowed an appeal from the refusal of the council to grant permission for the development of the land in question under the Town and Country Planning (General Interim Development) Order, 1933, and gave permission for its development in accordance with the original lay-out plan or any lay-out plan approved by the council or the Minister. On May 19, 1939, the plaintiffs entered into two agreements with the council, one known as the development agreement and the other known as the roads and sewers agreement. The development agreement was supplemental to and in consideration of the roads and sewers agreement by which the plaintiffs agreed (*inter alia*) to dedicate certain lands to the public for highways, to convey certain other lands to the council, and to expend money on the construction of sewers.

The development agreement stated that it was intended to be made under s. 34 of the Act of 1932 (which is stated to empower "authorities and owners to enter into agreements restricting use of land") and that it was to be scheduled to the council's planning scheme. By cl. 3 of the agreement: "The lands described in the first and second parts of sched. I hereto may be used for the purposes mentioned in and subject to the restrictions set out in sched. II hereto and in accordance with the lay-out in plan No. 2 hereto annexed." The schedules and plan provided for the erection on the plaintiffs' lands of a limited number of dwelling-houses, shops or business premises, as specified. Clause 4 (*a*) provided: "Until the scheme shall come into force this agreement shall operate as if the owners and the development company had submitted an amended lay-out plan for the approval of the council and the council by this agreement had approved the said plan and had granted permission to the owners . . . to develop by virtue of s. 10 of the Act and the Town and Country Planning (General Interim Development) Order, 1933." Section 10 of the Act of 1932 deals with the interim development of land. Pursuant to the development agreement and the roads and sewers agreement the plaintiffs withdrew objections they had lodged against the council's proposed planning scheme which included the Chessington Hall estate, and they dedicated certain lands as public highways, conveyed land to the council, and expended money on the construction of sewers, but, owing to the outbreak of the war, they were unable to start the development of their land.

In January, 1946, one of the plaintiffs applied to the council for permission to proceed with part of the development, but was refused on the ground that the proposed development would contravene the proposals of the Greater London Plan of 1944. By the Town and Country Planning (Interim Development) Act, 1943, s. 4, permissions for interim development may be revoked or modified by order made with the consent of the Minister, and by s. 4 (2) the Minister may initiate proceedings for the revocation of

transported to a senior school some miles away. Often, too, there are not enough children left, under 11, to justify a junior school, so these little ones have also to go elsewhere, and the village school is closed. It is generally agreed that the education and training which both groups thus receive in the bigger schools to which they go are of higher standards, but the

amongst the younger school teachers to live, not in the small villages in which they teach, but in nearby towns or larger villages from which they can travel daily to their work and return, at its close, to some sort of companionship in the evenings. Thus, they make no contribution to the life of the little com-

any permissions. By the Surbiton Town and Country Planning (Interim Development) Direction, dated July 12, 1946, the Minister, under s. 4 (2) of the Act of 1943, directed the council to submit for his consent under s. 4 (1) of the Act an order revoking the permission granted on May 19, 1939, to the plaintiffs for the development of part of the Chessington Hall estate. The council agreed to make this order and, on Aug. 8, 1946, wrote to the plaintiffs informing them of the fact. In an action against the council claiming damages for breach of contract, the plaintiffs contended that, under the development agreement, and, particularly, under cl. 3 thereof, the council had assumed a contractual obligation that it would not at any time thereafter exercise any existing or future statutory powers so as to restrict the development of the plaintiffs' lands to a greater extent than was provided for by the agreement :—

Held: (i) on the true construction of the development agreement, cl. 3 applied only to the period after the proposed scheme came into force, while cl. 4 applied to the interim period. The effect of cl. 3 was that, under s. 34 of the Act of 1932, the council contractually debarred itself from interfering after the scheme came into force with the specified method of development by requiring, under s. 13 of the Act, the plaintiffs to pull down or alter buildings erected in conformity with that method. The agreement contained no undertaking by the council that it would in no circumstances avail itself of subsequent legislation to cancel the permission given under cl. 4 (*i.e.* in reference to the interim period), and, therefore, there was no breach by the council of the plaintiffs' contractual rights under cl. 3, as the council's order revoking the permission granted on May 19, 1939, was made during the interim period under s. 4 of the Act of 1943.

(ii) the development agreement was, on its true construction, not merely restrictive, but both permissive and restrictive, and, although s. 34 of the Act of 1932 was primarily restrictive, agreements containing permissive as well as restrictive provisions were within its scope, and, therefore, the development agreement was authorised by the section and the council was empowered by the section to incur the obligation under s. 3 of the agreement, which it could not have undertaken in the absence of statutory authority.

A.-G. v. *Barnes Corpn. and Ranelagh Club, Ltd.*, [1938] 3 All E. R. 711, *considered.*—CHESSINGTON DEVELOPMENT CO., LTD. *v.* SURBITON BOROUGH COUNCIL; RANSOM AND LUCK, LTD. *v.* SURBITON BOROUGH COUNCIL, [1948] Ch. 369; [1948] 1 All E. R. 876; [1948] L. J. R. 1089; 112 J. P. 273; 64 T. L. R. 409; 92 Sol. Jo. 323. [4909]

Town and country planning—Interim development—Enforcement of interim development control—Proposed prohibition of use of land—Appeal by occupier—Powers of court of summary jurisdiction—Town and Country Planning (Interim Development) Act, 1943 (*c.* 29), *s.* 5 (2), *Sched. I, para.* 3.

The Town and Country Planning (Interim Development) Act, 1943, s. 5 (1), provides: "If while a resolution to prepare or adopt a scheme under the principal Act is in force with respect to any area, any development of land within that area is carried out after the commencement of this Act otherwise than in accordance with the terms of the interim development order or of permission granted under that order, then . . . the interim development authority may, if they are satisfied that it is necessary or expedient so to do having regard to the provisions then proposed to be included in the scheme . . . (*b*) where the development consists of any use of the land or any building thereon, by order prohibit that use, and, where necessary, reinstate the land." By s. 5 (2) and Sched. I, para. 3, on an appeal in respect of a notice of such proposed order, a court of summary jurisdiction, if "satisfied that the interim development authority are entitled

to take the proposed action on the grounds specified in the notice . . . shall dismiss the appeal . . . but, if they are not so satisfied, they shall allow the appeal."

An interim development authority gave notice to the occupier of certain land and buildings of their intention to prohibit the use of the premises for the purposes of a second-hand motor vehicle business on the ground that the use was " not in accordance with provisions now proposed to be included in the scheme under which the said use of the land and buildings requires the consent of the interim development authority, which consent has been refused on the ground that such use is injurious to the amenities of the neighbourhood which is mainly residential in character." In allowing an appeal by the occupier, the court of summary jurisdiction had regard to the reasons which had led the authority to serve the notice, and, particularly, to whether the use of the land was injurious to the amenities of the neighbourhood. On appeal, Quarter Sessions upheld this decision :—

Held: the justices were not entitled to consider the reasons which led the authority to come to the conclusion that it was necessary or expedient to prohibit the development, but could only decide whether the conditions precedent to their giving the notice had been complied with.

Dictum of Lord GREENE, M.R., in *Taylor* v. *Brighton B.C.*, [1947] 1 All E. R. 864, 866, *applied.*—SWINDON CORPN. *v.* PEARCE AND PUGH, [1948] 2 K. B. 301 ; [1948] 2 All E. R. 119 ; [1948] L. J. R. 1540 ; 112 J. P. 348 ; 64 T. L. R. 323 ; 92 Sol. Jo. 394 ; 46 L. G. R. 392. [4910]

WATER SUPPLY

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STATUTES

WATER ACT, 1948

(11 & 12 Geo. 6, c. 22)

PRELIMINARY NOTE

The Water Act, 1948, which came into force on receiving the Royal Assent on March 24, 1948, amends the " principal Act ", that is to say, the Water Act, 1945 (38 Halsbury's Statutes 491), so as to remove a number of difficulties and defects which experience of its working has revealed. The amending Act is itself not without difficulties, as is evidenced by the fact that, during its passage through the legislature, all but two of its eleven original clauses were amended, in some cases very extensively, and four additional clauses and a Schedule were added. Many of these amendments were designed, without altering the substance, to simplify the wording of the Act so as to make it more readily comprehensible, but the Act remains, by its very nature, one of some difficulty.

The amendments made by the Water Act, 1948, to the principal Act fall broadly into two groups. In the first group are those contained in ss. 1–3 of the Act, which remove a technical impediment to the formation of new statutory water undertakings and accelerate the process whereby new undertakings, including newly-formed combinations of existing undertakings, may secure the powers they need.

The second group consists of a number of detailed amendments of miscellaneous sections of the principal Act, among which the opportunity has been taken to include two small amendments to Part IV of the Public Health Act, 1936 (29 Halsbury's Statutes 407), dealing with water supply.

Only the first of these groups is dealt with in this Preliminary Note; for a general exposition of the effect of the amendments in the second group, reference should be made to the notes to the sections.

The right to supply water in any area can be conferred by means of an order of the Minister of Health under s. 23 of the principal Act on any persons proposing to become statutory water undertakers. The powers necessary to the discharge of this function, such as the right to acquire land, water rights, etc. can, however, be conferred only on "statutory water undertakers." This term as originally defined in s. 59 (1) of that Act was limited (except in one instance) to a person (including a company, local authority, etc.) actually supplying water under an enactment. Thus newly authorised undertakers would not become statutory water undertakers until they were actually supplying water, and could not acquire the necessary powers to supply water until they became statutory water undertakers. This impasse is now resolved by s. 1 of the present Act which substitutes a new definition of "statutory water undertakers" in the said s. 59 (1), under which the term covers any person authorised by a local enactment (which includes an order made under the principal Act) to supply water.

A difficulty of a somewhat similar nature is dealt with by ss. 2 and 3 of the Act. Hitherto the procedure for the establishment of a new statutory water undertaking has required two or more orders: first, an order under s. 23 of the principal Act authorising the giving of a supply (whereby the undertakers now become statutory water undertakers), and, secondly, one or more orders under various other sections of that Act conferring the necessary powers. A similar duplication of orders was caused where under s. 9 of the principal Act a joint board or committee of two or more existing statutory water undertakers was constituted or an amalgamation of any such undertakers effected, if, as was frequently the case, the new undertaking required powers additional to those inherited from its constituent bodies. The machinery for the making of orders, which is contained in Sched. I to the principal Act, is elaborate, including the service of notices on interested bodies, the publication of advertisements and, in some cases, the holding of local inquiries and the adoption of special parliamentary procedure, and its duplication has caused serious delay and handicapped the efficiency of undertakings. Ss. 2 and 3 of the present Act, accordingly, seek to eliminate the necessity for a second order by empowering the Minister to make a portmanteau order under s. 9 or s. 23 conferring a variety of powers which have hitherto required separate orders under other sections of the principal Act. [4911]

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An Act to amend the Water Act, 1945, and for purposes connected therewith. [4912] [24th March, 1948.]

1. Amendment of definition of "statutory water undertakers."—Section fifty-nine of the principal Act (which provides for the interpretation of that Act) shall have effect as if for the definition of the expression "statutory water undertakers" contained in subsection (1) of that section there were substituted the following definition:—

"'statutory water undertakers' means any company, local authority, board, committee, or other person authorised by a local enactment to supply water and any local authority or board supplying water under the Public Health Act, 1936, and also includes, for the purposes of Part II of this Act only, any local authority authorised to supply water by the said Act of 1936 but not actually supplying water under that Act, but the said expression does not include a railway company or navigation authority having statutory power to sell surplus water or any body or person supplying water solely for the purpose of producing motive power by hydraulic pressure." [4913]

General note.—For the effect of this section, see the Preliminary Note, *ante*.

Principal Act.—The Water Act, 1945 (s. 15 (1), *post*). For s. 59 thereof, see 38 Halsbury's Statutes 534.

Public Health Act, 1936.—29 Halsbury's Statutes 309.

Civil defence.—S. 3 (1) of the Civil Defence Act, 1948 (12 & 13 Geo. 6, c. 5), allows the making of regulations for payment of grants towards expenses of statutory undertakers (as defined in the present section), not being local authorities, incurred in connection with civil defence. In some cases, the whole of the expenses may be reimbursed (*ibid.*, s. 3 (2)).

Definitions.—For definitions of "local authority" and "local enactment" see s. 15 (5), *post*, and s. 59 (1) of the principal Act, *supra*.

2. Combination of certain orders under principal Act.—(1) Subject to the provisions of this section, an order under section twenty-three of the principal Act, made on the application of persons who propose to become statutory water undertakers and authorising those persons to supply water, may provide—

(*a*) for transferring to the applicants, whether by agreement or compulsorily, the undertaking or part of the undertaking of any water undertakers, whether statutory or not;

(*b*) for requiring any statutory water undertakers to give to the applicants, or the applicants to give to any such undertakers, a supply of water in bulk (whether within or outside their limits of supply), and for requiring the applicants or those undertakers, as the case may be, to take such a supply;

(*c*) for authorising the compulsory acquisition by the applicants of such rights to take water from any stream or other source as may be specified in the order. [4914]

(2) Subject to the provisions of this section, an order under section nine of the principal Act, providing for the constitution of a joint board or joint committee of two or more statutory water undertakers or for the amalgamation of the undertakings or parts of the undertakings of two or more statutory water undertakers, may make provision, in relation to the undertakers constituted by the order, for any purpose authorised by the last foregoing subsection in relation to the applicants for an order under section twenty-three of the principal Act, and may provide—

(*a*) for authorising the undertakers to construct, acquire by agreement, alter or continue, and to maintain, waterworks and works connected therewith;

(*b*) for authorising the undertakers to raise capital or borrow money for any purposes of their water undertaking. [4915]

transported to a senior school some miles away. Often, too, there are not enough children left, under 11, to justify a junior school, so these little ones have also to go elsewhere, and the village school is closed. It is generally agreed that the education and training which both groups thus receive in the bigger schools to which they go are of higher standards, but the

amongst the younger school teachers to live, not in the small villages in which they teach, but in nearby towns or larger villages from which they can travel daily to their work and return, at its close, to some sort of companionship in the evenings. Thus, they make no contribution to the life of the little com-

(3) An order under section twenty-three or section nine of the principal Act which makes provision for any purpose authorised by this section may contain such incidental, consequential and supplementary provisions as the Minister thinks necessary or expedient for that purpose, including provisions for the amendment or repeal of any local enactment and for the transfer of property and liabilities :

Provided that no such order shall, except as provided by section three of this Act, empower the undertakers to acquire compulsorily any land, or shall vary compulsorily the amount of compensation water required by any enactment to be discharged into any water course or the periods during which or the manner in which such compensation water is required to be discharged. [4916]

(4) Where application is made under the said section twenty-three or section nine, as the case may be, for an order requiring any statutory water undertakers to give or take a supply of water in bulk, a copy of the notice of the application required by Part I of the First Schedule to the principal Act (which regulates the procedure for making orders under the sections aforesaid) shall be served in accordance with the provisions of paragraph 3 of that Schedule—

(*a*) on these undertakers ; and

(*b*) on the catchment board for any catchment area, the fishery board for any fishery district, and any river board having jurisdiction over any water-course, from which water is taken by the persons who are to give the bulk supply. [4917]

(5) Subsections (3) to (5) of section twenty-six of the principal Act (which provide for securing the provisions of compensation water, and for restricting the taking of water, in relation to the acquisition of rights under that section) shall have effect as if references therein to the acquisition of rights under that section included references to the acquisition of the like rights by an order made under section nine or twenty-three of that Act. [4918]

(6) Notwithstanding anything in section twenty-three of the principal Act, paragraph 8 of the First Schedule to that Act (which provides that in certain circumstances an order shall be subject to special parliamentary procedure) shall apply to any order under that section which makes provision for any of the matters specified in subsection (1) of this section. [4919]

Principal Act.—The Water Act, 1945 (s. 15 (1), *post*). For ss. 9, 23, 26 (3)–(5), thereof, and Sched. I thereto, see 38 Halsbury's Statutes 498, 512, 515, 536. S. 23 is amended by ss. 3, 4, and 14 (7), *post* ; s. 9 is amended by s. 14 (5), *post*.

General note.—For the effect of this section, see the Preliminary Note, *ante*. This section provides for combining in one order under either s. 9 or s. 23 of the principal Act, matters previously requiring to be dealt with by separate orders under certain other provisions of that Act. These combinations are as follows : (i) an order under either s. 9 or s. 23 may include matters pealt with by ss. 12 (3) and 26 (2) of the principal Act (see respectively sub-s. (1) (*b*) and 1 (*c*), *supra*) ; (ii) an order under s. 23 may include the matter dealt with by s. 9 (1) (*d*) as extended by s. 9 (2) (see sub-s. (1) (*a*), *supra*) ; and (iii) an order under s. 9 may include the matters dealt with by paras. (*a*) and (*c*) of sub-s. (1) of s. 23 (see respectively sub-s. (2) (*a*) and (2) (*b*), *supra*).

This section is, in effect, extended by s. 3, *post*, to enable an order under s. 9 or s. 23 to include the matter dealt with by s. 24 (4) of the principal Act.

The Minister.—The Minister of Health (see s. 15 (5), *post*, and s. 59 (1) of the principal Act ; 38 Halsbury's Statutes 534).

Variations with regard to compensation water.—No order under the Acts may compulsorily vary any provisions regarding compensation water, but orders for variation by agreement may be made either under s. 23 of the principal Act or under s. 33 thereof as now amended by s. 14 (3), *post*.

Supply of water in bulk.—See s. 4, *post*.

Notwithstanding anything in s. 23 of the principal Act.—This refers to sub-s. (2) of the said section, which in applying Sched. I, Part I to the principal Act, specifically excepts para. 8 thereof. The effect of providing that that paragraph shall apply is to make the orders in certain circumstances subject to special parliamentary procedure. The exception of para. 8 is also negatived in the case of orders under the said s. 23 made by virtue of s. 4 (2), *post*.

Special parliamentary procedure.—As to special parliamentary procedure, see the Statutory Orders (Special Procedure) Act, 1945 (38 Halsbury's Statutes 439).

River board.—As to river boards, see the River Boards Act, 1948, title LAND DRAINAGE, *ante*. It would seem, however, that a reference to a rivers board is intended here, since para. 3 of Sched. I to the principal Act requires a copy of a notice under that Schedule to be served on, among others, "any rivers board having jurisdiction over any watercourse". For definition of "rivers board" see s. 59 (1) of the principal Act (38 Halsbury's Statutes 534).

Definitions.—For definitions of "catchment board", "catchment area", "enactment," "fishing board", "fishery district", "local enactment", "supply of water in bulk" and "watercourse", see s. 15 (5), *post*, and s. 59 (1) of the principal Act (*supra*); for definition of "statutory water undertakers", see s. 1, *ante*. As to "enactment", see also s. 15 (4), *post*.

3. Compulsory acquisition of land for construction of waterworks.—(1) Subject to the provisions of this section, an order under section twenty-three or section nine of the principal Act authorising any persons to construct or alter waterworks or works connected therewith may authorise those persons to acquire compulsorily any land required for the construction or alteration of those works, being land which they could be so authorised to acquire by means of a compulsory purchase order made under section twenty-four of the principal Act, or under that section as amended by the Acquisition of Land (Authorisation Procedure) Act, 1946, as the case may be. [4920]

(2) The provisions of the Schedule to this Act shall shave effect in relation to an order under the said section twenty-three or the said section nine which authorises any such acquisition as aforesaid. [4921]

Principal Act.—The Water Act, 1945 (s. 15 (1), *post*). For ss. 9, 23 and 24 thereof, see 38 Halsbury's Statutes 498, 512, 513. S. 23 is amended by s. 2, *ante*, and ss. 4 and 14 (7), *post*.

General note.—For the affect of this section, see Preliminary Note, *ante*.

This section, which extends the principle of "portmanteau" orders inaugurated by s. 2, *ante*, enables an order under either s. 9 or s. 23 of the principal Act to include the matter dealt with by s. 24 (4), thereof.

Order.—No order had been made by virtue of this section at the date of going to press.

Land.—"Land" includes any interest in land and any easement or right in, to or over land (see s. 15 (5), *post*, and s. 59 (1) of the principal Act; 38 Halsbury's Statutes 534).

Acquisition of Land (Authorisation Procedure) Act, 1946.—3 Halsbury's Statutes (2nd Edn.) 975. For the amendments made by the Act to s. 24 of the principal Act, see s. 6 of, and Sched. IV to the Act of 1946.

4. Supply of water in bulk.—(1) Subsection (1) of section twelve of the principal Act (which authorises the making of agreements between statutory water undertakers and other persons for the supply of water in bulk) shall have effect as if for the words "Any statutory water undertakers may enter into an agreement with any other persons" there were substituted the words "An agreement may be made between any statutory water undertakers and any other persons." [4922]

(2) An order made under subsection (1) of section twenty-three of the principal Act on the application of persons who propose to become statutory water undertakers may authorise the applicants to supply water in bulk only. [4923]

(3) Any order made by virtue of the last foregoing subsection shall specify the area which, for the purposes of any provisions of the principal Act, is to be deemed to be the limits of supply of the undertakers; and without prejudice to any other powers exercisable by means of an order under the said section twenty-three or under section twelve of the principal Act, the order may authorise or require the applicants to give a supply of water in bulk to any statutory water undertakers specified in the order, being undertakers authorised to supply water in any part of the said area, and may authorise or require those undertakers to take such a supply from the applicants:

Provided that—

(*a*) where the order requires the giving and taking of such a supply as aforesaid, paragraph 8 of the First Schedule to the principal Act (which provides that in certain circumstances an order shall be

transported to a senior school some miles away. Often, too, there are not enough children left, under 11, to justify a junior school, so these little ones have also to go elsewhere, and the village school is closed. It is generally agreed that the education and training which both groups thus receive in the bigger schools to which they go are of higher standards, but the

amongst the younger school teachers to live, not in the small villages in which they teach, but in nearby towns or larger villages from which they can travel daily to their work and return, at its close, to some sort of companionship in the evenings. Thus, they make no contribution to the life of the little com-

subject to special parliamentary procedure) shall apply thereto notwithstanding anything in section twenty-three of the principal Act; and

(*b*) where the order authorises the giving and taking of such a supply, paragraph 23 of that Schedule (which provides that in certain other circumstances an order under section twelve of the principal Act approving an agreement for a bulk supply shall be subject to special parliamentary procedure) shall apply thereto as it applies to an order under the said section twelve approving an agreement to the like effect. [4924]

(4) Paragraph (ii) of the proviso to subsection (1) of the said section twenty-three (which requires the consent of certain local authorities and statutory water undertakers for an order under that section authorising applicants to supply water in any area) shall not apply to an order made by virtue of subsection (2) of this section. [4925]

Principal Act.—The Water Act, 1945 (s. 15 (1), *post*). For ss. 12, 23 thereof, and Sched. I, paras. 8, 23, thereto, see 38 Halsbury's Statutes 501, 512, 537, 539. S. 23 is amended by ss. 2, 3, *ante*, and s. 14 (7), *post*.

General note.—This section clears up two doubts that have arisen with regard to the supply of water in bulk. Sub-s. (1) makes it clear that persons who are not water undertakers can enter into agreements to supply statutory water undertakers with water in bulk. Sub-s. (2) removes any doubt that the Minister may make an order under s. 23 of the principal Act (*supra*) establishing statutory water undertakers for the purpose of supplying water in bulk only. Such a contingency would arise, for example, where it was desired to form an undertaking to construct head works and a reservoir and to sell the water to the local authorities. The contents of, and procedure for making, any such orders is dealt with in sub-ss. (3) and (4). The provisions of the principal Act governing the making of orders under the said s. 23 will apply thereto together with one of two alternative paragraphs of Sched. I to the principal Act under which the order will in appropriate cases and in slightly different circumstances according to its nature, be subject to special parliamentary procedure. The said provisions are, by sub-s. (2) of the said s. 23, those laid down in Sched. I, Part I, other than para. 8. The additional paragraphs are, in the case of an order under which the giving and taking of a bulk supply is obligatory, the exclusive para. 8, and in the case of an order which is permissive only, para. 23, which provides for the application of special parliamentary procedure to similar orders under s. 12 of the principal Act confirming agreements for bulk supplies.

A further departure from the requirements of the said s. 23 is that the consent of local authorities and statutory water undertakers required by proviso (ii) to sub-s. (1) thereof, will not be necessary in the case of orders under the present section.

Special parliamentary procedure.—As to special parliamentary procedure, see the Statutory Orders (Special Procedure) Act, 1945 (38 Halsbury's Statutes 439).

Notwithstanding anything in s. 23 of the principal Act.—This refers to sub-s. (2) of the said section, which in applying Sched. I, Part I, to the principal Act, specifically excludes para. 8 thereof. The effect of providing that that paragraph shall apply is to make the orders in certain circumstances, subject to special parliamentary procedure. The exception of para. 8 is also negatived in the case of orders under s. 23 which make provision for any of the matters specified in s. 2 (1), *ante* (see s. 2 (6), *ante*).

Definitions.—For definition of "statutory water undertakers", see s. 1, *ante*, for "limits of supply" and "supply of water in bulk", see s. 15 (5), *post*, and s. 59 (1) of the principal Act (38 Halsbury's Statutes 534).

Order.—No orders had been made by virtue of sub-s. (2), *supra*, at the date of going to press.

5. Amendments of s. 14 of principal Act.—(1) No licence shall be required under subsection (3) of section fourteen of the principal Act (which prohibits the construction of boreholes for the purpose of abstracting underground water in certain areas except with the licence of the Minister) in respect of the carrying out of any experimental boring or other work for the purpose of ascertaining the presence of underground water or the quality or quantity of such water, if the work is carried out, with the consent of the Minister and in accordance with any conditions subject to which that consent is given, by a person who has applied for a licence under the said subsection (3). [4926]

(2) Subsection (5) of the said section fourteen (which, amongst other things, restricts the abstraction of underground water from certain wells, boreholes or works authorised by subsection (4) of that subsection, except for the purpose for which they were constructed) shall have effect as if the references therein to paragraphs (*a*) and (*c*) of the said subsection (4) included a reference to subsection (1) of this section. [4927]

(3) References in the said section fourteen to the construction or extension of any well, borehole, or other work for the purpose of abstracting underground water shall be deemed to include references to the installation or modification of machinery or other apparatus for the purpose of abstracting additional quantities of such water:

Provided that no statutory water undertakers shall be required by virtue of this subsection to obtain a licence under the said section fourteen authorising the installation or modification of machinery or other apparatus for the purpose of abstracting underground water from a well, borehole or other work if the quantity of water which may be so abstracted is limited by any local enactment. [4928]

(4) Subsection (10) of the said section fourteen shall have effect as if after the word "recoverable" there were inserted the word "summarily". [4929]

Principal Act.—The Water Act, 1945 (s. 15 (1), *post*). For s. 14 thereof, see 38 Halsbury's Statutes 504.

General note.—Under s. 14 of the principal Act (*supra*) no well, borehole or other work for the purpose of abstracting underground water may be constructed in areas to which that section applies except by licence of the Minister of Health. The present section now enables an applicant for a licence to carry out certain preliminary work, such as experimental boring to ascertain the presence of water, without a licence provided he obtains the Minister's consent and complies with any conditions the Minister imposes. This provision, without any lessening of Ministerial control, will obviate the necessity for obtaining a second licence where a first boring proves unsatisfactory and a new site has to be chosen.

In addition, the section stops up a loop-hole in the licensing system by extending it to cover the installation of new or modified machinery in existing wells, etc. for the purpose of abstracting greater quantities of water.

Licence.—As to the procedure for obtaining licences, and the form of application therefor, see the Underground Water (Controlled Areas) Regulations, 1949 (S.I. 1949 No. 881).

The Minister.—The Minister of Health (see s. 15 (5), *post*, and s. 59 (1) of the principal Act 38 Halsbury's Statutes 534).

Definitions.—For definition of "local enactment", see s. 15 (5), *post*, and s. 59 (1) of the principal Act (*supra*); for "statutory water undertakers", see s. 1, *ante*.

6. Amendment of s. 16 of principal Act.—Section sixteen of the principal Act (which empowers statutory water undertakers to prohibit or restrict temporarily the use of hosepipes in certain circumstances) shall have effect as if at the end of the section there were added the following subsection:—

"(5) During any period when a prohibition or restriction imposed under this section is in force, any officer of the undertakers shall, on producing if so required some duly authenticated document showing his authority, have a right at all reasonable hours to enter any premises to which the prohibition or restriction applies for the purpose of ascertaining whether there is or has been any contravention of the prohibition or restriction; and the section of this Act relating to entry of premises shall apply to any such right of entry." [4930]

Principal Act.—The Water Act, 1945 (s. 15 (1), *post*). For s. 16 thereof, see 38 Halsbury's Statutes 507.

General note.—This section, which was inserted by amendment in the committee stage of the Bill, gives officers of statutory water undertakers power to enter premises for the purpose of ascertaining whether any prohibition or restriction on the use of hosepipes during water shortages imposed by them under s. 16 of the principal Act, *supra*, is being observed.

Premises.—"Premises" includes land (see s. 15 (5), *post*, and s. 59 of the principal Act; 38 Halsbury's Statutes 534).

Section of this Act relating to entry of premises.—See s. 48 of the principal Act (38 Halsbury's Statutes 530).

7. Amendments of s. 42 of principal Act.—(1) Subsection (1) of section forty-two of the principal Act (which requires statutory water undertakers being companies to prepare annual abstracts of the accounts of their undertakings) shall have effect as if the words "in such form as the Minister may direct," were omitted, and as if at the end of the subsection there were added the following paragraph:—

"The Minister may give directions as to the form of the abstracts to be prepared by statutory water undertakers under this subsection, and

transported to a senior school some miles away. Often, too, there are not enough children left, under 11, to justify a junior school, so these little ones have also to go elsewhere, and the village school is closed. It is generally agreed that the education and training which both groups thus receive in the bigger schools to which they go are of higher standards, but the

amongst the younger school teachers to live, not the small villages in which they teach, but in nearb towns or larger villages from which they can travel daily to their work and return, at its close, to some sort of companionship in the evenings. Thus, they make no contribution to the life of the little com-

such directions may be given either in relation to any particular undertakers or in relation to all undertakers of any specified class." [4931]

(2) Subsection (2) of the said section forty-two (which requires such undertakers as aforesaid to transmit to the Minister and to certain local authorities copies of the abstracts prepared under that section) shall have effect as if after the word "certified" there were inserted the words "and a copy of the balance sheet of the undertakers for the year to which the abstract relates." [4932]

Principal Act.—The Water Act, 1945 (s. 15 (1)). For s. 42 thereof, see 38 Halsbury's Statutes 538.

General note.—This section effects two small amendments to s. 42 of the principal Act, *supra*, dealing with the accounts of statutory water undertakers which are companies, in order to bring it into line with accepted practice. Sub-s. (1) makes it clear that companies must prepare an annual abstract of their accounts whether or not the Minister gives directions as to the form in which they are to be prepared. Sub-s. (2) requires companies when sending a copy of the abstract to the local authorities concerned to send also a copy of their balance sheet.

The Minister.—The Minister of Health (see s. 15 (5), *post*; and s. 59 (1) of the principal Act; 38 Halsbury's Statutes 534).

Statutory water undertakers.—For definition, see s. 1, *ante*.

8. Power to survey and search for water on land proposed to be purchased.—(1) The Minister may, on application made to him by any local authority or statutory water undertakers who propose to acquire any land for the purposes of their water undertaking or proposed water undertaking, authorise them to survey that land in accordance with the provisions of this section:

Provided that notice of any such application shall be given by the authority or undertakers to the owner and occupier of the land, and the Minister shall, before giving his authority under this subsection, consider any representations made to him by any such owner or occupier within fourteen days after the receipt of the notice. [4933]

(2) Where any local authority or statutory water undertakers are authorised as aforesaid to survey any land under this section, any officer of the authority or undertakers authorised for the purpose shall, on producing if so required some duly authenticated document showing his authority, have a right at all reasonable hours to enter on and survey the land; and section forty-eight of the principal Act (which makes provision with respect to the exercise of certain powers of entry conferred by that Act) shall apply to any right of entry conferred by this section. [4934]

(3) The power to survey land conferred by this section shall include power to carry out experimental borings or other works for the purpose of ascertaining the nature of the subsoil or the presence of underground water therein, or the quality or quantity of such water, and to reinstate the land after carrying out any such works:

Provided that a person shall not carry out any works authorised by this subsection on land which is occupied unless at least twenty-four hours notice of his intention so to do has been given to the occupier of the land; and if the land is held by any statutory undertakers and those undertakers object to the proposed works on the ground that the carrying out thereof would be seriously detrimental to the carrying on of their undertaking, the works shall not be carried out except with the authority of the appropriate Minister. [4935]

(4) Where any land on which entry is made in pursuance of this section is damaged in the exercise of any power thereby conferred, any person interested in the land may recover compensation in respect of that damage from the local authority or undertakers on whose behalf the entry was effected; and where in consequence of the exercise of such a power any person is disturbed in his enjoyment of any land, he may recover compensation in respect of the disturbance from that local authority or those undertakers. [4936]

(5) If any damage or injury is caused by the escape of water from any land on which works have been carried out in pursuance of this section (not being damage in respect of which compensation is payable under the last foregoing subsection) nothing in this section shall be construed as exonerating the local authority or undertakers on whose behalf the works were carried out from any liability in respect of that damage to which they would be subject if the works had been carried out otherwise than in the exercise of statutory powers. [4937]

(6) Any question of disputed compensation under subsection (4) of this section shall be determined by arbitration in the manner provided by section ninety-one of the Third Schedule to the principal Act. [4938]

(7) Nothing in this section shall be construed as authorising the carrying out of works, or the abstraction of water, in contravention of restrictions imposed by section fourteen of the principal Act. [4939]

Principal Act.—The Water Act, 1945 (s. 15 (1), *post*). For ss. 14 and 48 thereof, and Sched. III, s. 91, thereto, see 38 Halsbury's Statutes 504, 530, 569. Note that s. 14 is amended by s. 5, *ante*, and s. 48 is applied both by sub-s. (2), *supra*, and the new s. 16 (5) of the principal Act inserted by s. 6, *ante*.

General note.—This section empowers the Minister of Health to authorise local authorities and statutory water undertakers to survey and search for water on land which they propose to purchase for their undertaking so that they may ascertain that it is suitable for the purpose for which it is required. This provision will overcome the difficulty that, hitherto when compulsory powers of acquisition had to be invoked, no survey could be made until the compulsory purchase order had been made and confirmed, and the undertakers might, as a result, be compelled to purchase land which subsequently proved unsuitable.

Owners and occupiers of the land are given a right to make representations to the Minister before he gives his authority, and compensation will be payable in respect of damage and disturbance.

A similar power of survey and search for planning purposes is conferred by the Town and Country Planning Act, 1947, s. 103 (40 Halsbury's Statutes 842).

The Minister.—The Minister of Health (see s. 15 (5), *post*, and s. 59 (1) of the principal Act (38 Halsbury's Statutes 534).

Arbitration.—The manner laid down for arbitration by s. 91 of Sched. III to the principal Act, *supra*, is by a single arbitrator appointed by agreement between the parties or, in default of agreement, by the Minister.

Definitions.—For definition of "statutory water undertakers", see s. 1, *ante*; for "appropriate Minister", and "statutory undertakers", see s. 15 (1), *post*; for "land", "local authority" and "owner", see s. 15 (5), *post*, and s. 59 (1) of the principal Act (38 Halsbury's Statutes 534).

9. Subscriptions to associations of water undertakers.—Without prejudice to any enactment authorising the payment of contributions by a local authority to any association of local authorities, any statutory undertakers, whether a local authority or not, may pay reasonable subscriptions whether annually or otherwise to the funds of any association of water undertakers formed for the purpose of consultation as to the common interests of those undertakers and the discussion of matters relating to the supply of water. [4940]

Any enactment authorising, etc.—See, for example, the County Councils Association Expenses Acts, 1890 to 1947 (10 Halsbury's Statutes 772; 30 Halsbury's Statutes 383; 40 Halsbury's Statutes 595), which authorise payments by county councils to the County Councils Association.

Definitions.—For definition of "statutory undertakers", see s. 15 (1), *post*; for "enactment" and "local authority", see s. 15 (5), *post*, and s. 59 (1) of the principal Act (38 Halsbury's Statutes 534). As to "enactment", see also s. 15 (4), *post*.

10. Amendment of definition of "communication pipe," etc.—(1) Where any main is laid alongside and within sixty feet of the middle of a street, then, for the purposes of the definition of "communication pipe" contained in section one of the Third Schedule to the principal Act, the land in which the main is laid, and any land between the main and the street, shall be deemed to form part of that street, and references in that definition to the part of the street in which the main is laid, and to the boundary of the street in which the main is laid, shall be construed accordingly:

Provided that where the premises supplied with water lie between any such main as aforesaid and the street, only that land in which the main is

laid together with any land between the main and those premises shall be deemed to form part of the street. [4941]

(2) Where any main is laid as mentioned in the foregoing subsection, the power of the undertakers to lay service pipes, stop-cocks and other fittings under section twenty-one of the said Third Schedule shall include power, with the consent of every owner and occupier of the land, and subject to payment of compensation for any damage done by the undertakers, to lay such pipes, stopcocks and fittings in, on or over any land which is deemed to form part of a street for the purposes specified in the foregoing subsection. [4942]

(3) Any consent required for the purposes of the last foregoing subsection shall not be unreasonably withhheld, and any question whether such consent is, or is not, unreasonably withheld shall be referred to and determined by the Minister; and any dispute as to the amount of compensation to be paid under the last foregoing subsection shall be determined by arbitration in the manner provided by section ninety-one of the said Third Schedule. [4943]

(4) For the avoidance of doubt it is hereby declared that the provisions of section forty-four of the said Third Schedule (which relates to the vesting in the undertakers of communication pipes) apply to any pipe laid before the commencement of this Act which, by virtue of this section, is deemed to be a communication pipe. [4944]

Principal Act.—The Water Act, 1945 (s. 15 (1), *post*). For ss. 1, 21, 44 and 91 of Sched. III thereto, see 38 Halsbury's Statutes 544, 552, 557, 569.

General note.—This section effects a small but very necessary enlargement of the power of laying communication pipes (*i.e.* in general terms, pipes joining a main to the premises supplied) possessed by water undertakers to whom Sched. III to the principal Act (*supra*) containing "the Waterworks Code" applies. Under s. 19 of that Schedule, undertakers are empowered to lay mains in land not forming part of a street but bordering thereon, and under s. 22 they have power to break open streets for the purpose of laying mains, pipes, etc. They have, however, hithereto had no power, in default of the landowner's consent, to break open land not forming part of a street for the purpose of laying communication pipes, and thus where the main was outside the boundary of a street they might be legally unable to connect a householder with the main although under s. 41 of the Schedule he required them to do so. The present section by the somewhat oblique method of amending the definition of "communication pipe" contained in s. 1, so that, in the given conditions, the land between the main and the street (or, where the premises lie between the main and the street, the land between the main and the premises) is deemed to form part of the street, confers the power necessary to overcome this difficulty.

The Minister.—The Minister of Health (see s. 15 (5), *post*, and s. 59 (1) of the principal Act; 38 Halsbury's Statutes 534).

Arbitration.—The manner laid down for arbitration by s. 91 of Sched. III to the principal Act, *supra*, is by a single arbitrator appointed by agreement between the parties or, in default of agreement, by the Minister.

Definitions.—For definitions of "land" and "street", see s. 15 (5), *post*, and s. 59 (1) of the principal Act (38 Halsbury's Statutes 534); for "main", "owner", "service pipe" and "undertakers", see s. 15 (5), *post*, and Sched. III, s. 1, to the principal Act.

11. Other amendments of Third Schedule to principal Act.—(1) Section seven of the Third Schedule to the principal Act (which enables the undertakers to acquire easements for underground works) shall have effect as if for subsection (1) of that section there were substituted the following subsection:—

> "(1) Where the undertakers are authorised by the special Act to acquire any land compulsorily for the purpose of executing any underground works, they may, instead of purchasing the land, purchase only such easements and rights over or in the land as may be sufficient for the said purpose, and the Lands Clauses Acts, and the enactments relating to the compensation payable in respect of the compulsory acquisition of land, shall apply accordingly subject to any exceptions and modifications with which those enactments are incorporated with the special Act and to any other necessary adaptations." [4945]

(2) Subsection (1) of section thirty of the Third Schedule to the principal Act (which confers on owners or occupiers of premises the right on certain conditions to demand and receive a supply of water for domestic purposes)

shall have effect as if, at the end of the proviso to that subsection, there were added the words " or as requiring the undertakers to supply water for any premises in which any of the water fittings are not in accordance with the requirements of any byelaws made under section seventeen of the Water Act, 1945, or of any byelaws or regulations made under any other enactment for purposes similar to those for which byelaws may be made under the said section seventeen, being byelaws or regulations applicable to those premises." [4946]

(3) Section sixty-three of the Third Schedule to the principal Act (which enables the undertakers to repair supply pipes) shall have effect as if for subsection (2) of that section there were substituted the following subsection :—

" (2) Where several houses or other buildings in the occupation of different persons are supplied with water by one common supply pipe belonging to the owners or occupiers of the houses or buildings, the amount of any such expenses as aforesaid and any expenses reasonably incurred by the undertakers in the maintenance of that pipe may be recovered in manner aforesaid from the owners of those premises in such proportions as, in case of dispute, may be settled by the court, but without prejudice to the rights and obligations, as between themselves, of the owners and occupiers of those premises respectively." [4947]

(4) Subsection (1) of section sixty-four of the said Third Schedule (which imposes penalties for waste of water by non-repair of water fittings) shall have effect as if for the words " If any person " there were substituted the words " If the owner or occupier of any premises," and for the words " water supplied to him " there were substituted the words " water supplied to those premises." [4948]

Principal Act.—The Water Act, 1945 (s. 15 (1), *post*). For s. 17 thereof, and Sched. III, ss. 7, 30 (1), 63, 64 (1), thereto, see 38 Halsbury's Statutes 497, 547, 554, 562. Note that Sched. III, s. 64, is clarified by s. 10 (4), *ante*.

As to the construction of references to Sched. III, see s. 15 (2), *post*.

General note.—This section makes a number of minor and miscellaneous amendments to Sched. III to the principal Act. A further amendment is made by s. 10, *ante*.

Sub-s. (1) amends s. 7 of the Schedule so as to enable undertakers who are authorised by this special Act to acquire land compulsorily for the purpose of underground works to purchase only such easements and rights as may be sufficient for that purpose, instead of purchasing the land. This is a provision frequently incorporated in local Acts authorising the compulsory purchase of land.

Sub-s. (2) amends s. 30 of the Schedule which entitles owners and occupiers of premises within the limits of supply of an undertaking who comply with certain conditions to demand and receive a supply of water for domestic purposes. The effect of the amendment is to impose a new condition, that the water fittings of the premises comply with the appropriate bye-laws.

Sub-s. (3) clarifies the position as to the recovery by undertakers of the cost of repairs done by them to common supply pipes serving several premises in different occupation. The owner or occupier of premises is responsible for laying supply pipes, which are, in general terms, the internal water pipes of a building, and their maintenance and repair is his responsibility. Under s. 63 (1) of the Schedule the undertakers have power to execute repairs in certain cases of emergency without being requested to do so and to recover the cost from the owner, he being left free to exercise any right of recourse he may have against any occupier. The original sub-s. (2) of the said s. 63 which deals with the case of repairs to a common supply pipe belonging to the owners or occupiers of several buildings in different occupation did not confine the persons from which the undertakers might recover their expenses to the owners, but empowered them to recover from the owners or occupiers in proportion. A new sub-s. (2) is now substituted bringing it into line with sub-s. (1), the undertaking's right being limited to recovery from the owners in such proportions as, in case of dispute, may be settled by the court but without prejudice to the rights and obligations of the owners and occupiers *inter se*.

Sub-s. (4) clarifies the position as to responsibility under s. 64 of the Schedule for waste of water due to non-repair of water fittings.

Definitions.—For definitions of "building", "enactment", "house", "owner", "special Act", "supply pipe", "undertakers", and "water fittings", see s. 15 (5), *post*, and s. 1 of Sched. III to the principal Act (38 Halsbury's Statutes 544). As to "enactment", see also s. 15 (4), *post*.

12. Amendment of Public Health Act, 1936.—(1) Where, under subsection (3) of section one hundred and sixteen of the Public Health Act, 1936, the Minister approves the construction by a local authority of works for taking or intercepting water, he may by order (to be made by statutory instrument)

transported to a senior school some miles away. Often, too, there are not enough children left, under 11, to justify a junior school, so these little ones have also to go elsewhere, and the village school is closed. It is generally agreed that the education and training which both groups thus receive in the bigger schools to which they go are of higher standards, but the

amongst the younger school teachers to live, not in the small villages in which they teach, but in nearby towns or larger villages from which they can travel daily to their work and return, at its close, to some sort of companionship in the evenings. Thus, they make no contribution to the life of the little com-

equity and the loss to the villages, in many places,

impose on that authority such restrictions or obligations as appear to him to be expedient for the purpose of or in connection with the carrying out of those works. [4949]

(2) Notwithstanding anything in subsection (2) of section one hundred and twenty-seven of the Public Health Act, 1936, (which empowers local authorities to require that water supplied by them to certain premises shall be taken by meter) a local authority who supply water under that Act shall not be entitled to require that water supplied for domestic purposes to premises used as a house shall be taken by meter by reason only that part of the premises is used by the same occupier for purposes of a profession. [4950]

Public Health Act, 1936, *ss.* 116 (3), 127 (2).—29 Halsbury's Statutes 409, 416.

General note.—Sub-s. (1), *supra*, simplifies the procedure whereby the Minister in giving his consent under the Public Health Act, 1936, s. 116 (2), *supra*, to a local authority constructing works for the purpose of supplying water under that Act, can impose conditions as to the manner in which the works are to be carried out.

Sub-s. (2), *supra*, deals with the power of local authorities to require that water shall be supplied by meter. Under the Public Health Act, 1936, s. 127 (2), a local authority, who have fixed a maximum charge for a supply of water by meter under sub-s. (1) of that section, may require that all water supplied by them to, *inter alia*, any premises used as a house whereof a part is used by the same occupier for any trade, business or manufacturing purpose for which water is required, shall be taken by meter. Sub-s. (2), *supra*, now abolishes this requirement so far as concerns water supplied for domestic purposes to a house of which part is used by the same occupier for professional purposes. Compare the Water Act, 1945, Sched. III, s. 49 (38 Halsbury's Statutes 559).

The Minister.—The Minister of Health (see the Public Health Act, 1936, s. 343 (1); 29 Halsbury's Statutes 538).

Order.—No order under sub-s. (1) had been made at the date of going to press.

Statutory instrument.—As to statutory instruments generally, see the Statutory Instruments Act, 1946 (39 Halsbury's Statutes 783).

Definitions.—For definitions of "house", "local authority" and "premises", see the Public Health Act, 1936, s. 343 (1) (29 Halsbury's Statutes 538).

13. Provisions relating to New Towns development corporations.—(1) Subsection (4) of section twenty-four of the principal Act (which relates to the compulsory acquisition of land by local authorities and statutory water undertakers) and the Acquisition of Land (Authorisation Procedure) Act, 1946, in its application to the acquisition of land under the said subsection (4) shall have effect as if references therein to a local authority included references to a development corporation established under section two of the New Towns Act, 1946. [4951]

(2) Notwithstanding anything in paragraph (*c*) of subsection (1) of section twenty-three of the principal Act, a development corporation established as aforesaid shall not be authorised by means of an order under the principal Act to raise capital or borrow money for any purpose. [4952]

Principal Act.—The Water Act, 1945 (s. 15 (1), *post*). For ss. 23 (1) (6), 24 (4) thereof, see 38 Halsbury's Statutes 512, 513.

Acquisition of Land (Authorisation Procedure) Act, 1946.—3 Halsbury's Statutes (2nd Edn.) 1064.

New Towns Act, 1946, *s.* 2.—39 Halsbury's Statutes 665.

General note.—Sub-s. (1), *supra*, places the development corporations of New Towns who are or propose to become water undertakers in the same position as local authorities and statutory water undertakers in regard to the compulsory acquisition of land for the purpose of their undertaking. The procedure for the authorisation of such of an acquisition is that laid down in the Acquisition of Land (Authorisation Procedure) Act, 1946 (3 Halsbury's Statutes (2nd Edn.) 1064). Exceptionally, however, development corporations are not given the temporary powers for speedy acquisition in urgent cases possessed by local authorities under s. 2 of the 1946 Act.

For the provisions regarding the acquisition of land by development corporations for the provisions of services for the purposes of a new town, see the New Town Act, 1946, s. 4 (1) (c) (39 Halsbury's Statutes 667).

Sub-s. (2), *supra*, provides that development corporations may not be authorised by an order under the principal Act to raise capital or borrow money. This is in conformity with s. 2 (2) of the New Towns Act, 1946, which prohibits the corporations borrowing otherwise than by means of advances from the Minister under s. 12 of that Act.

14. Miscellaneous provisions and consequential amendments.—(1) Every statutory water undertaker, not being a local authority or a joint committee or joint board appointed jointly by two or more local authorities, shall make

to the Minister such reports and returns and give him such information with respect to their functions as he may require, or as may be required by either House of Parliament. [4953]

(2) The power conferred on the Minister by section thirty-three of the principal Act to repeal or amend, on the application of any statutory water undertakers, any local enactment relating to the supply of water by those undertakers shall include power to consolidate any such local enactments as aforesaid, with or without amendments. [4954]

(3) Paragraph (*a*) of the proviso to subsection (1) of the said section thirty-three (which provides that an order under that section shall not vary the quantity of compensation water required by any local enactment to be discharged into any water-course) shall have effect as if, after the word "vary," there were inserted the word "compulsorily". [4955]

(4) Section thirty-seven of the principal Act (which requires statutory water undertakers to provide a domestic supply for new buildings) shall have effect as if references therein to the laying or providing of mains included references to the construction of service reservoirs. [4956]

(5) Subsection (6) of section nine of the principal Act (which precludes the constitution under that section of any joint board which could be constituted under section six of the Public Health Act, 1936) and paragraph 10 of the Second Schedule to the principal Act (which restricts the right of appeal to the House of Lords from a decision of the Court of Appeal on application made under that Schedule) shall cease to have effect. [4957]

(6) The Interpretation Act, 1889, shall apply to the interpretation of any order made under the principal Act after the commencement of this Act as it applies to the interpretation of an Act of Parliament, and for the purposes of section thirty-eight of the Interpretation Act, 1889 (which relates to the effect of repeals) any such order and any order repealed thereby shall be deemed to be an Act of Parliament. [4958]

(7) In accordance with the foregoing provisions of this Act, section twenty-three of the principal Act shall have effect subject to the following amendments :—

(*a*) at the beginning of paragraph (i) of the proviso to subsection (1), there shall be inserted the words "except as otherwise provided by the Water Act, 1948," and the words "land or" in that paragraph shall be omitted ;

(*b*) in subsection (2) the words "other than paragraph 8," shall be omitted and at the end of the subsection there shall be added the following proviso :—

"Provided that paragraph 8 of that Schedule shall not apply except in the cases provided by the Water Act, 1948." [4959]

Principal Act.—The Water Act, 1945 (s. 15 (1), *post*). For ss. 9 (6), 23, 33, 37 thereof. and Sched. II, para. 10, thereto, see 38 Halsbury's Statutes 499, 512, 520, 524, 541.

Public Health Act, 1936, *s.* 6.—29 Halsbury's Statutes 326.

Interpretation Act, 1889, *s.* 38.—18 Halsbury's Statutes 1005.

General note.—This section contains a number of miscellaneous provisions and amendments consequential upon the earlier provisions of this Act.

The Minister.—The Minister of Health, see s. 15 (5), *post*, and s. 59 (1) of the principal Act (38 Halsbury's Statutes 534).

Sub-s. (3).—S. 33 (1) of the principal Act, *supra*, empowers the Minister on the application of any statutory water undertakers by order to repeal or amend any local enactment relating to the supply of water. This provision is, however, subject to proviso (a) thereto, under which no order under the section may vary the quantity of compensation water required by any local enactment to be discharged into any watercourse or the period during which or the manner in which such compensation water is required to be discharged. Sub-s. (3), *supra*, by inserting the word "compulsorily" enables the Minister to effect such variation by an order under the section where the interested parties agree thereto. This amendment brings orders under s. 33 of the principal Act into line with orders under s. 23 thereof, under which it has always been possible for the Minister to effect an agreed variation.

Sub-s. (4).—Under s. 37 of the principal Act statutory water undertakers may be required to provide a supply of water for domestic purposes to new buildings if the owner is willing to undertake to make certain annual payments in respect of the expense of providing and laying

the necessary mains. Sub-s. (4), *supra*, is designed to make it clear that the expense of constructing service reservoirs is to be included in these payments.

Definitions.—For definition of "statutory water undertakers", see s. 1, *ante*; for "local authority", "local enactment" and "watercourse", see s. 15 (5), *post*, and s. 59 (1) of the principal Act (38 Halsbury's Statutes 534).

15. Interpretation, citation, construction and extent.—(1) In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say :—

"principal Act" means the Water Act, 1945;

"statutory undertakers" means persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of electricity, gas, hydraulic power, or water;

"appropriate Minister" means—

(*a*) in relation to statutory undertakers being statutory water undertakers, the Minister;

(*b*) in relation to statutory undertakers carrying on an undertaking for the supply of electricity, gas or hydraulic power, the Minister of Fuel and Power;

(*c*) in relation to any other statutory undertakers, the Minister of Transport. [4960]

(2) References in this Act to the Third Schedule to the principal Act shall include references to that Schedule as incorporated by section one hundred and twenty of the Public Health Act, 1936, or by any other enactment in force at the commencement of this Act. [4961]

(3) This Act may be cited as the Water Act, 1948, and the principal Act and this Act may be cited together as the Water Acts, 1945 and 1948. [4962]

(4) Except where the context otherwise requires, references in this Act to any enactment shall be construed as references to that enactment as amended by any subsequent enactment, including this Act. [4963]

(5) This Act shall be construed as one with the principal Act, and without prejudice to the generality of the foregoing provision, references in the principal Act to any provision of that Act shall be construed as references to that provision as amended by this Act. [4964]

(6) This Act shall not extend to Scotland or Northern Ireland. [4965]

Water Act, 1945.—38 Halsbury's Statutes 491. For Sched. III thereto, see 38 Halsbury's Statutes 541.

The Minister.—The Minister of Health (sub-s. (5), *supra*, and s. 59 (1) of the principal Act; 38 Halsbury's Statutes 534).

Public Health Act, 1936, s. 120.—A new s. 120 for that originally enacted (see 29 Halsbury's Statutes 412) was substituted by s. 31 of, and Sched. IV to, the principal Act (38 Halsbury's Statutes 519, 570).

Enactment.—"Enactment" is defined by s. 59 (1) of the principal Act to mean any Act of Parliament, whether public general, local or private, any statutory order, or any provision in an Act of Parliament or statutory order.

Section 3 SCHEDULE

ORDERS UNDER S. 23 OR S. 9 OF PRINCIPAL ACT AUTHORISING COMPULSORY ACQUISITION OF LAND

1. The order shall incorporate the Lands Clauses Acts, and those Acts and the enactments relating to the compensation payable in respect of the compulsory acquisition of land shall apply accordingly subject to the exceptions and modifications specified in Parts I and III of the Second Schedule to the Act of 1946, and to such other exceptions and modifications (if any) as may be specified in the order:

Provided that where the undertakers are not a local authority within the meaning of the Act of 1946, paragraphs 3 and 4 of the said Second Schedule shall not apply.

2.—(1) A copy of the notice of the order required by paragraph 2 or paragraph 11 of the First Schedule to the principal Act to be published shall be served in accordance with the provisions of paragraph 3 or paragraph 12 of that Schedule on every owner, lessee and occupier (except tenants for a month or for any period less than a month) of any land authorised by the draft order to be compulsorily acquired.

(2) Where any such land as aforesaid is ecclesiastical property (that is to say land belonging to any ecclesiastical benefice, or being or forming part of a church subject to the jurisdiction of the bishop of any diocese or the site of such a church, or being, or forming part of a burial ground subject to such jurisdiction) a copy of the notice aforesaid shall also be served as aforesaid on the Ecclesiastical Commissioners.

3. Where any such objection as is mentioned in paragraph 7 or paragraph 16 of the First Schedule to the principal Act relates to the compulsory acquisition of land, the Minister may require the objector to state in writing the grounds thereof, and if it is certified by the Minister that the objection relates exclusively to matters that can be dealt with by the tribunal by whom compensation for the compulsory acquisition is to be assessed—

(*a*) the Minister may disregard the objection for the purposes of the said paragraph 7 or paragraph 16, as the case may be; and

(*b*) where paragraph 8 or paragraph 17 of the said First Schedule applies to the order, the objection shall be disregarded for the purposes of that paragraph.

4. Notwithstanding anything in paragraph 6 or paragraph 15 of the First Schedule to the principal Act, the order as made by the Minister shall not, unless all persons interested consent, authorise the undertakers to acquire compulsorily any land which they would not have been so authorised to acquire if it had been made in terms of the draft submitted to or prepared by him.

5. Subject as hereinafter provided, Part III of the First Schedule to the Act of 1946 (which makes special provision with respect to land of local authorities and statutory undertakers, common land, inalienable land of the National Trust and ancient monuments) shall apply to the order, whether or not the undertakers are a local authority within the meaning of that Act, as it applies to a compulsory purchase order:

Provided that—

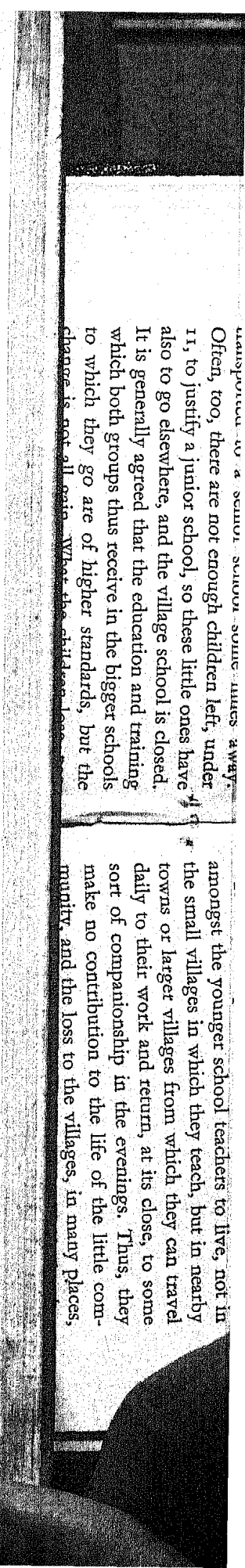
(*a*) nothing in this paragraph shall be construed as authorising the compulsory acquisition by undertakers not being such a local authority as aforesaid of any such land as is mentioned in subsection (6) of section twenty-four of the principal Act; and

(*b*) where paragraph 8 or paragraph 17 of the First Schedule to the principal Act applies to the order, this paragraph shall have effect as if for the reference to Part III of the First Schedule to the Act of 1946 there were substituted a reference to paragraph 10 of the last-mentioned Schedule.

6. As soon as may be after the order has been made, the undertakers shall publish in one or more local newspapers circulating in the locality in which the land authorised to be acquired is situated a notice describing the land and stating that the order has been made authorising the undertakers to acquire it compulsorily, and naming a place where a copy of the order as made may be inspected at all reasonable hours; and shall serve a like notice and copy of the order on any persons on whom notices with respect to the land were required to be served by virtue of paragraph 2 of this Schedule.

7. Part IV of the First Schedule to the Act of 1946 (which relates to the validity and date of operation of compulsory purchase orders under that Act) shall apply to the order as if it were a compulsory purchase order and as if this Act were included among the enactments specified in subsection (1) of section one of that Act; and sub-paragraph (1) of paragraph 15 of that Schedule shall have effect accordingly, in relation to the order, as if for the words "this Act," in the third place where those words occur, there were substituted the words "the Schedule to the Water Act, 1948," and as if after the words "this Schedule," in the second place where those words occur, there were inserted the words "or the Schedule to the Water Act, 1948":

Provided that nothing in this paragraph shall prohibit or restrict the taking of legal proceedings for questioning the order so far as it relates to matters other than the compulsory acquisition of land.



8.—(1) In this Schedule the expression " the Act of 1946 " means the Acquisition of Land (Authorisation Procedure) Act, 1946, and the expression " the undertakers " means the persons authorised by the order to acquire land compulsorily.

(2) The provisions of this Schedule shall apply to a development corporation established under section two of the New Towns Act, 1946, as if it were a local authority within the meaning of the Act of 1946. [4966]

Principal Act.—The Water Act, 1945 (s. 15 (1), *ante*). For ss. 9 and 23 thereof, and Sched. I thereto, see 38 Halsbury's Statutes 498, 512, 536.

Lands Clauses Acts.—These Acts are defined by the Interpretation Act, 1889, s. 23 (18 Halsbury's Statutes 1001) to mean, as respects England and Wales, the Lands Clauses Consolidation Act, 1845; the Lands Clauses Consolidation Acts Amendment Act, 1860; the Lands Clauses Consolidation Act, 1869; and the Lands Clauses (Umpire) Act, 1883 (for which, see 3 Halsbury's Statutes (2nd Edn.) 890 *et seq.*), and any Acts for the time being in force amending the same.

Act of 1946.—The Acquisition of Land (Authorisation Procedure) Act, 1946 (para. 8 (1), *supra*). For that Act, see 3 Halsbury's Statutes (2nd Edn.) 1064.

Ecclesiastical Commissioners.—The Ecclesiastical Commissioners were dissolved on April 1, 1948, and their property and functions transferred to the Church Commissioners (see the Church Commissioners Measure, 1947; 7 Halsbury's Statutes (2nd Edn.) 1170).

The Minister.—The Minister of Health (see s. 15 (5), *ante*, and s. 59 (1) of the principal Act; 38 Halsbury's Statutes 534).

New Towns Act, 1946, s. 2.—39 Halsbury's Statutes 665.

General note.—This Schedule contains provisions having effect in relation to an order under s. 9 or s. 23 of the principal Act authorising the compulsory acquisition of land required for the construction or alteration of waterworks or works connected therewith (see s. 3 (2), *ante*).

ORDERS, CIRCULARS AND MEMORANDA

WATER ABSTRACTION REGULATIONS, 1947

S. R. & O., 1947, *No.* 2342

October 31, 1947

The Minister of Health, in exercise of the powers conferred on him by section 6 of the Water Act, 1945, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

1. These regulations may be cited as the Water Abstraction Regulations, 1947, and shall come into operation on the first day of November, 1947. [4967]

2.—(1) In these regulations—

" underground work " means a well, borehole, adit or other underground work used for obtaining a supply of water;

" the Minister " means the Minister of Health.

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [4968]

3.—(1) Subject to the provisions of paragraph (*a*) of the proviso to subsection (1) of the said section 6 (which provides that regulations made under that section shall not apply in a case where water is abstracted by an individual for the domestic purposes of his household only) any person who abstracts water from an underground work shall keep such records as are specified in paragraph (2) of this regulation :

Provided that a person who abstracts water from an underground work by means of pumping shall not be required to keep such records in respect of that work unless either—

(*a*) the work is capable of yielding, if situated in an area mentioned in the first schedule to these regulations at least 20,000, and if situated elsewhere at least 50,000 gallons of water a day; or

(*b*) the work is one of two or more underground works which supply or may be used to supply water to the same premises by means of

pumping and are capable of yielding in the aggregate, if the work is situated in an area mentioned as aforesaid at least 20,000, and if situated elsewhere at least 50,000 gallons of water a day.

(2) The records to be kept by a person for the purpose of these regulations shall, in respect of each underground work to which these regulations apply from which he abstracts water,—

(*a*) show the quantity of water abstracted each day;

(*b*) show the rest level, if ascertainable, and the pumping level, as ascertained at some time in the month of October in each year;

(*c*) include certified copies of any analyses of the water made on his behalf.

(3) For the purposes of this regulation—

(*a*) the rest level of the water in an underground work means the normal water level therein when no abstraction of water is taking place, measured from the surface of the ground or from the top of the well casing;

(*b*) the pumping level of the water in an underground work means the water level when abstraction of water therefrom is taking place, measured as aforesaid;

(*c*) an underground work from which water is or may be abstracted by means of pumping shall be deemed to be capable of yielding so much water a day as the pumping equipment installed in connection therewith is capable under normal working conditions of pumping in a day.

(4) Any record kept for the purposes of these regulations shall be preserved for a period of five years. [4969]

4. A person who is required by the last foregoing regulation to keep the records therein mentioned shall, in respect of each period of twelve months ending on the 31st day of October in which on each of seven or more days he abstracts from any underground work, or from two or more underground works supplying water to the same premises, a greater quantity of water than in the case of works situated in an area mentioned in the first schedule to this order, 20,000 gallons, and in any other case 50,000 gallons, furnish to the Minister in respect of each of the works within twenty-one days of the end of the period a return in the form shown in the second schedule to these regulations. [4970]

5.—(1) The Minister may require any person who is required by these regulations to keep records—

(*a*) to cause an analysis to be made of any water abstracted by him, in the state in which it is abstracted, and to furnish a copy of the analysis to the Minister; or

(*b*) to furnish to the Minister a sample, of such quantity as the Minister shall require, of any water abstracted by him, in the state in which it is abstracted.

(2) An analysis for the purposes of this regulation shall be in the form shown in the third schedule to these regulations. [4971]

6. Any officer of the Ministry of Health or the Department of Scientific and Industrial Research authorised for the purpose may, on producing if so required some duly authenticated document showing his authority, at all reasonable hours—

(*a*) inspect any records kept under these regulations and any apparatus used for the purpose thereof;

(*b*) take copies of and extracts from any such records;

(*c*) enter any premises for the purpose of exercising any of the powers aforesaid. [4972]

Often, too, there are not enough children left, under 11, to justify a junior school, so these little ones have also to go elsewhere, and the village school is closed. It is generally agreed that the education and training which both groups thus receive in the bigger schools to which they go are of higher standards, but the change is not all gain. What the children lose

amongst the younger school teachers to live, not in the small villages in which they teach, but in nearby towns or larger villages from which they can travel daily to their work and return, at its close, to some sort of companionship in the evenings. Thus, they make no contribution to the life of the little community, and the loss to the villages, in many places,

SCHEDULES

FIRST SCHEDULE

AREAS FOR THE PURPOSE OF REGULATIONS 3 AND 4

The geographical counties of Dorset, Gloucester, Hants, Lincoln, Norfolk, Suffolk and Wilts. [4973]

SECOND SCHEDULE

ANNUAL RETURN UNDER WATER ABSTRACTION REGULATIONS, 1947

Geological Survey Ref. No.

Full address or premises in which underground work (well, borehole, adit or other work) is situated. .....

Name of well, borehole, adit or other work for which this return is made. .....

Name of person making the return, and address if different from that quoted above. .....

I certify that, according to the records kept by the above named person—

(1) the total quantity of water abstracted during the year ended 31st October 19.....from the underground work described above was..... gallons

(2) the rest level* of the water therein on the.....October, 19..... was {.....feet. / unascertainable.}

(3) the pumping level† of the water therein on the.....October, 19....., when water was being abstracted at the rate of.....gallons per hour, was.....feet.

(Signature) .....

(Date).....

---

* "rest level" means the normal water level in the underground work when no abstraction of water is taking place, measured in feet from the surface of the ground or top of well casing,

† "pumping level" means the water level in the underground work when abstraction of water is taking place, measured in feet from the surface of the ground or top of well casing.

NOTE.—Section 6 (3) of the Water Act, 1945, provides that any person who fails to comply with any requirement of the regulations shall be guilty of an offence against the Act. Section 47 of the Act specifies the fines that may be imposed upon a person who is guilty of such an offence. [4974]

THIRD SCHEDULE

RETURN OF ANALYSIS OF UNDERGROUND WATER

Geological Survey Ref. No.

Names and address of person making return. .....

Full address of premises in which well, borehole, adit or other work is situated if different from above. .....
.....
.....

ANALYSIS OF SAMPLE OF WATER FROM WELL, BOREHOLE, ADIT OR OTHER WORK IN THE STATE IN WHICH IT IS ABSTRACTED

Date of taking sample.....

(*a*) *Physical Examination*

Temperature at source.....°C.
Colour
Appearance
Taste
Smell

(*b*) *General Chemical Examination*

Reaction, pH	
Free Carbon dioxide, as CO_2 ..	.....parts per million*
Ammoniacal Nitrogen, as N ..	..... " " "
Albuminoid Nitrogen, as N ..	..... " " "
Nitrous Nitrogen, as N	..... " " "
Nitric Nitrogen, as N	..... " " "
Hardness (State test used.....), as $CaCO_3$—	
Temporary	..... " " "
Permanent	..... " " "
Permanganate figure (4 hours, 80°F.) as O.	..... " " "
Alkalinity, as $CaCO_3$	..... " " "
Total Solids	..... " " "

(*c*) *Mineral Analysis*

Calcium, as Ca	.....parts per million*
Magnesium, as Mg	..... " " "
Sodium, as Na	..... " " "
Carbonate, as CO_3	..... " " "
Chloride, as Cl	..... " " "
Sulphate, as SO_4	..... " " "
Nitrate, as NO_3	..... " " "
Iron	..... " " "

(*d*) *Other determinations* to be carried out at the analyst's discretion or at the Minister's request, depending upon indications obtained and on general characteristics of waters of the district, e.g., manganese, fluorine, etc.

.....parts per million*
..... " " "
..... " " "

[(*e*) *Bacteriological Analyses*, if available, should be attached to this form.] [4975]

* Analyses expressed in parts per million are desired; if they are expressed in any other units the appropriate alteration should be made.

* * * * *

Often, too, there are not enough children left, under 11, to justify a junior school, so these little ones have also to go elsewhere, and the village school is closed. It is generally agreed that the education and training which both groups thus receive in the bigger schools to which they go are of higher standards, but the change is not all gain. What the children lose

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CENTRAL ADVISORY WATER COMMITTEE AMENDMENT ORDER, 1948

S.I. 1948 *No.* 638

March 25, 1948

The Minister of Health, in exercise of the powers conferred upon him by sections 2 and 50 of the Water Act, 1945, hereby orders as follows :—

1. This order may be cited as the Central Advisory Water Committee Amendment Order, 1948, and this order and the Central Advisory Water Committee Order, 1946, may be cited together as the Central Advisory Water Committee Orders, 1946 and 1948. [4976]

2. For paragraph (4) of article 4 of the Central Advisory Water Committee Order, 1946 (which provides that a member of the Committee shall not be eligible for re-appointment to the Committee until the expiration of one year from the end of his term of office) there shall be substituted the following paragraph :—

"(4) A person who ceases to hold office as a member of the Committee shall be eligible for re-appointment to the Committee. [4977]

* * * * *

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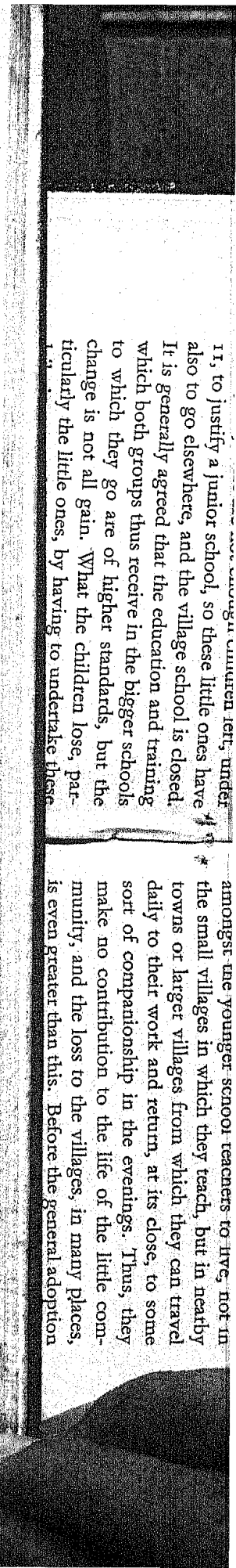
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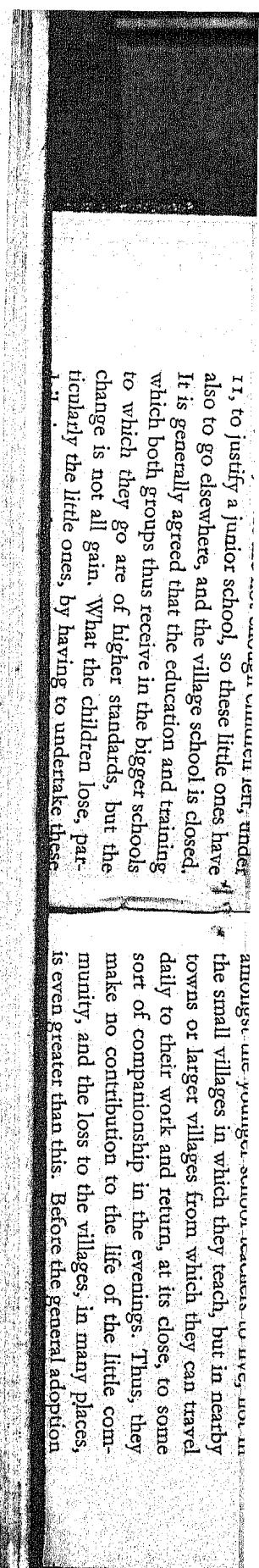
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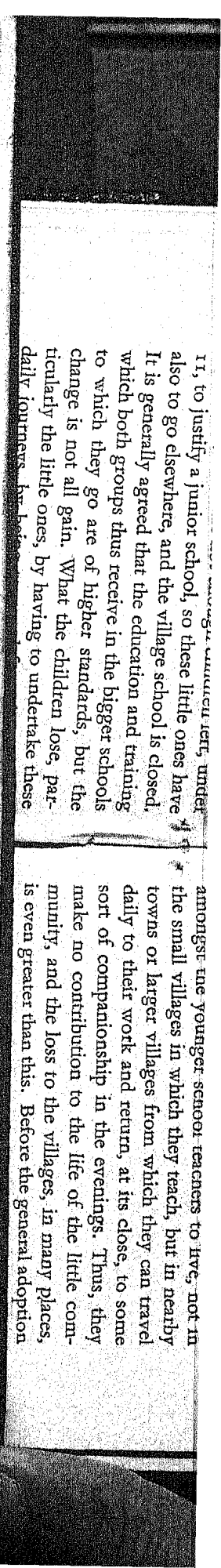
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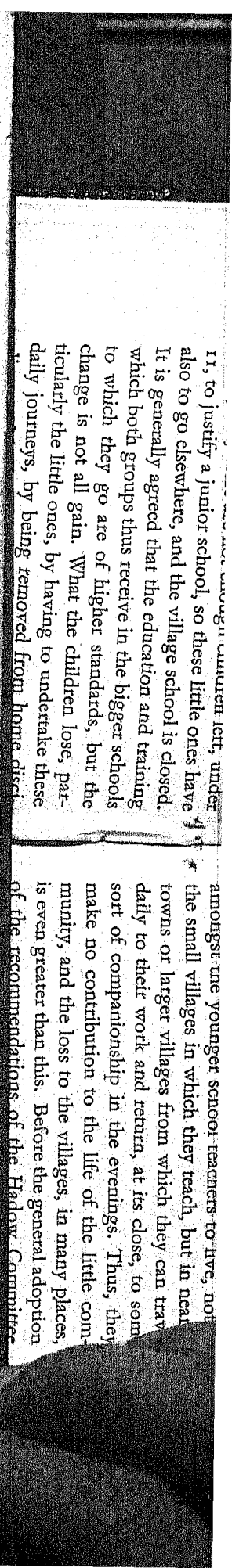
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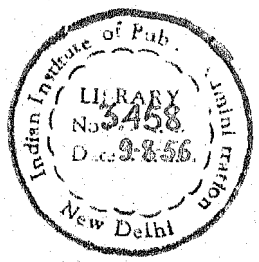
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